

INTERNATIONAL
SMALL ARMS CONTROL
STANDARD

ISACS
03.21

Version 1.0
2014-06-17

**National controls over the end-user and
end-use of internationally transferred
small arms and light weapons**



United Nations
CASA
Coordinating Action on Small Arms

Reference number
ISACS 03.21:2014(E)V1.0

© UN CASA 2014

This document may not be up-to-date.
All up-to-date International Small Arms Control Standards (ISACS) are available on the ISACS website.
www.smallarmsstandards.org

ACKNOWLEDGEMENTS

This document – one in a series of International Small Arms Control Standards (ISACS) – was produced by the United Nations Coordinating Action on Small Arms (CASA) mechanism in collaboration with a broad and diverse group of experts drawn from governments, international and regional organizations, civil society and the private sector. A full list of contributors to the ISACS project is available on the website listed above.

The production of ISACS was made possible by the financial support of the governments of Australia, Canada, Ireland, Norway and Switzerland, as well as by the United Nations Development Programme (UNDP), the United Nations Office for Disarmament Affairs (UNODA), the United Nations Children’s Fund (UNICEF) and the United Nations Counter-Terrorism Committee Executive Directorate (CTED).

© UN CASA 2014

All rights reserved. This publication may be reproduced for non-profit educational and training purposes without special permission from the copyright holders, provided that the source is acknowledged. The ISACS Inter-Agency Support Unit would appreciate receiving an electronic copy of any publication that uses this document as a source:

United Nations Coordinating Action on Small Arms (CASA)
International Small Arms Control Standards (ISACS) Inter-Agency Support Unit
E-mail: support@smallarmsstandards.org
Web: www.smallarmsstandards.org

This document is not to be sold.

Contents

Page

Foreword	iv
Introduction	v
1 Scope	1
2 Normative references	1
3 Terms, definitions and abbreviations	1
3.1 Terms and definitions	1
4 United Nations framework	2
4.1 General	2
4.2 UN Programme of Action	2
4.3 UN Disarmament Commission	2
4.4 UN Secretary-General	2
5 General principals	3
6 End-user and end-use documentation	3
6.1 General	3
6.2 End-user certificate	3
6.3 End-user statement	6
6.4 Authentication and verification	8
6.5 Simplified procedures	9
6.6 Strengthened controls over the end-use of high-risk weapons	10
6.7 Grounds for denial	10
7 Post-delivery controls	11
7.1 General	11
7.2 Delivery verification	11
7.3 Post-delivery inspection	13
7.4 Restrictions on re-export	14
8 National legislation	14
8.1 General	14
8.2 Key elements	14
8.3 Offences	15
8.4 Enforcement mechanisms	15
9 Recordkeeping	15
Bibliography	16

Foreword

The United Nations (UN) Coordinating Action on Small Arms (CASA) mechanism strives to improve the UN's ability to work as one in delivering effective policy, programming and advice to Member States on curbing the illicit trade, uncontrolled proliferation and misuse of small arms and light weapons. Established by the Secretary-General in 1998 with the task of coordinating the small arms work of the United Nations, CASA today unites more than 20 UN bodies active in policy development and/or programming related to small arms and light weapons.¹

Building on previous UN initiatives to develop international standards in the areas of mine action (International Mine Action Standards)² and disarmament, demobilization and reintegration of ex-combatants (Integrated Disarmament, Demobilization and Reintegration Standards),³ the United Nations has developed a series of International Small Arms Control Standards (ISACS) with the aim of providing clear and comprehensive guidance to practitioners and policymakers on fundamental aspects of small arms and light weapons control. The present document constitutes one of more than 20 ISACS modules that provide practical guidance on instituting effective controls over the full life cycle of small arms and light weapons (all ISACS modules can be found at www.smallarmsstandards.org).

ISACS are framed by existing global agreements related to small arms and light weapons control, in particular the

- *UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons In All Its Aspects* (UN PoA);
- *International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons* (International Tracing Instrument);
- *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime* (UN Firearms Protocol); and
- *Arms Trade Treaty*.

Within this global framework, ISACS build upon standards, best practice guidelines, model regulations, etc. that have been elaborated at the regional and sub-regional levels. ISACS seek to cover the fundamental areas of small arms and light weapons control on which the United Nations may be called upon to provide advice, guidance and support.

ISACS were developed, and continue to be improved and supplemented, by a broad coalition of small arms control specialists drawn from the United Nations, governments, international and regional organizations, civil society and the private sector (a full list of contributors to ISACS is available at www.smallarmsstandards.org).

