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Marking, Registering and Tracing Small Arms and Light Weapons: Policy Options for the European Union

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NOTE

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SUMMARY

Reducing the proliferation of small arms and light weapons (SALW) begins with effective controls on their transfer. This must be complemented by periodic monitoring of SALW stockpiles, as well as their use. To ensure effective SALW controls, weapons must be adequately marked and registered, and verified by physical inspections.

It must be possible to trace SALW in such a way as to pinpoint the various actors in the arms circuit responsible for deviations into the illicit market, should the need arise. Several reports by governments, inter-governmental and non-governmental organizations underscore the difficulties encountered in efforts to trace illicit SALW back to their source. The absence of appropriate markings prevents the identification of the producer and various intermediaries involved in weapons transfers to combatants, criminal networks and other actors who use these tools abusively. The various shortcomings in existing systems and the absence of harmonized legislation mean that violations cannot be properly sanctioned. It is therefore necessary to establish an adequate and universal system to trace SALW.

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MARKING, REGISTERING AND TRACING SMALL ARMS AND LIGHT WEAPONS: POLICY OPTIONS FOR THE EUROPEAN UNION

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INTRODUCTION¹

Reducing the proliferation of small arms and light weapons (SALW) begins with effective controls on their transfer. This must be complemented by periodic monitoring of SALW stockpiles, as well as their use. To ensure effective SALW controls, weapons must be adequately marked and registered, and verified by physical inspections. The term “tracing” refers to the systematic tracking of weapons flows from their source, through the supply lines, with a view to specifying the point at which they were diverted into the illicit market.

It must be possible to trace SALW in such a way as to pinpoint the various actors in the arms circuit responsible for deviations into the illicit market, should the need arise. Several reports by governments, inter-governmental and non-governmental organizations underscore the difficulties encountered in efforts to trace illicit SALW back to their source. The absence of appropriate markings prevents the identification of the producer and various intermediaries involved in weapons transfers to combatants, criminal networks and other actors who use these tools abusively. The various shortcomings in existing systems and the absence of harmonized legislation mean that violations cannot be properly sanctioned. It is therefore necessary to establish an adequate and universal system to trace SALW.

The international community's preoccupation with the absence of an adequate mechanism for tracing small arms² began in the late 1990s as part of the broader small arms process underway within the United Nations (UN) framework.³ Specifically, an Open-Ended Working Group⁴ was established for the purpose of elaborating an international SALW tracing instrument. The Group held its third and final session 6–17 June 2005 and presented its final report at the Second Biennial Meeting of states held in New York in July 2005.⁵ The report is expected to be adopted at the General Assembly in 2005. However, because of the difficulties encountered in negotiations during the Group's three meetings, the final document results in a weak and politically restrictive SALW tracing instrument.⁶ It is devoid of any effective monitoring mechanism and excludes ammunition from its scope of coverage. Moreover, existing definitions might give rise to different interpretations and further reduce the instrument's credibility. Furthermore, the tracing mechanism is voluntary and bilateral between states, whereas a mandatory, multilateral system is needed.

Civil society has been working in parallel with the UN small arms process in search of a solution to the problem of illicit SALW trafficking and of the impunity of those responsible for this traffic. Specifically, three draft conventions were developed by non-governmental organizations on small arms traceability⁷, on arms transfers⁸, and on brokering⁹. The European Parliament has also adopted resolutions on small arms in which it stated its support for the three initiatives.¹⁰ The three conventions are so complimentary that it should be possible in the mid-term to eventually

merge them into a single convention. Indeed, the convention on brokering is a special case in the treaty on arms transfers, which is especially concerned with policy decision by controlling and verifying paperwork. The latter should be complemented by the convention on traceability, which seeks to establish physical controls on arms transfers. A recent European Parliament resolution on small arms requests the Council to scrutinize European Union “actions and policy with regard to SALW and further [engage] the Council and member states on their relevant policies at regional and international level.”¹¹ The resolution also requests that the Council follow closely the process underway within the UN to develop an instrument on SALW traceability, as well as preparations for the 2006 UN Review Conference, notably concerning negotiations towards developing treaties on brokering and arms transfers.

It seems necessary, for the European Union (EU)—as a major producer of small arms¹²—to establish its own rules to control the production and transfer of SALW, along with an adequate system for verifying weapons stockpiles and use. These would serve to reinforce existing measures at the global and national levels, which are currently piecemeal and weak.

INTERNATIONAL AND REGIONAL INITIATIVES TO CONTROL SALW

One of the first international initiatives to deal with the tracing of SALW was the Interpol resolution adopted in Dakar, Senegal, which recognized that it is impossible for police services to reconstruct firearms circuits.¹³ At a meeting in New Delhi in 1997, the Interpol General Assembly recognized that the fight against the trafficking in SALW required cooperation among member states at all levels, in view of tracing all the possible transactions related to firearms carried out in each country.¹⁴ However, very few countries have followed up on these recommendations and Interpol still lacks a centralized data-collection system that could be used to monitor the traffic in SALW.

UNITED NATIONS INITIATIVES

Several governmental expert groups were established within the UN to examine more closely the problems linked to SALW. Processes were launched with the purpose of establishing international instruments to improve existing controls on transactions and fight against transfers of, and trafficking in, illicit SALW.

The reports of the governmental expert groups

The first UN Group of Governmental Experts on small arms¹⁵ took stock of the problems associated with SALW and drew up a series of recommendations in its report. Recommendations touching on the issue of marking lay the foundation for the subsequent work on tracing SALW. The same report requested that the UN study the problem of ammunition and explosives. This was in turn carried out in the framework of a report published in June 1999 by a UN Group of Experts on ammunition and explosives.¹⁶ That report underlines the fact that ammunition and explosives form an integral part of the SALW problematic and sets out a series of recommendations to improve controls.

The second UN Group of Governmental Experts on small arms published its report in August 1999.¹⁷ The report built on previous work and included new recommendations, notably on the importance of putting in place a reliable SALW marking and tracing system.

The report of the Group of Governmental Experts on the feasibility of restricting the manufacture and trade of SALW to manufacturers and dealers authorized by states¹⁸ is mainly aimed at SALW brokering activities, but also includes marking and record-keeping. It demonstrates clearly and for the first time that inadequate state controls on the licit weapons trade favour deviations to the illicit market. It also notes that these deviations can only be limited or eradicated through the strengthening of controls at a global level, and enumerates various factors that undermine effective controls of SALW, notably gaps in national legislation. Finally, it sets out a series of recommendations on issues related to the manufacture, stockpiling and trade in SALW.¹⁹

The New York Process

The debates that took place during the UN Conference on Small Arms of July 2001 touched on all questions related to the problem of SALW. The Programme of Action (PoA) of the Conference addresses marking, registration and tracing of SALW at both the national and international levels. However, the articles of the PoA on these topics are of a very general nature and, while advising states as to actions they should take, refrain from setting out specific procedures for doing so.

Moreover, in conformity with section IV, Article 1(c) of the PoA, a Group of Governmental Experts submitted a report on the feasibility of an international instrument to identify and trace illicit SALW.²⁰ The Group concluded that such an instrument is both desirable and feasible.

The Vienna Firearms Protocol

The Firearms Protocol was adopted on 31 May 2001 by the UN General Assembly in the framework of the Convention against Transnational Organized Crime.²¹ It was opened for signature on 1 July 2001 and entered into force 3 July 2005. At the time of writing, only 52 states had thus far signed the treaty, however, and the instrument is far from having unanimous support at the international level. Nonetheless, it is important to underscore that this is the first time that States Parties must ensure that the various requirements set out in the international instrument are reflected in their national legislation on SALW.

Since, as in the case of the Inter-American Convention (see below), the Protocol focuses on criminal firearms-related activities, it contains several limitations that will undoubtedly prove problematic when it comes to its implementation. For instance, state-to-state transactions in the interests of national security are exempt from its scope of application (Article 4). The Protocol's restriction to commercial transactions is a serious drawback in that it overlooks not only state-to-state transfers but also transfers from states to non-state actors. Moreover, during negotiations, several countries expressed their concerns that limiting the scope of the Protocol to illicit transfers linked to organized crime would give rise to technical difficulties. They therefore requested a broader interpretation of the Protocol.²² Finally, several sections of the Protocol, such as on marking and record-keeping, apply only to firearms and not to ammunition. It is clear, however, that ammunition, like arms, should be subjected to controls and therefore marked and registered in the same manner.

EUROPEAN UNION INITIATIVES

The EU has taken several important initiatives on SALW.²³ The Council adopted a Joint Action on “The EU's contribution to combating the destabilising accumulation and spread of small arms and light weapons”²⁴ on 17 December 1998. This Joint Action is binding on all member states. The Council decided to include ammunition in the scope of the Joint Action on 12 July 2002.²⁵ Article 3(e) foresees the establishment of confidence-building measures and measures to improve transparency, notably through the creation of regional registers on SALW and the regular exchange of information on transfers, production and stockpiles. The most recent annual report on the implementation of the Joint Action particularly emphasizes the importance of weapons registration and stockpile security.²⁶

However, beyond the above-mentioned resolutions of the European Parliament, no initiatives exist on marking, record-keeping or tracing of SALW. Despite the fact that the EU has played a relatively active role in the international negotiations on these issues, it has not launched any specific initiatives to date. As explained further below in the section on national legislation, few countries have specific SALW tracing systems in place. As a major actor both in terms of its position as a world leader in SALW production and its commitments on SALW at the international level,²⁷ it is time for the EU to establish a harmonized system for controlling the transfer, use and stockpiling of SALW, applicable to all member states.²⁸ Several binding mechanisms already exist on other continents. These are enumerated in the following section. Implementing a similar, effective system within the EU would set an important example in terms of filling existing gaps at the global level.