ISACS modules were drafted in accordance with the rules set out in ISO/IEC Directives, Part 2, *Rules for the structure and drafting of International Standards*, under the oversight of the CASA Working Group on ISACS, co-chaired by the United Nations Office for Disarmament Affairs (UNODA) and the United Nations Development Programme (UNDP).

¹ For a full listing of CASA partners, see www.poa-iss.org/CASA/CASA.aspx.

² www.mineactionstandards.org

³ www.unddr.org

Introduction

Effective national controls over the end-user and end-use of internationally transferred small arms and light weapons are essential to ensuring that legally transferred small arms and light weapons reach their authorized end-user, are used in a manner consistent with their authorized end-use and are not diverted to the illicit market.

Identifying and evaluating an authorized end-user and end-use is an essential step in assessing applications for authorization to export small arms and light weapons. But the process does not end there. End-user and end-use controls extend beyond the time of export to encompass delivery verification (i.e. confirming that exported weapons have successfully reached their authorized end-user) and post-delivery controls (i.e. confirming that the end-user is abiding by undertakings made as part of the transfer contract). For all this to be possible, a robust legislative and regulatory system is required.

End-user and end-use controls constitute a necessary but not a sufficient component of a comprehensive transfer control system for small arms and light weapons. When implemented alongside the comprehensive transfer controls set out in ISACS 03.20, *National controls over the international transfer of small arms and light weapons*, end-user and end-use controls constitute a powerful tool in combating the illicit trade in small arms and light weapons.

National controls over the end-user and end-use of internationally transferred small arms and light weapons

1 Scope

This document provides practical guidance on developing and implementing effective and accountable national controls over the end-user and end-use of internationally transferred small arms and light weapons.

It covers the form, content, authentication and verification of end-user and end-use documentation; post-delivery controls of exported small arms and light weapons; and legislative and regulatory issues.

This document does not cover aspects of transfer controls beyond end-user and end-use controls. Such guidance is provided by ISACS 03.20, *National controls over the international transfer of small arms and light weapons*, which should be used in conjunction with this document.

The guidance contained in this document is applicable to any State that exports or imports small arms or light weapons, regardless of whether or not the State in question produces such weapons. It is also applicable to States that serve as transit or transshipment hubs for international transfers of small arms and light weapons.

2 Normative references

The following referenced documents are indispensable for the application of this document. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

ISACS 03.20, *National controls over the international transfer of small arms and light weapons*

ISACS 05.30, *Marking and recordkeeping*

3 Terms, definitions and abbreviations

3.1 Terms and definitions

For the purposes of this document, the terms and definitions given in ISACS 01.20, *Glossary of terms, definitions and abbreviated terms*, and the following, apply.

In all ISACS modules, the words 'shall', 'should', 'may' and 'can' are used to express provisions in accordance with their usage in International Organization for Standardization (ISO) standards.

ISACS 03.21:2014(E)V1.0

- a) **“shall” indicates a requirement:** It is used to indicate requirements strictly to be followed in order to conform to the document and from which no deviation is permitted.
- b) **“should” indicates a recommendation:** It is used to indicate that among several possibilities one is recommended as particularly suitable, without mentioning or excluding others, or that a certain course of action is preferred but not necessarily required, or that (in the negative form, 'should not') a certain possibility or course of action is deprecated but not prohibited.
- c) **“may” indicates permission:** It is used to indicate a course of action permissible within the limits of the document.
- d) **“can” indicates possibility and capability:** It is used for statements of possibility and capability, whether material, physical or casual.

4 United Nations framework

4.1 General

This document provides practical guidance on the implementation of commitments related to end-user and end-use controls that are contained in United Nations multilateral instruments related to small arms and light weapons control.

4.2 UN Programme of Action

In the United Nations *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (UN Programme of Action), all UN Member States commit themselves

- a) “To put in place and implement adequate laws, regulations and administrative procedures to ensure the effective control over the export and transit of small arms and light weapons, including the use of authenticated end-user certificates and effective legal and enforcement measures.” (Part II, paragraph 12); and
- b) “To make every effort, in accordance with national laws and practices, without prejudice to the right of States to re-export small arms and light weapons that they have previously imported, to notify the original exporting State in accordance with their bilateral agreements before the retransfer of those weapons” (Part II, paragraph 13).

4.3 UN Disarmament Commission

The Guidelines for International Arms Transfers developed by the UN Disarmament Commission stipulate that

- a) “All arms-transfer agreements and arrangements, in particular between Governments, should be designed so as to reduce the possibility of diversion of arms to unauthorized destinations and persons. In this context, a requirement by the exporter for import licences or verifiable end-user/end-user certificates for international arms transfers is an important measure to prevent unauthorized diversion” (A/51/42 of 22 May 1996, paragraph 33).

4.4 UN Secretary-General

In his 2008 report to the Security Council on small arms, the UN Secretary-General recommended that

- a) “The Security Council may wish to consider encouraging States to significantly enhance their efforts to verify end-user certificates. They should develop an international framework for authentication, reconciliation and standardization of end-user certificates” (S/2008/258 of 17 April 2008, Recommendation 11).

5 General principals

Effective national control shall be exercised over the end-user and end-use of internationally transferred small arms and light weapons so as to minimize the risk that such weapons could be

- a) diverted to an entity other than the end-user authorized by both the exporting and importing States; or
- b) used for a purpose other than the end-use authorized by both the exporting and importing States.

National controls over the international transfer of small arms and light weapons shall be exercised in accordance with ISACS 03.20 and this document, taken together.

NOTE This document supplements ISACS 03.20, *National controls over the international transfer of small arms and light weapons*, by providing specific guidance on exercising control over the end-user and end-use of internationally transferred small arms and light weapons so as to minimise the risk of their being diverted or misused. This document does not repeat guidance provided in ISACS 03.20, although it does cross-reference such guidance where appropriate.

End-user and end-use control shall be exercised over all goods and services set out in Clause 6.3 of ISACS 03.20, *National controls over the international transfer of small arms and light weapons*.

6 End-user and end-use documentation

6.1 General

End-user and end-use documentation comprises documents whose purpose is to identify, authorize, commit to certain undertakings and verify delivery to end-users of internationally transferred small arms or light weapons.

Such documentation includes end-user certificates, end-user statements and delivery verification certificates; and, under certain conditions, import authorizations and International Import Certificates (see Clause 6.2.2).

6.2 End-user certificate

6.2.1 General

An end-user certificate is an official document, issued by a competent authority of the importing State, that identifies a government agency of the importing State as the ultimate recipient of an international transfer of small arms or light weapons.

Authorization to export small arms or light weapons to an agency of a foreign government shall not be granted without the provision of an original end-user certificate.

A single end-user certificate shall not be used in connection with the international transfer of more small arms or light weapons than are itemized on it (i.e. it shall not be re-used once the international transfer for which it was originally intended has been completed).

6.2.2 Related documents

An import authorization that complies with Clause 7.6 of ISACS 03.20 and that, in addition, complies with Clause 6.2.5 of this document, may serve the purpose of an end-user certificate.

ISACS 03.21:2014(E)V1.0

An International Import Certificate (IIC) shall not substitute for an end-user certificate unless it complies with Clause 6.2.5 of this document.

6.2.3 Issuing agencies

The number of government agencies authorized to issue end-user certificates shall be kept to a minimum. Within each authorized government agency, the number of officials authorized to sign end-user certificates shall also be kept to a minimum.

Only senior government officials (e.g. at the level of Minister or Deputy Minister) should be authorized to sign end-user certificates.

6.2.4 Form of an end-user certificate

An end-user certificate shall be an official, government document whose authenticity it is possible to establish and which is difficult to forge, falsify or otherwise modify without detection. An end-user certificate should be printed on

- a) an official government form; or
- b) the official letterhead of the competent national authority issuing them.

End-user certificates should be printed on paper that is difficult to forge, e.g. banknote paper.

Electronic end-user certificates may be used and shall incorporate means to counter forgery and falsification.

6.2.5 Content of an end-user certificate

An end-user certificate shall contain

- a) identifiers of the certificate, including
 - 1) a reference number unique to the issuing government agency,
 - 2) its date of issuance, and
 - 3) its date of expiration, which should not exceed 2 years following the date of issuance;
- b) identifiers of the issuing government agency, including
 - 1) the name, address and contact details (telephone, fax and email) of the government agency issuing the certificate, and
 - 2) the signature, printed name and position of the authorized representative of the government agency issuing the certificate;
- c) identifiers of the end-user and end-use, including
 - 1) the name, address and contact details (telephone, fax and email) of the end-user,
 - 2) the signature, printed name and position of the authorized representative of the end-user (if different from the government agency issuing the certificate), and
 - 3) a description of the end-use;
- d) identifiers of the weapons, including
 - 1) quantities,