REGIONAL INITIATIVES

In addition to action at the UN and EU, several regional initiatives merit closer attention:

The Inter-American Convention. The Organization of American States (OAS) Convention against the illicit manufacturing of and trafficking in firearms, ammunition, explosives and other related materials of 13 November 1997, and its accompanying Model Regulations for the Control of the International Movement of Firearms and Ammunition of 2 June 1998, was the first legally binding international initiative of its kind, and one that generated real political will. Article VI of the Convention requires the appropriate marking of weapons at the time of manufacture, as well as their registration for the purpose of tracing.

The OSCE Document on SALW. The Organization for Security and Co-operation in Europe (OSCE) adopted on 24 November 2000 a politically binding document that defines norms, principles and measures related to SALW, and targets SALW produced and intended for military use. The document sets out common export criteria and SALW import, export and transit procedures. Participating states undertake to adopt national control measures, notably appropriate marking and the keeping of accurate, sustained registers in view of improving SALW traceability. Moreover, participating states undertake to cooperate and exchange information on marking systems, among other things, and to establish a list of small arms contact points. The OSCE Document is politically binding and obliges member states to reinforce national laws in order to improve controls on military SALW.

The SADC Protocol. Another legally binding regional initiative worth noting is the South African Development Community's “Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Southern African Development Community (SADC) Region,” adopted on

14 August 2001. The Protocol has already entered into force and includes a series of measures aimed at reinforcing national legislation, controls on SALW possessed by civilians and states, marking and record-keeping (Article 9), information exchange and transparency.

The Nairobi Protocol. Within the framework of the Nairobi Declaration, on 21 April 2004, 11 Central and East African states signed a Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa. Article 7 on marking, tracing and record-keeping was inspired in part by the Vienna Protocol. The last Ministerial Conference of the Nairobi Declaration of 21 June 2005 agreed to establish a Regional Centre on Small Arms in the Great Lakes Region and Horn of Africa (RECSA) to facilitate and promote international cooperation to prevent and combat illicit SALW at the regional level by creating mechanisms for efficient control and management of SALW and to survey the implementation of the Nairobi Protocol and Declaration by States Parties. It is interesting to notice that in Africa, at the regional level, objectives of initiatives to control SALW circulation are rather developed, and notably, specialized entities on small arms will centralize controls in collaboration with the national point of contact on SALW.

The ECOWAS Moratorium. The West African Moratorium on the import, export, and manufacture of SALW was signed in Abuja, Nigeria, on 31 October 1998 by the 16 member states of the Economic Community of West African States (ECOWAS). Its scope of application was subsequently broadened to include ammunition and spare parts for SALW. The moratorium is not a legally binding instrument but is rather an expression of common political will. As such, its implementation has been less than successful and initiatives are currently underway to transform it into a regional convention. A new ECOWAS Small Arms Control Project (ECOSAP) aiming to build capacity to implement the Moratorium is currently being established. The originality of the convention lies in its proposal for a moratorium on the import and export of weapons, and for a centralized implementation mechanism managed by the ECOWAS Executive Secretariat. If successful, it would be the first time that an international control agency for small arms transfers would be operational in the field.

THE UN FIREARMS PROTOCOL

Articles 7 and 8 of the Protocol cover firearms registration and marking, respectively. Ammunition is excluded from marking, making it difficult to trace. It is important that the legal weapons trade is effectively managed so that illegal activities can be identified. Several other provisions that form part of the control measures in the Protocol include: Article 5 on criminalization refers to the falsification, obliteration, removal or alteration of markings; Article 10 sets out import and export licensing requirements in view of preventing diversions towards the illicit marking; and Article 11 refers to security and preventive measures to render controls more effective in preventing diversion to illegal activities. The system proposed in the following paragraphs is vital for controlling weapons transfers, since it would allow the checking of conformity of expedited goods to the delivered licenses. Furthermore, it would permit verification of final use. In this sense, an efficient marking, record-keeping and tracing system also covers Article 10 of the Protocol and its implementation. Finally, the system would also make it possible to check that brokers adhere to registration, licensing and export requirements.

Marking is important because it enables a weapon to be identified in a registry. For this, the markings must be legible, visible and comprehensible, which means that they must use alphanumeric characters. However, Article 8.1(a) of the Protocol allows the possibility of

combining these with geometric symbols that would only be recognizable to the producer country. This complex system is used in China and certain former Soviet countries. It is regrettable that the system was accepted, and that it has effectively contaminated the international SALW tracing instrument, as it is a serious handicap for the tracing mechanism and requires advanced knowledge of these confidential symbols. Insofar as possible, the EU should insist that the countries concerned exchange information regarding their respective marking systems so that these symbols can be recognized. Markings on imports that identify the country and year of import are foreseen in Article 8.1.(b) with a view to rectifying the lack of precision in the various registries. The proof marks²⁹ could be used to identify the country of manufacture.

As far as **records** are concerned, the current 10-year timeframe for holding information is too short given the longevity of SALW. Information should be retained indefinitely, as is currently the case in Italy, for example. Computerization of the registries is an unavoidable necessity in the 21st century if illicit weapons are to be identified and traced.³⁰ This should include both civilian and military weapons. The Protocol leaves it to individual states to organize their own record-keeping systems. However, in the case of the EU, guiding principles for registration systems should be defined in order to harmonize a maximum number of elements. These should include, notably, the centralization of data on weapons rather than persons, as is currently the case for vehicle registration documents, with a national number like for vehicle license plates. Information entered into the registry should concern information regarding the weapon, which would have its own individual file, and the registry should follow the weapon, rather than the owner. This would also avoid constitutional dilemmas in certain countries that prohibit the centralization of data concerning individuals, such as in Switzerland and the United States. In Belgium a new draft law on the trade and possession of weapons foresees the application of this system to all weapons imported to or produced in Belgium by creating individual files for each weapon in the Central Arms Registry (*Registre Central des Armes*). In the same context we can cite the system used in the framework of the Inter-American Convention, SALSA (SALW Administration System), which facilitates the exchange of information on transferred weapons through a centralized, electronic system at the regional level. This register can be accessed on a case-by-case basis for tracing purposes. Note that this project is financed by the EU Working Group on Global Arms Control and Disarmament (CODUN), Great Britain and Canada via the UN Regional Centre in Lima (UN–LiREC). For inter-state arms transfers, it would also be feasible to use the Southeast Europe Messaging System (SEMS), where messages are automatically translated into the language of the user.

As far as Interpol is concerned, the IWETS (International Weapons and Explosives Tracking System) system has existed already for some time. However, it focuses only on weapons already implicated in criminal activities and therefore includes no preventive action, nor does it cover conflict situations. Two years ago, Interpol introduced an international firearms tracing system (IWetS—‘e’ for electronic and ‘t’ for tracing: *e-trace*) that is set to be expanded to cover explosives in future. It is to serve as a relay system for sending tracing requests to the right place—for example to the United States for a weapon originating from the United States. A standard form must be filled out and the request is automatically sent to the state that is most likely to be able to respond to it. This system could be used for conflict situations. Moreover, it ensures information confidentiality since it is not a system that stores data, but that merely involves dispatching it to the right place. Nonetheless, we do not think that Interpol could intervene in weapons tracing in conflict situations because its activities are centred exclusively on criminal activities. New resources would be required to render it capable of working in the context of armed conflict.

As far as the EU is concerned, it would be preferable to give responsibility for centralizing data and responding to tracing requests to the European Commission. The creation of a specialized European Agency with offices in each member state would be the only effective solution. This obviously does not exclude cooperation with other organizations such as Interpol or the UN.

Within the scope of Article 10 of the Protocol it is essential to verify that each firearm is listed individually in the transport documents (batch numbers for ammunition) *prior to export*, as well as in import and export or transit licences. This information should be recorded in the computerized and centralized system at both the national and regional (EU) levels, as explained further below.

We should point out the following issues that will need to be resolved in order to effectively implement the Protocol. First, the fact that the principle of free trade is enshrined in the first pillar of the EU means that it naturally takes precedence over police cooperation in the area of criminality, which corresponds to the third pillar. Second, the Common Foreign and Security Policy (CFSP) is in the second pillar. In other words, the protection of the arms trade and the free circulation of weapons take precedence over the establishment of effective systems for controlling the arms trade and ensuring public security.