- 2) makes,
 - 3) models,
 - 4) calibres,
 - 5) types (e.g. revolver, pistol, rifle, sub- machine gun, light machine gun, heavy machine gun, grenade launcher, mortar, anti- aircraft gun, anti-tank gun, anti-tank rocket system, anti-tank missile system, anti-aircraft missile system (e.g. MANPADS), etc.), and
 - 6) actions (e.g. manual, semi-automatic or automatic. If a weapon has a selective fire capability, the highest capability, automatic being the highest, should be indicated);
- e) explicit undertakings that
- 1) the declared end-user will be the ultimate recipient of the weapons,
 - 2) the declared end-use will be the ultimate use of the weapons, and
 - 3) the weapons will not be re-exported
 - under any circumstances,
 - without prior, written authorization from the original exporting State,
 - without prior, written notification to the original exporting State, or
 - if the weapons are intended for commercial sale in the importing State, without due export authorization.

If known at the time of issuance, an end-user certificate should contain

- f) identifiers of the exporter, including
 - 1) the country of export, and
 - 2) the name, address and contact details (telephone, fax and email) of the exporter;
- g) the contract or purchase order number; and
- h) the value of the consignment.

An end-user certificate should contain undertakings

- i) to provide the exporting State with a delivery verification certificate upon receipt of the small arms or light weapons by the authorized end-user (see Clause 7.2).

An end-user certificate may contain undertakings

- j) to allow the exporting State to check on the end use of the small arms or light weapons as a confidence-building measure (see Clause 7.3); and
- k) that end-use will be limited to, or will exclude, a specific geographic location (or specific locations) within the importing State.

6.3 End-user statement

6.3.1 General

An end-user statement is a document issued by a private end-user that provides assurances regarding the end user and end-use of internationally transferred small arms or light weapons.

If weapons are intended for commercial sale in the country of import, the importer of the weapons may be listed as the end-user and a designation such as “commercial sale on the domestic market” may be used as a description of the end-use.

A certified end-user statement is an end-user statement that has been stamped and signed (or otherwise certified) by a competent authority of the importing State.

Authorization to export small arms or light weapons to a private, nongovernmental entity shall not be granted without the provision of an original, certified end-user statement.

A single, certified end-user statement shall not be used in connection with the international transfer of more small arms or light weapons than are itemized on it (i.e. it shall not be re-used once the international transfer for which it was originally intended has been completed).

6.3.2 Form of an end-user statement

An end-user statement should be printed on

- a) an official form made available by the government of the importing State; or
- b) the official letterhead of the private entity issuing the end-user statement.

6.3.3 Certification procedure

The number of government agencies authorized to certify end-user statements shall be kept to a minimum. Within each authorized agency, the number of officials with authority to certify end-user statements shall also be kept to a minimum.

An end-user statement shall not be certified by the importing State unless its authenticity, accuracy and reliability have been verified, including by verifying that the end-user

- a) exists,
- b) does not have a criminal record involving time served in prison (natural person);
- c) has not been involved in illegal activities, including the illicit trade in small arms or light weapons (legal person); and
- d) is legally entitled to take possession of the weapons to be imported.

6.3.4 Content of an end-user statement

An end-user statement shall contain

- a) identifiers of the statement, including
 - 1) a reference number unique to the issuer of the statement, and
 - 2) its date of issuance;
- b) identifiers of the end-user and end-use, including

- 1) the name, address and contact details (telephone, fax and email) of the end-user,
 - 2) the signature, printed name and position of the authorized representative of the end-user, and
 - 3) a description of the end-use (which may include commercial sale on the domestic market);
- c) identifiers of the weapons, including
- 1) quantities,
 - 2) makes,
 - 3) models,
 - 4) calibres,
 - 5) types (e.g. revolver, pistol, rifle, sub- machine gun, light machine gun, heavy machine gun, grenade launcher, mortar, anti- aircraft gun, anti-tank gun, anti-tank rocket system, anti-tank missile system, anti-aircraft missile system (e.g. MANPADS), etc.), and
 - 6) actions (e.g. manual, semi-automatic or automatic. If a weapon has a selective fire capability, the highest capability, automatic being the highest, should be indicated); and
- d) explicit undertakings that
- 1) the declared end-user will be the ultimate recipient of the weapons (notwithstanding the fact that they may be commercially sold on the domestic market); and
 - 2) the declared end-use will be the final use of the weapons.

If known at the time of issuance, an end-user statement should contain

- e) identifiers of the exporter, including
- 1) the country of export, and
 - 2) the name, address and contact details (telephone, fax and email) of the exporter;
- f) the contract or purchase order number; and
- g) the value of the consignment.