Moreover, international negotiations reveal that certain countries are more inclined to protect commercial secrecy than to prevent illicit trafficking (for example, China's introduction of geometric marking symbols). Similarly, there is a lack of political will to invest in control systems, despite the fact that this costs more in the long run for states in terms of spending on emergency assistance, public health and development. The current tendency to respond to problems on an ad hoc basis needs to be replaced by a holistic approach. Within the EU, member states seem more prepared to invest in systems elsewhere than in the EU itself.

THE EU DRAFT STRATEGY ON SALW

An EU draft strategy to fight against the destabilizing accumulation and illicit traffic in SALW and ammunition is being currently under examination within the Council Working Group on Global Arms Control and Disarmament. We analysed one of the last versions and have elaborated the following considerations.

The content of this draft strategy is currently relatively weak despite the good intentions and ideas on which it rests. In fact, it merely boils down to a simple political declaration of intent. Very few actions could be taken on the basis of the document and these could be only very limited in nature. The strategy lacks comprehensiveness, the EC contributions are missing as well as the budgetary allocation which these can represent. What is necessary is an EU policy on SALW to be defined within the framework of the new Stability Instrument for the budgetary period 2007–2013. The actual annual budget of €2 million under the CFSP budget is wholly insufficient. The Commission has little leeway to act as long as a proper legal and budgetary basis is not established for medium- to long-term programming, for integrated and specific SALW policies and actions. If the EU were to develop a legal basis for SALW actions, it would be possible to devote the resources necessary (an estimated €40–50 million) to put in place an effective SALW strategy.

On the basis of the work being conducted by UNIDIR, the European Commission is expected to propose such legislation to the Council that would mandate the former to implement

a defined SALW policy and to ratify the UN Firearms Protocol, which currently lacks a legal basis. Indeed, there is not yet a body to ratify the Protocol in the EU Commission. Notably, the implementation of articles 8 and 10 concerning marking and licensing procedures, respectively, require this formality.

It is pertinent to briefly examine the draft strategy as it touches on the issue of controlling weapons transfers, including marking, record-keeping and tracing.

ESTABLISHMENT OF A SPECIFIC ENTITY FOR SALW WITHIN THE EUROPEAN COMMISSION

Point 5 of the introduction emphasizes that the objective is to elaborate a specific strategy for controlling the proliferation of SALW, similar to that being developed for weapons of mass destruction (WMD). However, it fails to define which institution would be responsible for implementing and overseeing such a project. It would be useful to establish a specific entity for SALW within the European Commission. This could for instance take the form of an agency responsible for the full range of issues related to SALW, and particularly for elaborating a system of controls on transfers, use and production (see recommendations section, below).

PHYSICAL CONTROLS AS A PREVENTIVE MEASURE

Paragraph 12 of the strategy underlines the significance of SALW proliferation in fuelling internal endemic conflicts affecting certain regions of the world, notably in Africa. This is due in part to the fact that global politics has until now been largely reactive; that is, it has mainly involved reacting to problems as they arise. This is referred to in the draft text as a “reactive logic”. Paragraph 13 mentions the need for “preventive action”. Proactive initiatives are rather rare and ad hoc, and in any case no preventive inspections are currently carried out. Transfers require systematic physical inspections, which are conspicuously absent from current regulations. The licensing system that currently exists within the EU, and that is moreover altogether lacking in many countries throughout the world, is nothing other than a series of political, ad hoc paper controls. Physical verification relating to transfers and use after import is in reality not carried out at present. Furthermore, it is not currently possible to cross-check points of export, transit and import to ensure that no deviations have occurred. Nor are inspections carried out on either use or re-export, or on stockpile surveillance. Despite the significance of SALW for human security, as reiterated in paragraph 16 of the draft strategy, which stipulates its objectives, national security and commercial security considerations always take precedence. For understandable political reasons, states tend to privilege above all else measures that protect national and commercial secrecy. Unfortunately, these are often to the detriment of human security.

The death and casualty toll attributed to SALW, as well as their negative impact on development, attest to the need for controls. A strong preventive policy such as that stipulated in paragraph 16 of the draft strategy, alongside proactive measures, is needed to control SALW transfers. This should involve the inspection and verification of markings and the verification of physical correspondence of the goods to accompanying documentation. These controls should be undertaken by authorized bodies having specific competence in SALW in each country upon export, transit and import. It should also involve the cross-checking of data. Moreover, these controls should be complemented by the periodic inspection of stockpiles and use. To this one should add controls on transport, which is of utmost importance in prevention, as well as the control of brokers.

All of these controls could be carried out in the framework of marking, record-keeping and tracing activities by an agency or other body specialized in SALW within the Commission, with branches in each member state (see recommendations below).

THE PRODUCTION AND SALE OF EQUIPMENT

Exports and surplus weapons within the EU, and notably in the Eastern European member states, are alluded to at several points in the Draft Strategy. It seems contradictory, therefore, that no mention is made of elaborating a new production policy in the EU with a view to equipping European forces with SALW. Indeed, a large proportion of European military SALW production is exported to third world countries, thereby contributing to SALW proliferation in sensitive regions. This is also against the EU policy on development assistance. The EU's production policy needs to be re-evaluated with the aim of serving above all the needs of the EU and NATO member states. It should also encourage the conversion of a significant number of small producers—many of which are located in the new member states of Eastern Europe. The latter often do not meet the production levels required to ensure conformity with the high standards existing in the EU, and as such they will need to cease operations or undertake considerable investments. Conforming to marking and stockpile management requirements alone would require significant transformations. While it is beyond the scope of the present study to enter into the details surrounding this issue, it seems reasonable to suggest that the restructuring of the European arms industry, and more specifically the production of SALW, could conceivably be regrouped around a limited number of poles in order to limit their proliferation.³¹ It is difficult to envisage stockpile reductions, as suggested in paragraph 15 of the strategy's objectives, without taking into account production.³² Focusing exclusively on surplus weapons and their destruction is again reflective of a reactive rather than preventive policy.

As far as equipment used in the manufacture of weapons and ammunition is concerned, the EU should adopt a policy of non-export to sensitive zones. In fact, the optimal solution would be to authorize such transfers only to other EU member states, NATO members and a few equivalent countries, as is already the practice in Germany.³³

THE PLAN OF ACTION AND THE ESTABLISHMENT OF NEW STRUCTURES

Concerning the international level, which is discussed in paragraph 19(a), it remains to be seen how the UN international marking and tracing instrument will be implemented. Given the anticipated exclusion of ammunition, one option would be to try to introduce an ammunition protocol at the 2006 Small Arms Conference, and at a later stage a protocol covering explosives. The Plan of Action of the draft strategy underlines the importance of providing training for customs and other relevant agencies, particularly in the countries of Eastern Europe. The idea of training the entirety of EU customs and related agencies in SALW marking and tracing techniques is far too ambitious, in our view. It would be much more efficient to establish agencies specialized in SALW. These would oversee imports and exports and would carry out physical inspections and verify paperwork on behalf of customs officials. Moreover, a certain number of customs houses should be foreseen for SALW imports and exports in a given region. This would make it feasible to provide selected customs officials with a more specific training, a general training for all customs officers in a given country being non-realistic.

At the regional level, the establishment of a single specialized agency operating on behalf of the member states and having offices in each country could ease the concerns raised in the paragraphs of the draft strategy dealing with the Action Plan. Generally speaking, such a system could serve as an example in discussions with non-EU countries, international and regional

organizations surrounding the possibility of creating a specialized entity responsible for tracing SALW extending beyond the EU to generate an effective global mechanism.

The centralization of data, physical inspections and tracing, when necessary, should all be carried out by the EU agency established within the European Commission. Moreover, all necessary information would be exchanged between the agency and the national offices or contact points. It could consider member states' observations and provide recommendations in view of continually improving the system. This agency could also be responsible for verifying legitimate defence and security requirements as stipulated in paragraph 19(b).³⁴ Similarly, it could undertake to control and verify national inventories and surplus SALW stockpile reductions.

In a similar vein, the policy of prevention should also cover SALW production in order to balance supply and demand, notably by focusing in the first instance on the needs of EU member states and common defence requirements.

Point 19(c) posits the establishment of national registers and the regular exchange of information on SALW exports, imports, production and holdings, and on national legislation. This can only be made possible through the establishment of a network of specialized agencies centralized at the regional level (that is, the EU and other regional organizations, for example OAS or ECOWAS), and later at the global level, if regional efforts could result in a UN initiative similar to those established for chemical and nuclear weapons (the Organisation for the Prohibition of Chemical Weapons and the International Atomic Energy Agency, respectively). It is also important to take into account Article 11 of the Cotonou Agreement of 2000 on peace-building policies, conflict prevention and resolution, which stipulates among other things that particular emphasis should be given to "addressing [the] excessive and uncontrolled spread, illegal trafficking and accumulation of SALW" (Article 11.3).

As far as the structures that need to be put in place according to paragraph 19(d) are concerned, the agency would need to work in close collaboration with the Council Secretariat and in particular with the Political and Security Committee (PSC) of the Common Foreign and Security Policy.

COMBATING SALW PROLIFERATION IN THE CONTEXT OF THE EU'S DEVELOPMENT ASSISTANCE AND CONFLICT PREVENTION POLICIES

GENERAL COHERENCE BETWEEN DEVELOPMENT ASSISTANCE AND COMBATING THE PROLIFERATION OF SALW

The close links between efforts to combat the spread of SALW and the provision of development assistance are now recognized. In Africa in particular, the accumulation and use of SALW by non-state actors is one of the main obstacles to development and to the success of international cooperation strategies in the region. Likewise, human security is also under threat from armed violence. Initiatives to control SALW transfers would therefore positively impact both development and human security.

Indeed, it is difficult to ensure sustainable development without ensuring human security, and initiatives taken in both areas are naturally complimentary. The key organizations having competence in the area of cooperation are aware of this relationship and are considering ways in which development strategies could be linked with arms transfer control policies.³⁵ For instance, a

recent Organisation for Economic Co-operation and Development Development Assistance Committee (OECD DAC) initiative underlines the importance of including development aspects in SALW-reduction programmes in order to improve their effectiveness.³⁶

This issue is particularly significant for the European Union as the main donor of development aid in the world. Development cooperation occupies a central place in the framework of the EU's external action, and forms the basis of Europe's strategy to promote democracy, respect for human rights, and political stability abroad. In this regard it is worth recalling that since the 1990s the EU has developed an approach that aims to transform aid into a conflict-prevention and peace-building tool.³⁷ This approach was subsequently endorsed in the European Security Strategy (ESS) adopted on 13 December 2003 by the European Council. The objective is to integrate measures to address the root causes of conflict into EU cooperation programmes.

Aside from these advances in the area of cooperation and conflict prevention, it is worth noting that Europe is also one of the main producers and exporters of small arms in the world. European decision makers are therefore faced with fundamentally incoherent policies. The strategic and financial importance accorded by the EU to development cooperation and its role in conflict prevention should normally lead the European institutions to reinforce their competence in the area of arms transfer controls. The EU manages important reconstruction, rehabilitation, and demobilization and reintegration programmes designed for countries emerging from armed conflict. Economic and financial aid is also provided to states that have embarked on peace-building processes in order to reinforce structural stability. In this context, it would make sense to accord greater competence to the EU over arms transfers in order to avoid nullifying the effects of this aid.

The harmonization of rules in the area of marking, record-keeping and tracing of SALW and the establishment of a European control agency for SALW transfers would go a long way towards facilitating the implementation of coherent global strategies vis-à-vis developing countries, while avoiding the dramatic contradictions that have often characterized the external action of the member states and the EU itself in the field. The current absence of effective controls on arms transfers is such that weapons can theoretically be transferred from a European country to a developing country that is the recipient of intense political EU cooperation, for instance in the form of reconstruction and post-conflict demobilization assistance.

THE LINK BETWEEN THE RULE OF LAW, SALW AND DEVELOPMENT

In certain regions of the world, and especially in Africa where states are often weak, unscrupulous private actors can easily acquire weapons, organize militias through the recruitment of unemployed youth, and occupy and exploit an expanse of territory until their participation in the elaboration of a new government is ensured following the signing of a peace agreement. The uncontrolled proliferation of small arms in poor countries is perhaps not the root cause of conflicts, but it nonetheless represents the means by which conflicts can so readily erupt. It is especially one of the major factors explaining the collapse of state structures in certain countries, such as in the Democratic Republic of the Congo and in Haiti. It is important to recognise in this context that the uncontrolled proliferation of weapons is always accompanied by a parallel diffusion of a culture of violence and the arbitrary use of force, which undermines the rule of law and any initiatives to promote economic development.

The link between arms transfer controls and development cooperation is therefore of paramount importance in light of the problem of state failure. For this reason, the EU is currently making considerable efforts to reinforce the role of the state and the rule of law in its cooperation programmes for developing countries. The EU considers that the success of any development strategy is conditional upon reinforcing and legitimating state structures, especially in Africa. If initiatives aimed at promoting the rule of law are to occupy such an important place in the framework of EU development assistance, it is imperative that the role of the EU in controlling arms transfers is consolidated. No strategy for reinforcing the state apparatus or preventing its decline can be complete without this essential component.

THE PROBLEM OF INTERNAL EU COHERENCE

Reinforcing the role of the EU in controlling arms transfers does not automatically ensure a more coherent EU approach to addressing instability in the South. The diffuse competences and diverse procedures that characterize the external politics of the EU, notably between the first two pillars, often result in problems of coordination and incoherent implementation of policies. The fight against SALW proliferation and its links with cooperation strategies are touched directly by this problem. Whereas development cooperation is essentially a first pillar and Commission prerogative, certain programmes aimed at reinforcing the rule of law in post-conflict contexts belong to the second pillar and the CFSP/European Security and Defence Policy (ESDP). Concerning small arms, however, the EU intervenes essentially via the latter (especially for anything having to do with arms transfer controls). Some activities aimed at countering weapons proliferation fall within the framework of development cooperation programmes (for instance the Cotonou Agreement, which covers ACP countries).

The diversity of competences described above can result in a number of problems. For instance, in December 2004 the EU allocated €515,000 through the CFSP/EDSP to finance a programme to fight SALW in West Africa,³⁸ while the Commission planned to allocate €1.6 million for the same project, notably for reinforcement of national commissions, in the framework of the European Development Fund foreseen in the Cotonou Agreement. These two initiatives were not coordinated and this led to several problems, not least of which is a case currently before the European Court of Justice involving a conflict over respective competences between the EU institutions.

If problems related to the diffusion of competencies within the EU in its action to support the rule of law are added to the problems concerning SALW, it is understandable that the EU finds it difficult to elaborate coherent and global strategies vis-à-vis developing and politically unstable countries. However, as mentioned several times in the European Security Strategy, there is an urgent need to develop global and integrated approaches to today's security problems.

It is therefore essential that the reinforcement of EU competencies in the fight against SALW proliferation is carried out in parallel with a better clarification of competencies within the EU, notably vis-à-vis its development cooperation.

EUROPEAN LEGISLATION ON MARKING, REGISTRATION AND TRACING

On the whole, European legislation does not provide specific details on SALW marking, record-keeping and tracing. Regulations are not made public and it is difficult to access internal regulations, notably those touching on the armed and security forces. Neither is it possible to

access registries kept by producers and arms dealers and this for commercial reasons. A multitude of registration systems exist specific to each country and centralized registries consolidating all SALW generally do not exist. The only centralized registries concern individual firearms possession and carrying permits. Military weapons are only registered by the armed forces and are generally not covered by legislation. Weapons are commonly marked with the manufacturer's code, year and serial number regardless of whether it is required by law. As noted in the previous paragraph, Belgium seeks to incorporate a centralized registry for all imported and produced weapons.³⁹ Germany is one of the most advanced countries as far as marking and record-keeping requirements are concerned, notably for military material.

In principle, ammunition is only recorded in the registries held by arms merchants and users, and never by the state. The German legislation foresees the marking of ammunition both for SALW (for example revolvers and non-automatic rifles) and ammunition used in warfare. Ammunition for SALW must be marked at the base of the cartridge with the manufacturer's identification and the calibre. Ammunition that has been recharged should receive an additional marking. The smallest packaging unit should be marked with the manufacturer's initials, batch number, calibre and type of ammunition. The manufacturer can be replaced by the firm that commercializes the ammunition.⁴⁰ Military ammunition is less addressed by the legislation and should only be marked so as to identify the manufacturer or importer.⁴¹ Packages should be marked according to NATO standards.

No tracing mechanism is foreseen in the legislation. The implementation of the new tracing instrument would be the first of its kind. However, in the interests of efficiency it would be desirable for the EU to establish its own minimum standards for marking, record-keeping and tracing within the EU through the passing of legislation and the establishment of structures necessary to implement the legislation. The following section develops recommendations aimed at putting such a system in place within the EU.

EXAMPLE OF NATIONAL LEGISLATION: BRAZIL

Following the legislation's entry into force in December 2004 (Decree n.16 D LOG of 28 December 2004), Brazil's main manufacturer of ammunition for SALW, the CBC Company, integrated a second stage of markings into its production process. The main production line assures a production volume of 120 ammunition rounds/minute; this same rhythm is maintained despite the integration of the second stage of markings, which did not introduce any production delays.

Markings implemented by CBC are carried out in two steps:

- A first marking is stamped onto the base of the cartridge case. This step takes place in the initial production phase, when the case is manufactured and before the cartridge cap is introduced. This is the same system used by the other key ammunition producers such as FN Herstal, for example. This marking involves the use of a mould that is regularly replaced (on average after 150,000 stampings the mould is sufficiently worn enough to warrant replacement) and contains a limited series of information (including production year, manufacturer's identity and production series number). The consignee is generally not known at this point of the production process.
- The second step in the marking procedure takes place just prior to packaging and involves the use of laser markings. Information is inscribed in the groove of the case. This includes

the production year, manufacturer, batch number, as well as a unique identifier of ammunition and the identification of the consignee. This solution offers additional advantages. Firstly, the groove is the only place on the case that is relatively thick, contrary to the walls where the depth of the metal is minimal. This allows information to be inscribed in sufficient depth as to avoid the possibility of its obliteration. Secondly, markings inscribed in the groove are not subject to any friction when the weapon is fired (there is no friction between the groove and the barrel), thereby guaranteeing the total conservation of the marked information.