An end-user statement should contain

- h) an undertaking to provide the exporter with a delivery verification certificate upon receipt by the authorised end-user of the imported small arms or light weapons (see Clause 7.2).

6.3.5 Content of a certified end-user statement

A certified end-user statement shall contain the elements set out in Clause 6.3.4 along with an official certification by a competent authority of the importing State.

An end-user statement shall not be certified before the competent national authority has satisfied itself regarding its authenticity, accuracy and reliability (see Clause 6.3.3).

To certify an end-user statement, the competent authority of the importing State shall mark upon it

ISACS 03.21:2014(E)V1.0

- a) the official stamp/seal, name, address and contact details (telephone, fax and email) of the competent national authority certifying the statement;
- b) the signature, printed name and position of the authorized representative of the competent national authority certifying the statement;
- c) a unique certification number;
- d) the date of certification; and
- e) an expiration date for the certification, which should not exceed 2 years following the date of certification.

6.4 Authentication and verification

6.4.1 General

A State that receives an end-user certificate or certified end-user statement as part of an application for authorization to export small arms or light weapons shall

- a) authenticate it, i.e. check if it has been forged or tampered with; and
- b) verify it, i.e. check that its contents are accurate.

Authorization to export small arms or light weapons shall not be granted before

- c) the end-user certificate or certified end-user statement has been authenticated and verified; and
- d) all other requirements set out in ISACS 03.20, *National controls over the international transfer of small arms and light weapons*, have been satisfied.

Authentication and verification shall be carried out only on original end-user certificates and certified end-user statements.

6.4.2 Authentication

Checks shall be conducted on the authenticity of

- a) the government agency of the importing State that
 - 1) has issued or certified the document, and
 - 2) is named as the end-user (if different from 1 above);
- b) the stamp/seal of the government agency of the importing State that has issued or certified the document; and
- c) the signature, name and position of the representative of the government agency of the importing State that has issued or certified the document.

6.4.3 Verification

Checks shall be conducted on the accuracy of information related to

- a) the end-user, including
 - 1) its existence,
 - 2) its legal standing, and

- 3) the existence of its designated representative (i.e. the person who signed on behalf of the end-user) and of his/her position;
- b) the exporter, including
 - 1) its existence, and
 - 2) its legal standing; and
 - c) undertakings made, including by checking the record of the end-user of abiding by previously made undertakings regarding, as applicable,
 - 1) end-use,
 - 2) re-export,
 - 3) delivery verification, and
 - 4) post-delivery monitoring.

6.4.4 Sources of information and timeframe

Authentication and verification of end-user certificates and certified end-user statements should be conducted using information available through

- a) working-level government contacts in the importing State (especially its National Point of Contact on small arms and light weapons);
- b) consular and diplomatic channels; and
- c) public sources (e.g. nongovernmental, media and other sources, including on the internet).

Upon request, the importing State should assist the exporting State in the authentication and verification processes.

The authentication and verification processes should be undertaken impartially, fairly and within a reasonable period of time.

6.4.5 List of unreliable end-users

Export control authorities should maintain a list of end-users of small arms and light weapons that have not abided by undertakings previously made in end-user certificates or certified end-user statements, in particular related to

- a) end-use,
- b) re-export,
- c) delivery verification, and
- d) post-delivery monitoring.

6.5 Simplified procedures

Simplified procedures may be employed to control the end-use of small arms and light weapons in the following, low risk situations:

ISACS 03.21:2014(E)V1.0

- a) temporary exports and imports of individual or small numbers (e.g. 10 or less) of small arms or light weapons for the purposes of hunting, sport shooting, evaluation, exhibition or repair; as well as their subsequent re-export and re-import following such activities and procedures;
- b) exports of small arms or light weapons for use by the exporting State's own security or military forces (e.g. in the context of United Nations or regional peace support operations); or
- c) exports of small arms or light weapons to trusted end-users with longstanding and reliable records on the prevention of diversion and misuse of small arms and light weapons.

The application of simplified procedures shall be kept to a minimum and should not exceed those listed above.

6.6 Strengthened controls over the end-use of high-risk weapons

Because of the heightened threat posed by certain types of high-risk weapons – e.g. Man-Portable Air Defence Systems (MANPADS) and other types of shoulder-fired guided missiles – stricter national controls shall be applied to their end-use.

The end-users of high-risk weapons shall only be governments or agents explicitly authorized to act on behalf of governments.

Simplified procedures (see Clause 6.5) shall not apply to exercising national controls over the end-user and end-use of high-risk weapons.