This marking method requires the integration of a laser head and computer to control the laser among the machine tools used in ammunition packaging. Ammunition is marked individually just before being packed in cases. The cost of integrating this technique (laser and command software) amounts to approximately €50–60,000 (the packaging machine alone without the laser is sold by EDB, a Belgian ammunition machine manufacturer, for approximately €175,000). The training required to use the laser control software normally involves only one day of training (the CBC employees were trained in Düsseldorf, Germany, where the manufacturer of the lasers integrated into the EDB machines is situated). This investment can easily be absorbed by CBC, which produces millions of ammunition rounds each year. Moreover, the associated depreciation costs are deducted from company profits in the balance sheet.

According to EDB representatives, the integration of the laser into the production line did not pose any serious problem and had no significant effect on production levels. The only difficulty encountered involved adjusting the packaging machine so that each ammunition round could be correctly positioned under the laser head to ensure that the markings were engraved at the correct location; that is in the case groove. This problem was quickly resolved.

Other ammunition producers have also put in place individual ammunition marking systems using laser engraving. They include the Dynamit Nobel group, which marks ammunition on the interior of the base of the cartridge case, and the Italian producer Penna Ammunitions.

REMARKS ON THE TRANSPORT OF DANGEROUS GOODS⁴²

Ammunition has the specificity of being considered a dangerous good. As such, ammunition packaging for the purpose of transport must be authorized by an institution accredited by the exporting country as conforming to international regulations governing the transport of dangerous goods. These regulations are based on the recommendations of the United Nations committee of experts on the transport of dangerous goods.⁴³ The packaging must undergo drop tests and stacking tests to ensure that it complies with set criteria. It is then marked with a four-digit United Nations number designating the category and type of ammunition it contains. Letters indicating the original supplier state and the exporter are added. A certificate of conformity is then delivered by the relevant government department in view of export.⁴⁴ The authorization of packaging and particularly packaging for the transport of dangerous goods is undertaken by accredited bodies throughout Europe. Upon export, customs officials verify the conformity of the packaging and their inscriptions.⁴⁵

Since the system is harmonized, the classification, packing, marking, labelling, display and documentation procedures are identical in all countries regardless of the mode of transport. As such, the goods and their origin are identifiable throughout the world during transport. However, it is important to note that this applies only to packaging and not to the marking or control of ammunition itself. It is the packaging that is traced and not its contents. Yet, as this case shows, it

is possible to achieve international consensus on regulations of this nature. It is therefore feasible to extend the scope of the international regulations on packaging to the marking of SALW, ammunition and explosives, with controls carried out by accredited organisms upon shipment. In parallel, this information could be centralized in an international registry. For the civilian market this could be undertaken by the same network as for the transport of dangerous goods by extending the mandate of those accredited organisms to include SALW. As stipulated in the recommendations of the UN group of experts (paragraph 7.0.1), the consigner would be responsible for marking and labelling each package as well as each weapon, ammunition or explosive, in conformity with the regulations.

RECOMMENDATIONS FOR AN EFFECTIVE SYSTEM FOR MARKING, REGISTRATION AND TRACING SALW AT THE EU LEVEL

The system here proposed rests on the use of methods already used in international trade for a wide variety of goods. It does not require any particular treatment specific to weapons, though they are not exactly a standard form of merchandise. These methods will of course need to be adapted to the arms trade, and arms manufacturers, sellers and customers will need to be convinced of the merit in updating the system in which they have had the habit of working for so long. Perhaps the hardest part lies in convincing certain states reticent to accept any international controls whatsoever of the need for more strict controls. This is why such a system would have more chance of being accepted and implemented within a regional rather than global framework in the first instance. The EU is in a privileged position to establish such an effective mechanism assuming there is enough political will on the part of an important number of member states, but also and especially provided the European Commission is given a legal basis to ratify and implement international instruments by providing the financial means to do so via the Stability Instrument. The fact that the EU is the number one producer of SALW worldwide could make it well placed to impose its system worldwide and improve existing instruments at the global level.

GROUNDS FOR ACTION

An international SALW tracing instrument has just been finalized within the UN framework.⁴⁶ The document is relatively weak as it excludes ammunition, is legally non-binding, and features a follow-up mechanism that is limited to biannual reporting by states. Moreover, the tracing system is entirely voluntary rather than obligatory for states, and is practically a bilateral system.⁴⁷ Furthermore, as with the UN Firearms Protocol, the text does not include a section featuring “best practice” in marking or record-keeping methods, since these are considered national prerogatives. EU member states should therefore seek practical systems to implement the Vienna Protocol and the UN instrument for SALW tracing. The European Commission could play a vital role in putting an effective system in place.

The system recommended here, to be effective, must include measures aimed at controlling the legal arms circuit in order to prevent deviations towards the illicit market during transfer, but also during utilization. A system covering everything from production to end-use would logically cover most aspects of the SALW problem, including certain issues related to brokering and end-use. It would therefore reinforce Article 10 of the Firearms Protocol. The newly adopted UN tracing instrument applies to conflict situations as well as state-to-state transfers (while not excluding commercial weapons and criminality). As such, it complements the Vienna Protocol. What is lacking most with this instrument is the element of prevention, since it only applies to weapons that have already been used to commit a crime or seized in the context of an illicit situation. Even if certain tracing investigations eventually give rise to sanctions, the majority of

diversions will remain unpunished in the absence of preventive measures, as the following case study (Box 1) demonstrates.

Ideally, a system should be put in place that responds to the problems noted above and enables preventive action. For example, taking the case study below, after Jordan had procured an end-user certificate from Switzerland, the Swiss authorities should have automatically notified the supplier state (in this case Belgium) and asked whether the weapons could be re-exported in the scope of the contract between Belgium and Jordan? However, no exchange of information took place between the states, which is reflective of the majority of cases under the existing system.

Box 1. The export of submachine guns from Belgium to Jordan⁴⁸

In spring 1998, the Government of Jordan ordered 100 P90 submachine guns (including 20 equipped with laser scopes) from FN Herstal in Belgium. Officially, they are meant to equip Jordanian Special Forces charged with assuring the close protection of the royal family. The 20 laser-equipped guns were delivered on 17 June 1998 and the 80 others on 2 August; transport was assured by a *Royal Jordanian* airliner. It subsequently emerged that Jordan did not order the 5.7x28mm ammunition required for the P90.

Before this order could be delivered, someone close to the Jordanian royal family proposed to deliver the P90s to a Swiss arms merchant, M. Thomet, during an arms fair held in Amman in February or March 1998. The offer, which stood at US\$ 153,000 including transport, was valid until 1 April 1998, and the money needed to be paid to Crown Prince Abdullah Bin Al Hussein. These negotiations were led on the Jordanian side by Colonel Mahmoud, commander of the Special Forces. The Swiss firm Thomet and Brügger accepted the transaction and transferred the funds before the P90 left Belgian soil.

The weapons remained in Jordan for two days before being re-exported to Switzerland and then onwards to the Netherlands, where they were requested to be transformed into semi-automatic fire guns so that they could be sold in Switzerland. Thomet and Brügger possessed all the legal documents required for import, export and private sale.

Once transformed, approximately half of the P90s were delivered to private owners in Switzerland; some were furnished to FN competitors, including Heckler & Koch, and others were delivered to Belgian and Finnish gun dealers. About 20 guns remain in the Netherlands as payment for the transformations.

In September 1999, four of these “Jordanian” submachine guns were discovered in weapons caches belonging to a drugs and arms trafficker imprisoned in the Netherlands. Others are reportedly used in armed hold-ups in France and in Belgium.

A preliminary investigation launched by the office of the public prosecutor in Liège, in which Belgian police officers were sent on several occasions to Switzerland and the Netherlands, never made it to court as the prosecutor’s office concluded that “no fault was found to have been committed on Belgian soil”.

Despite Jordan’s non-respect of the end-user certificate, Belgium continues to deliver weapons to Jordan.⁴⁹ This reveals a number of loopholes in the existing European arms exports system—a system that purports to be among the most advanced in the world.

On the other hand, had a system resting on agencies specialized in SALW existed, either the Jordanian or Swiss agency would normally have noticed that the weapons could not be re-exported to Switzerland, as physical inspections would have revealed that the re-export of the

P90s had not been authorized by Belgium. As it is, we do not know which documents the Swiss authorities received in this case.

Moreover, it is obvious that there was no follow-up on their use. Had there been some form of follow-up then the first physical inspections would have revealed that the weapons were no longer in Jordan, which would have justified the launching of a tracing request before the weapons reached the illicit market via the Netherlands. Such a system would make it possible to take preventive action at different levels.

Similarly, it is astonishing that the Netherlands authorities did not contact their Belgian counterparts during the course of the transaction between the Netherlands and Switzerland, since European and Belgian regulations prevent the sale of this type of weapon to civilians, even when transformed into semi-automatic guns. Logically, the totality of the guns should have been returned to Switzerland because they were in the Netherlands only for transformation. Furthermore, no inspection was made by the authorities of the transformations the guns had undergone in the Netherlands.

A system of specialized agencies would never have allowed the weapons to be transferred between the Netherlands and Switzerland, since the agency officials, unlike customs officers, would have had sufficient technical competence to understand that the transaction was irregular, despite appearing normal on paper. Moreover, as the system would be centralized (in our example within the European Commission) and the exchange of information obligatory between neighbouring countries, end-user and supplier state, there would be no cracks in the system for the weapons to slip through. At several levels, therefore, it would have been possible to stop this non-compliant transaction and sanction those responsible. Under the current system, even once a transaction has been determined to be non-compliant, the legal loopholes make it almost impossible to punish those responsible.

It is important therefore to consider all practical aspects of weapons transfers in view of correctly implementing Article 10 of the Vienna Protocol. This means ensuring that the physical transaction conforms to the documents, with physical inspections resting on marking, record-keeping and tracing requirements.

RECOMMENDATIONS FOR AN APPROPRIATE MARKING SYSTEM⁵⁰

Markings must be unique to each weapon and permit the weapon to be identified easily. They must also be reliable and inexpensive.⁵¹ The following markings should be applied:

- **Classical marking.** This is comprised of a unique serial number identifying the manufacturer and year of manufacture.⁵² Information concerning the purchaser's identity and the country of destination should also be included if known at the time of manufacture. Classical markings should be expressed alphanumerically, be legible to the naked eye and should be featured on a maximum number of main parts of the weapon, and at the very least on the component parts designated by the manufacturer as essential⁵³ as well as on one other important parts of the weapon.
- **Security marking** (or secondary marking). This contains the same information as the classical marking but is applied to component parts of the weapon that are difficult to manipulate after the weapon's manufacture, and the falsification of which would render the

weapon unusable. Security markings should not be applied in lieu of classical markings, but are to be used in addition to classical markings in the event that they are rendered illegible.

- **Import marking.** If the importing country and year of import are unknown at time of manufacture, these markings must be effectuated by an organism accredited in the importing country (such as the *Banc d'Épreuves* in Belgium).
- **Technical committee.** Each member state should establish a nationally accredited technical committee comprised of independent experts to determine, for each type of weapon, the manner in which markings must be made (that is, ideal placement, depth, technique to be used).⁵⁴ A certificate of conformity should be delivered to this effect by the national authorities for each type of weapon manufactured on the territory of an EU member state.
- **Concerning ammunition.** In this case a unique batch number replaces the serial number, whereas all other clauses continue to apply.
- **Packaging.** The packaging of small arms and light weapons and ammunition should be appropriately marked. These should include the same information as the markings of the contents and, additionally, should comprise information concerning the recipient and the destination country, as well as the type of weapon or ammunition contained in the package.⁵⁵
- **Implementation deadline for existing weapons.** Deadlines should be defined, for example seven years for existing stocks held by armed and security forces, and three years for commercial weapons and ammunition.
- **Explosives.** Industrial explosives that can be used as individual weapons and that can be marked individually should be included in the system. In this case, a batch number replaces the serial number, whereas all other clauses continue to apply.

RECOMMENDATIONS FOR AN APPROPRIATE REGISTRATION SYSTEM⁵⁶

The feasibility of tracing a weapon depends also on the way in which the transactions that the weapons in question underwent were recorded. Information relating to SALW ownership and transfers should be recorded in a national register, as follows:

- A) Each member state should maintain a computerized and centralized national registry in which all SALW are registered regardless of who the owner is or the nature of the transaction.⁵⁷
- B) At a minimum, the following information should be included in the national registry:
 1. Product description (type or model, calibre) and quantity (in the case of a batch);
 2. Contents of markings;
 3. Name and location of former and new owners and, if possible, successive owners;
 4. Date first entered into the registry; and
 5. Information concerning each transaction, including:
 - i. name and address of the consigner, the eventual middleman, consignee and end-user as indicated on the end-user certificate;
 - ii. the exit points (location and country), eventual transit points, and the destination, as well as customs references and departure, transit and final delivery dates;

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- iii. export, transit, and import licences (quantities and batches correspond to the licence, as well as the validity of the licence);
 - iv. complete information concerning transport and the transport company/companies;
 - v. control organism(s) (upon departure, transit point, and arrival);
 - vi. the nature of the transaction (commercial or non-commercial, private or public, transformation, repair); and
 - vii. insurance firm(s) and/or financial organization(s) involved in the transaction, where relevant.⁵⁸
- C) Data are maintained in the registry until such time as the weapons, ammunition or explosives are classified as antique portable firearms or their replicas, at which point the data shall be archived. Antique portable firearms shall in no case include weapons manufactured after 1899, however.⁵⁹
- D) Data concerning destroyed weapons shall also be archived.
- E) Registries maintained by manufacturers and vendors must be computerized, and all data entered in these registries must be transmitted to the national registry every three months. Furthermore, the data must be kept indefinitely. The registries of manufacturers and vendors shall be centralized with the national registry in countries where this is feasible.
- F) The national registry should be operational in each member state no later than two years after the publication of the EC Directive.
- G) Existing SALW must be registered according to the terms stipulated in the above provisions no later than one year after the establishment of the national registry.⁶⁰
- H) In the event that the constitution of a State Party prohibits the centralization of data of the type foreseen in the present provisions, the national agency specialized in SALW (see definition below)⁶¹ shall be responsible for collecting and exchanging all information necessary for the tracing operation.
- I) Every three months the national agencies shall transmit all data collected to the International Control Agency (see definition below).

RECOMMENDATIONS FOR AN ADEQUATE TRACING SYSTEM⁶²

- A) States parties shall ensure the exchange of data regarding illicit SALW through the national agencies, and this without restriction.
- B) In the case of other SALW, member states shall exchange the following data⁶³ on a regular basis⁶⁴ and insofar as possible:
1. On manufacture (the marking system and techniques used, authorized manufacturers);
 2. On transfers (exports to and imports from all other states, transits, available information concerning national legislation, existing controls, authorized vendors and intermediaries);
 3. On existing stockpiles (management, inventory, security, surplus, losses, theft, destruction); and
 4. On seized SALW, as well as trafficking in illicit SALW (condemnation of implicated persons or legal entities, sanctions, destruction and destruction methods, neutralization).

RECOMMENDATIONS FOR THE ESTABLISHMENT OF AN INTERNATIONAL CONTROL AGENCY FOR SALW WITHIN THE EU

- A) The member states should establish an International Control Agency (ICA) for SALW based in the European Commission for the purpose of implementing the provisions of international instruments to control SALW.⁶⁵
- B) The ICA shall verify SALW transfers and use in the least intrusive manner possible, consistent with the timely and efficient accomplishment of its objectives. It shall only request information and data necessary to carry out the responsibilities conferred on it by the member states. It shall take all precautions necessary to protect confidentiality of information concerning civil and military activities and facilities brought to its attention in the scope of its activities.
- C) The ICA shall comprise an Executive Council and Technical Secretariat and shall work under the general supervision of the European Commission.
- D) The EU Commission shall consider proposals by the Technical Secretariat for Directives relating to marking techniques, and incorporate them into EC legislation as necessary. Directives shall be implemented by member states within a maximum period of 24 months, with a view to their application by the national technical committees outlined in the section on SALW marking.
- E) The Executive Council shall be comprised of a representative from each member state. It shall establish its internal rules and elect a President from among its members. It shall supervise the activities of the Technical Secretariat and appoint its Director-General.
- F) Any member state as well as the Technical Secretariat's Director-General may refer situations in which there are legitimate doubts or concerns, or cases involving non-compliance with the relevant Directives, to the Executive Council.
- G) The Technical Secretariat is responsible for SALW-tracing operations. To this end, it shall:
 - 1. Elaborate draft Directives pertaining to marking techniques;
 - 2. Permanently centralize all data transferred to it by the national agencies relating to the production, stockpiling and transfer of SALW. Data and information collected by the Technical Secretariat may not be transferred to a member state unless in response to a duly motivated request formulated by the authorities of the member state concerned, within the framework of an official investigation into the production and/or transfer of SALW that contravene the relevant Directives;⁶⁶
 - 3. Provide technical assistance to member states in implementing the Directives and carry out technical evaluations on their behalf; and
 - 4. Decide, if appropriate, to carry out investigations into the manufacture and/or transfer of SALW. Investigations aim to verify the correct implementation of the Directives in a specific case and to determine responsibilities incurred in this context. The Technical Secretariat may question states, companies and individuals in the course of an investigation. Agents of the Technical Secretariat may, if required for the purposes of the investigation, enter the territory of a member state. The Technical Secretariat may inspect SALW production and stockpile sites, with the assistance of the national agency. The national agency may request the assistance of public security forces should it prove necessary for the purposes of the investigation. The Executive Council shall present the

investigation results to the European Commission which shall take appropriate measures, as necessary, in conformity with EC and international law.