An end-user certificate for high-risk weapons shall include undertakings by the end-user

- a) to provide the exporting State with a delivery verification certificate (see Clause 7.2); and
- b) not to re-export the weapons without prior, written authorization from the original exporting State.

NOTE See Clause 5.7 of ISACS 03.20, *National controls over the international transfer of small arms and light weapons*, for further guidance on transfer controls of high-risk weapons.

6.7 Grounds for denial

6.7.1 General

An application for authorization to export small arms or light weapons shall not be granted if an end-user certificate or end-user statement

- a) has not been provided in original;
- b) has not been issued or certified by a competent government authority of the importing State;
- c) has been forged, falsified or otherwise tampered with;
- d) contains false or otherwise inaccurate information; or
- e) lists an end-user that appears on a list of unreliable end-users (see Clause 6.4.5).

The reasons for rejecting an end-user certificate or end-user statement should be provided in writing to the applicant for export authorization. It should be possible for the latter to appeal such a decision.

6.7.2 Criminal acts

In cases where criminal acts (e.g. forgery, fraud, corruption, etc.) are suspected in connection with the submission of an end-user certificate or end-user statement,

- a) the governments of the importing and exporting States shall be informed;
- b) the transfer of small arms or light weapons in question shall be suspended, pending the outcome of investigations and possible criminal proceedings;
- c) an investigation shall be initiated by the importing or exporting State, as applicable, or jointly by both States;
- d) if the investigation uncovers evidence of criminality, criminal proceedings shall be initiated in the importing and/or exporting State, as applicable; and
- e) if the criminal proceedings result in conviction and if the end-user was complicit in the crime, the end-user shall be placed on a list of unreliable end-users (see Clause 6.4.5).

7 Post-delivery controls

7.1 General

Following an international transfer of small arms or light weapons, the exporting State should verify that

- a) the weapons have been received by the authorized end-user; and
- b) the authorized end-user is abiding by undertakings it made in the end-user certificate or certified end-user statement.

The findings of post-delivery controls conducted by exporting States should inform their evaluation of subsequent applications for authorization to export small arms or light weapons to the same end-user.

7.2 Delivery verification

7.2.1 General

Verification of delivery of a consignment of small arms or light weapons to an authorized end-user in another State should be provided by means of a delivery verification certificate (DVC).

A delivery verification certificate is a document, certified by customs or other competent authority of the importing State, confirming that internationally transferred small arms or light weapons have been received by the authorized end-user.

An exporter of small arms or light weapons, whether a government or private entity, should require a delivery verification certificate as proof that the weapons have been received by the authorized end-user.

To this end, an undertaking by the end-user to provide a delivery verification certificate should be included in the end-user certificate or end-user statement (see Clauses 6.2.5 and 6.3.4, respectively).

7.2.2 Procedure and timeframe

When an end-user certificate or end-user statement includes an undertaking to provide a delivery verification certificate,

- a) the authorized end-user, upon clearing the consignment of small arms or light weapons through customs and taking possession of it, should request the customs administration or other competent authority of the importing State to issue a delivery verification certificate;

ISACS 03.21:2014(E)V1.0

- b) the customs administration or other competent authority of the importing State should, upon receiving such a request, verify all relevant documentation and, if satisfied, issue a delivery verification certificate to the authorized end-user; and
- c) the authorized end-user should provide the exporter with an original of the delivery verification certificate.

The exporter should receive the delivery verification certificate within a reasonable time (e.g. not more than 30 days) of the consignment being cleared through customs by the end-user.

7.2.3 Issuing agencies

Authorization to issue delivery verification certificates should be limited to the customs administration. Within customs, the number of officials with authority to sign delivery verification certificates shall be kept to a minimum.

7.2.4 Content of a delivery verification certificate

A delivery verification certificate should contain

- a) a unique identifying number;
- b) the name, address and contact details (phone, fax and email) of the
 - 1) exporter, and
 - 2) authorized end-user;
- c) the import authorization number;
- d) the bill of lading / air waybill number;
- e) the consignment's
 - 1) place of arrival (name of port),
 - 2) date of arrival, and
 - 3) means of arrival (including descriptors of the ship, aircraft or other carrier as they appear in the bill of lading / air waybill);
- f) a description of the consignment, including
 - 1) the contract or purchase order number,
 - 2) quantities,
 - 3) makes,
 - 4) models,
 - 5) calibres,
 - 6) types (e.g. revolver, pistol, rifle, sub-machine gun, light machine gun, heavy machine gun, grenade launcher, mortar, anti-aircraft gun, anti-tank gun, anti-tank rocket system, anti-tank missile system, anti-aircraft missile system (e.g. MANPADS), etc.), and
 - 7) actions (e.g. manual, semi-automatic or automatic. If a weapon has a selective fire capability, the highest capability, automatic being the highest, should be indicated);

- g) the stamp/seal of the customs administration or other competent authority of the importing State;
- h) a certification by the customs administration or other competent authority of the importing State that the authorized end-user has taken possession of the consignment;
- i) the date of certification; and
- j) the signature, printed name and position of the authorized representative of the customs administration or other competent national authority making the certification.