- H) The Technical Secretariat shall include administrative and technical personnel as required to carry out its duties, under the authority of the Director-General.
- I) The Director-General is responsible for appointing members of staff and for the organization and functioning of the Technical Secretariat. They will report these matters to the Executive Council.
- J) The main consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Only member state nationals may be appointed to the post of Director-General or employed as inspectors, associates, managers or administrative staff. Subject to this limitation, recruitment shall be carried out on as wide a geographical basis as possible. The number of staff shall be kept to a minimum necessary for the ICA to effectively fulfil its responsibilities.
- K) In the performance of their duties, the Director-General, inspectors and the other staff members of the Technical Secretariat shall not seek or receive instructions from any government, nor from any other source external to the ICA. They shall refrain from any action that might reflect on their positions as European civil servants. Each member state shall respect the exclusively international character of the responsibilities of the Director-General, inspectors and other staff members and shall not seek to influence them in the performance of their duties.
- L) The ICA shall have international legal status. It shall enjoy, on the territory and in any other place under the jurisdiction or control of a member state, such legal capacity and such privileges and immunities as are necessary for the exercise of its functions.
- M) Member state representatives as well as their substitutes and advisers, the Director-General and staff of the Technical Secretariat shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the ICA.

OTHER LEGISLATIVE RECOMMENDATIONS

- A) **Inspections.**⁶⁷
 1. Inspections shall be undertaken upon export, at the eventual transit points and upon import of SALW, by means of the national agencies or bodies authorized by them to this effect. Each member state shall oversee inspections carried out on its territory. Inspections shall involve the verification of documents relevant to each transaction, the markings on weapons involved in the transaction, and the conformity of the weapons and their mode of transportation to the details cited in the documents;
 2. Data collected in the course of an inspection shall be cross-checked by the national agencies concerned, with a view to preventing any deviations of SALW to unregulated markets; and
 3. States Parties shall ensure that stockpiles of SALW situated on their territory are subject to appropriate inspection and inventory measures.⁶⁸ These operations shall be undertaken by the national agency concerned or by bodies authorized by them to this effect.

- B) **Confidentiality.** Each member state shall guarantee the confidentiality of, and comply with any restrictions on, the use of information received from another state, in conformity with the Directives, if so requested by the state providing the information. This includes proprietary information pertaining to commercial transactions. If such confidentiality cannot be assured, the member state that provided the information shall be notified prior to its disclosure.
- C) **Legislative provisions.** Member states commit to take legislative and administrative measures, within one year of the entry into force of the SALW Directives, necessary to:
1. Render illegal SALW that have not been marked and registered according to the provisions of the Directives, and prohibit the transfer, stockpiling or manufacture within their territory of SALW that have not been marked in accordance with the provisions of the Directives;
 2. Render punishable by law⁶⁹ the manufacture, transfer, acquisition, sale, transport and possession of non-compliant SALW, as well as the falsification, removal or alteration of markings that these weapons must exhibit in conformity with the Directives;
 3. Prohibit transport companies, insurance companies and financial institutions from carrying out or underwriting transactions involving SALW unless these are accompanied by documentation conforming to existing laws and conventions applying to such transactions;
 4. Render obligatory the registration with the national authorities of all manufacturers, vendors and brokers engaged in the production of or trading in SALW;⁷⁰ and
 5. Regulate the transport of SALW such that authorization can only be granted to transport companies specially authorized to transport arms.⁷¹

CONCLUDING REMARKS

For comments on the recommendations, we invite the reader to consult the chapters “Grounds for Action” and “Overview of the Articles” of the *Draft Convention on Marking, Registration and Tracing of SALW*,⁷² produced by GRIP. Section 6 of this study was largely inspired by the Draft Convention, with modifications reflecting the specificities of the EU framework.

We cannot stress enough the importance of regulating the SALW circuit from production to final use, with both political (on paper, licences, and so forth) and physical controls (verification that shipments conform to documentation). The latter should also serve to verify SALW inventories and use. Indeed, it is no secret that problems associated with weapons deviations in general start with the first delivery, where existing controls stop after the verification of licences and end-user certificates.

THE IMPORTANCE OF TRANSPORT

Additionally, it is important to stress the issue of transport as it is a key parameter in SALW deviations during transfers. Not only should transport only be carried out by authorized agents, but also itineraries should be determined in advance and communicated to the authorities in exporting, importing and transit countries to enable them to take the necessary measures to effectively control transfers. This would also permit the control of brokered transactions as they would be part of the same system. Moreover, as transport companies would be officially authorized, they would be expected to know all the legislative provisions covering SALW and

should be responsible for transport goods only in the context of transactions that conform to the legislation.

One form of intrinsic control would be to require transport companies, insurance companies and financial organisms to transport or cover transactions involving SALW only upon presentation of the necessary documents confirming the conformity of the transaction with the existing laws and conventions.

Another solution to avoid potential deviations to the illicit market during transport or through the transit country would be to impose the CIF (Cost, Insurance, Freight) sales method, which requires that shipping costs, insurance and freight charges are included in the price.⁷³ The seller would therefore retain ownership and responsibility for the goods until their delivery in due form to the buyer, under the surveillance of the importing country authorities and of its point of contact.

Many ports throughout the world already carry out specific verification of container contents by scanning them, with a view to preventing terrorist acts. The European Commission, through its Joint Research Centre (JRC), has developed technology to identify and trace containers transporting dangerous goods through the use of an integrated system. This could be applied to the transport of SALW and to other modes of transport by land and air. JRC has also developed marking techniques using transponders and ultrasound to mark and trace weapons.

IS THE ESTABLISHMENT OF SURVEILLANCE AGENCIES JUSTIFIED?

To conclude, we wish to point out that the establishment of national agencies (or points of contact), as specialized units on SALW, are justified on the basis that such a system already exists for verification purposes via control organizations such as the Geneva-based SGS (*Société Générale de Surveillance*), Lloyds or Cotecna.⁷⁴

These institutions have offices or representatives in most countries throughout the world and carry out qualitative and quantitative controls for all kinds of products in order to reassure both clients and producers of the conformity of the goods and to verify the legitimacy of any complaint that may arise. SGS also traces the good use of credits and donations made by states to other states and organizations. It has worked on behalf of the EU since the 1990s to uncover the embezzlement of significant aid allocations to Russia. Tracing operations can go all the way back to the original sale, and according to a SGS representative, the success rate of tracing is greater than 99%. It is therefore reasonable to envisage the European Commission collaborating with these organisms in carrying out physical controls on behalf of the national agencies, in exchange for a modest commission.⁷⁵ In any case, the exporting or importing clients should remunerate the national agencies for the controls carried out. All the arms producers we have interviewed to date confirmed that they already work with these control organisms at the specific request of certain clients. The control organisms involved in the transport of dangerous goods or else the firearms proof houses (*Banc d'Épreuves*) could also be used for this purpose.

Notes

¹ See the section of the GRIP website on SALW marking, record-keeping and tracing: <<http://www.grip.org/research/trace.html>>.

- ² See Ilhan Berkol, "Initiatives sur le marquage et le traçage des armes légères", Groupe de recherche et d'information sur la paix et la sécurité, *note d'analyse*, 2002, <<http://www.grip.org/bdg/pdf/g3114.pdf>>.
- ³ See United Nations, *Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, UN document A/CONF.192/15, 9–20 July 2001. See also General Assembly, *Report of the Group of Governmental Experts Established Pursuant to General Assembly Resolution 56/24 V of 24 December 2001, Entitled "The Illicit Trade in Small Arms and Light Weapons in All Its Aspects"*, UN document A/58/138, 11 July 2003.
- ⁴ The Open-Ended Working Group on small arms tracing was established pursuant to UN resolution A/RES/58/241 of 9 January 2004.
- ⁵ General Assembly, *Report of the Open-ended Working Group to Negotiate an International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons*, UN document A/60/88, 27 June 2005.
- ⁶ See Groupe de recherche et d'information sur la paix et la sécurité, "Comments of GRIP on the Draft Text on Small Arms and Light Weapons Traceability", *note d'analyse*, presented at the informal meeting between NGOs and CODUN on 13 May 2005, <<http://www.grip.org/bdg/pdf/g4255.pdf>>.
- ⁷ This draft convention was developed by GRIP in order to stimulate the debate of the Group of Governmental Experts on SALW marking and tracing. See Groupe de recherche et d'information sur la paix et la sécurité, "Draft Convention on Marking, Registration and Tracing SALW", GRIP Report n° 2004/4, 2004, <<http://www.grip.org/bdg/pdf/g4037.pdf>>.
- ⁸ Draft convention on arms transfers developed by the Arias Foundation: <<http://www.grip.org/bdg/g4508.htm>>.
- ⁹ Draft convention on brokering developed by the Fund for Peace: <<http://www.grip.org/bdg/pdf/g4024.pdf>>.
- ¹⁰ European Parliament, *Resolution on Implementation of the United Nations Programme to Combat the Illegal Trade in Light Weapons*, EU document P5_TA(2003)0293, 19 June 2003. The European Parliament also adopted two other resolutions on small arms on 15 March 2001 and 15 November 2001, respectively, in the framework of the UN Conference on small arms of July 2001.
- ¹¹ European Parliament, *Resolution on Small Arms and Light Weapons*, EU document P6_TA(2005)0204, 26 May 2005.
- ¹² For a detailed study of the major SALW manufacturers in Europe, see Luc Mampaey, "Une vision européenne pour l'industrie des armes légères", Groupe de recherche et d'information sur la paix et la sécurité on behalf of Les Verts/Alliance Libre Européenne of the European Parliament, 2003, <<http://www.grip.org/bdg/pdf/g1518.pdf>>.
- ¹³ Interpol, *Firearms identification*, document AGN/61/RES/15, 10 November 1992.
- ¹⁴ Interpol, *The Manufacture, Use and Control of Firearms*, document AGN/66/RES/6, 21 October 1997.
- ¹⁵ General Assembly, *Report of the Panel of Governmental Experts on Small Arms*, UN document A/52/298, 27 August 1997.
- ¹⁶ General Assembly, *Report of the Group of Experts on the Problem of Ammunition and Explosives*, UN document A/54/155, 29 June 1999.
- ¹⁷ General Assembly, *Report of the Group of Governmental Experts on Small Arms*, UN document A/54/258, 19 August 1999.
- ¹⁸ General Assembly, *Report of the Group of Governmental Experts Established Pursuant to General Assembly Resolution 54/54 V of 15 December 1999, Entitled "Small Arms"*, A/CONF.192/2, 11 May 2001.
- ¹⁹ For an analysis of the report, see Ilhan Berkol, "Traceability of SALW", Groupe de recherche et d'information sur la paix et la sécurité, *note d'analyse*, 2001, <<http://www.grip.org/bdg/pdf/g1884.pdf>>.
- ²⁰ General Assembly, *Report of the Group of Governmental Experts Established Pursuant to General Assembly Resolution 56/24 V of 24 December 2001, Entitled "The Illicit Trade in Small Arms and Light Weapons in All Its Aspects"*, UN document A/58/138, 11 July 2003.
- ²¹ General Assembly, *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 document A/RES/55/255, 8 June 2001.