7.2.5 Verification and authentication

7.2.5.1 General

An exporter that receives a delivery verification certificate following an international transfer of small arms or light weapons shall

- a) authenticate it, i.e. check if it has been forged or tampered with; and
- b) verify it, i.e. check its consistency with the end-user certificate or certified end-user statement in order to verify that all weapons in the consignment were delivered to the authorized end-user.

7.2.5.2 Authentication

Checks shall be conducted on the authenticity of

- a) the seal of the customs administration or other competent authority of the importing State that has certified the document; and
- b) the signature, name and position of the representative of the customs administration or other competent authority of the importing State that has certified the document.

7.2.5.3 Verification

Checks shall also be conducted on the consistency of the delivery verification certificate with the end-user certificate or certified end-user statement, in order to verify

- a) the identity of the authorized end-user;
- b) the identity of the exporter; and
- c) that all weapons in the consignment were delivered to the authorized end-user.

7.3 Post-delivery inspection

7.3.1 General

Following the international transfer of small arms or light weapons, the exporting State may conduct inspections in order to verify that the end-user is abiding by undertakings it made in the end-user certificate or end-user statement, in particular regarding the end-user, end-use and restrictions on re-export.

An undertaking to allow such post-delivery inspections may be included in an end-user certificate or end-user statement and should be included if the weapons being transferred are high-risk weapons (see Clause 6.6).

Post-delivery inspections shall only take place with prior, written authorization by the importing State.

ISACS 03.21:2014(E)V1.0

The importing State should provide such authorization if an exporting State makes a request to conduct a post-delivery inspection.

The importing State shall provide such authorization if it has made an undertaking in an end-user certificate or certified end-user statement to allow such inspections.

7.3.2 Inspectors

Post-delivery inspections in the importing State may be carried out by

- a) officials of the exporting State;
- b) contractors hired by the exporting State; or
- c) an independent party, governmental or non-governmental, mutually agreed upon by the exporting and importing States.

7.4 Restrictions on re-export

Authorization shall not be granted to export previously imported small arms or light weapons if this would violate undertakings made in an end-user certificate or end-user statement.

In cases where an end-user certificate or end-user statement does not contain undertakings regarding re-export, authorization should not be granted to export previously imported small arms or light weapons without first informing the original exporting State.

8 National legislation

8.1 General

At the national level, laws, regulations and administrative procedures shall be in place to enable the government to exercise effective control over the end-user and end use of internationally transferred small arms and light weapons.

Such controls shall be adequate to minimize the risk that small arms or light weapons could be diverted to unauthorized end-users or used in a manner inconsistent with their authorized end-use.

Laws, regulations and administrative procedures governing end-user and end-use controls shall form an integral part of broader national legislation governing transfer controls of small arms and light weapons, in accordance with ISACS 03.20, *National controls over the international transfer of small arms and light weapons*.

8.2 Key elements

To this end, national legislation should require that

- a) end-use controls be applied to all goods and services contained in the national small arms and light weapons control list (see Clause 6.3 of ISACS 03.20, *National controls of the international transfer of small arms and light weapons*);
- b) authorization to export small arms and light weapons not be provided without
 - 1) the provision of an original end-user certificate or original, certified end-user statement,
 - 2) an undertaking by the authorized end-user to provide a delivery verification certificate, and

- 3) an undertaking by the importing State to allow post-delivery inspections (this shall be required in the case of high-risk weapons (see Clause 6.6)); and
- c) end-user certificates and certified end-user statements received in connection with applications for authorization to export small arms and light weapons be authenticated and verified (see Clause 6.4).

8.3 Offences

Under domestic law, it should be considered a criminal offence knowingly to

- a) forge an end-user certificate, end-user statement (certified or not), delivery verification certificate or any other form of end-user or end-use documentation (see Clause 6);
- b) change the content of an end-user certificate, end-user statement, delivery verification certificate or any other form of end-user or end-use documentation after it has been signed and certified by all parties;
- c) use an end-user certificate, end-user statement, delivery verification certificate or any other form of end-user or end-use documentation under false pretences to facilitate the diversion of small arms or light weapons from their authorized end-user or end-use;
- d) violate undertakings made in an end user certificate or certified end-user statement;
- e) use an end-user certificate or certified end-user statement in connection with the international transfer of small arms or light weapons in excess of, or other than, those itemized on the end-user certificate or certified end-user statement; or
- f) re-use an end-user certificate or certified end-user statement after the international transfer for which it was originally intended has been completed.

8.4 Enforcement mechanisms

Mechanisms to promote and enforce compliance with laws, regulations and administrative procedures related to controlling the end-user and end-use of internationally transferred small arms and light weapons shall be in place at the national level, in accordance with Clause 11 of ISACS 03.20, *National controls of the international transfer of small arms and light weapons*.

9 Recordkeeping

Both the exporting and importing States shall keep comprehensive, accurate and readily retrievable records of

- a) end-user certificates issued and received;
- b) certified end-user statements issued and received;
- c) delivery verification certificates issued and received; and
- d) post-delivery inspections conducted and hosted.

Records shall be kept in accordance with Clause 6 of ISACS 05.30, *Marking and recordkeeping*.

Records shall be maintained for at least 20 years, and should be maintained indefinitely.

Bibliography

United Nations

1. UNDP. *How To Guide: Small Arms and Light Weapons Legislation*. Geneva: United Nations Development Programme, 2008.
2. UNODC. *Legislative Guides for the Implementation of the United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*. New York: United Nations Office on Drugs and Crime, 2004.

International & Regional Organizations

3. APEC. *Guidelines On Controls And Security Of Man-Portable Air Defense Systems (MANPADS)*. Asia-Pacific Economic Cooperation, Document 2004/AMM/035, 2004.
4. EU. *User's Guide to European Union Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment*. Brussels: Council of the European Union, 2009.
5. OAS. *Guidelines On Controls And Security Of Man-Portable Air Defense Systems (MANPADS)*. Organization of American States, Document OEA/Ser.G, CP/CSH-719/05, 2005.
6. _____. *Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components and Ammunition (Updated)*. Washington, DC: Organization of American States, 2006.
7. _____. *Model Legislation and Commentaries for Strengthening Controls at Export Points for Firearms, Ammunition, Explosives and other Related Materials*. Washington, DC: Organization of American States, 2008.
8. OSCE. *Best Practice Guide on Export control of small arms and light weapons, in Handbook of Best Practices on Small Arms and Light Weapons*. Vienna: Organisation for Security and Co-operation in Europe, 2003.
9. _____. *Standard Elements of End-User Certificates and Verification Procedures for SALW Exports*. Vienna: Organisation for Security and Co-operation in Europe, Forum for Security Co-operation, Decision No. 5/04, 2004.
10. _____. *Principles for Export Controls of MANPADS (Updated)*. Vienna: Organisation for Security and Co-operation in Europe, Forum for Security Co-operation, Decision No. 5/08, 2008.
11. RECSA. *Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons*. Nairobi: Regional Centre on Small Arms, 2006.
12. SARPPCO. *Standard Operating Procedures for the implementation of the SADC Protocol on the Control of Firearms, Ammunition and other related materials*. Harare: Southern African Regional Police Chiefs Cooperation Organisation, 2008.
13. SEESAC. *Regional Micro-Disarmament Standards and Guidelines (modules 03.20 and 03.30)*. Belgrade: South Eastern and Eastern Europe Clearinghouse on the Control of Small Arms and Light Weapons, 2006.

14. WASSENAAR ARRANGEMENT. *Best Practices for Effective Enforcement of Export Controls*. Vienna: Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, 2000.
15. _____. *Best Practice Guidelines for Exports of Small Arms and Light Weapons* (amended). Vienna: Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, 2007.
16. _____. *Best Practices to Prevent Destabilising Transfers of Small Arms and Light Weapons (SALW) through Air Transport*. Vienna: Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, 2007.
17. _____. *Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS)*. Vienna: Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, 2007.
18. _____. *End-User Assurances Commonly Used: Consolidated Indicative List* (Updated). Vienna: Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, 2005.

Other Sources

19. BROMLEY, M. and GRIFFITHS, H. *End-User Certificates: Improving Standards to Prevent Diversion*. SIPRI Insights on Peace and Security No. 2010/3. Stockholm: Stockholm International Peace Research Institute, 2010.



International Small Arms Control Standards (ISACS) Inter-Agency Support Unit
support@smallarmsstandards.org | www.smallarmsstandards.org