- ²² Indeed, illicit trafficking is not limited to organized crime. For example, theft, loss and diverted government stockpiles, as well as “grey market” transfers, all constitute important sources of illicit weapons.
- ²³ See Ilhan Berkol, “Initiatives sur le marquage et le traçage des armes légères”, Groupe de recherche et d’information sur la paix et la sécurité, *note d’analyse*, 2002, <<http://www.grip.org/bdg/pdf/g3114.pdf>>.
- ²⁴ Council of the European Union, *Joint Action of 17 December 1998 Adopted by the Council on the Basis of Article J.3 of the Treaty on European Union on the European Union’s Contribution to Combating the Destabilising Accumulation and Spread of Small Arms and Light Weapons*, EU document 1999/34/CFSP, 17 December 1998.
- ²⁵ Council of the European Union, *Joint Action of 12 July 2002 on the European Union’s Contribution to Combating the Destabilising Accumulation and Spread of Small Arms and Light Weapons and Repealing Joint Action 1999/34/CFSP*, EU document 2002/589/CFSP, 12 July 2002.
- ²⁶ European Union, *Fourth Annual Report on the Implementation of the EU Joint Action of 12 July 2002 on the European Union’s Contribution to Combating the Destabilising Accumulation and Spread of Small Arms and Light Weapons*, EU document 2005/C 109/01, 4 May 2005.
- ²⁷ In the UN framework, they include the Firearms Protocol, the International tracing instrument and the SALW Programme of Action. At the regional level, they include the OSCE document on SALW and the Wassenaar Arrangement.
- ²⁸ It is worth pointing out the existence of a Council Directive on firearms of 18 June 1991 (<<http://www.grip.org/bdg/g4538.htm>>), which regulates civilian possession and sets out minimum criteria for intra-Community transfers. The EU Code of Conduct establishes political criteria for the granting of licences and prohibits controls on transfers.
- ²⁹ The *Commission Internationale Permanente des armes à feu* (CIP), which brings together the firearm Proof Houses of a number of countries, was established in 1914 to assure the security of gun users by testing weapons in order to verify their conformity. A new Convention signed on 7 July 1969 forms the basis for international harmonization, and includes the following signatories: Austria, Belgium, Chile, the Czech Republic, Finland, France, Germany, Hungary, Italy, the Russian Federation, Slovakia, Spain and the United Kingdom. Any government may join the CIP. Proof Houses could also assume the role of specialized agencies for SALW. An idea would be to encourage their expansion in the EU member states with the objective of harmonizing the system. It is worth noting that Proof Houses are controlled by their respective government.
- ³⁰ Most countries still rely on the use of hand-written, non-centralized registers. Tracing delays are often significant and it often proves impossible to access information. Certain countries are unaware of whether or not a weapon they have authorized actually entered legally into the country. In Great Britain, the absence of computerized registries means that tracing operations take on average 12 weeks, which can lead to additional deaths.
- ³¹ See Luc Mampaey, “Une vision européenne pour l’industrie des armes légères”, Groupe de recherche et d’information sur la paix et la sécurité on behalf of Les Verts/Alliance Libre Européene of the European Parliament, 2003, <<http://www.grip.org/bdg/pdf/g1518.pdf>>.
- ³² Paragraph 19(a) of the draft strategy stipulates an “effective multilateral approach to developing global, regional and national mechanisms to fight the supply and destabilising accumulation of SALW and their ammunition”.
- ³³ Holger Anders, “L’exportation du matériel de production de munitions: pratiques en Belgique, France et Allemagne”, Groupe de recherche et d’information sur la paix et la sécurité, *note d’analyse*, 2005, <<http://www.grip.org/bdg/g4577.html>>.
- ³⁴ This exists, that is, within ECOWAS Moratorium through its secretariat.
- ³⁵ See, for example, Peter Batchelor and Spyros Demetriou, “Securing Development: UNDP’s Support for Addressing Small Arms Issues”, United Nations Development Programme, 2005.
- ³⁶ See Centre for International Cooperation and Security, *The Impact of Armed Violence on Poverty and Development: Full report of the Armed Violence and Poverty Initiative, March 2005*, Department of Peace Studies, University of Bradford, 2005.
- ³⁷ See, for example, the EU Programme for the Prevention of Violent Conflicts adopted during the Goteborg European Council meeting in June 2001; European Commission, *Communication from the*

Commission on Conflict Prevention, EU document COM (2001) 211 final, 11 April 2001; Council of the European Union, *Common Position 2005/304/CFSP of 12 April 2005 Concerning Conflict Prevention, Management and Resolution in Africa and Repealing Common Position 2004/85/CFSP*, EU document 2005/304/CFSP, 12 April 2005.

38 That being the ECOSAP project to transform the ECOWAS Moratorium into a Convention.

39 We should note however that Article 28 of the Belgian legislation of 1933 foresees the marking of weapons, but the Royal decree never came to fruition.

40 Waffengesetz, Fundstelle: BGB1I 2002, 3970, 11 October 2002, §24(3).

41 Kriegswaffenkontrollgesetz, Fundstelle: BGBl I 1961, 444, zuletzt geändert durch Art. 3 G v. 11.10.2002 I 3970, §12(7)-3.

42 See also the text on the transport of dangerous goods by Ilhan Berkol and Claudio Gramizzi, "The Transport of Dangerous Goods: a Concrete Example of Traceability", Groupe de recherche et d'information sur la paix et la sécurité, *note d'analyse*, 2004.

43 United Nations Economic Commission for Europe, *Recommendations on the Transport of Dangerous Goods—Model Regulations*, UN document ST/SG/AC.10/1/Rev.13, 13th rev. ed., 2003.

44 Maxence Wittebolle, "Rol en functie van het transport verpakkingen van gevaarlijke goederen", Belgisch Verpakkingsinstituut VZW, 1997.

45 These feature the four numbers designating the class and type of ammunition as well as the production year, country, manufacturer and weight.

46 General Assembly, *Report of the Open-ended Working Group to Negotiate an International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons*, UN document A/60/88, 27 June 2005.

47 See Groupe de recherche et d'information sur la paix et la sécurité, "Comments of GRIP on the Draft Text on Small Arms and Light Weapons Traceability", *note d'analyse*, presented at the informal meeting between NGOs and CODUN on 13 May 2005, <<http://www.grip.org/bdg/pdf/g4255.pdf>>.

48 "Actuel", broadcast by the RTBF (Belgian Television and Radio), 20 October 2004.

49 Ilhan Berkol, "Comments on the Sale of the P90 to Jordan", Groupe de recherche et d'information sur la paix et la sécurité, internal document, September 2004.

50 For further information, see Ilhan Berkol, "Draft Convention on the Marking, Registration and Tracing of Small Arms and Light Weapons", Groupe de recherche et d'information sur la paix et la sécurité, GRIP Report n° 2004/4, 2004; See also Ilhan Berkol, "Marking and Tracing SALW: Improving Transparency and Control", Groupe de recherche et d'information sur la paix et la sécurité, GRIP Report special issue, March 2002, <http://www.grip.org/pub/rapports/rg02-hs1_alg.pdf>.

51 For an overview of marking techniques and costs, see the GRIP notes on "SALW Marking Systems" and "Marking cost evaluation", <<http://www.grip.org/bdg/g4541.htm>>.

52 Example: 12345678-FN-BE-05. In order to prevent the falsification of markings, one solution would be to impose a system of written characters specific to the country and producer, as is the case for markings carried out by car manufacturers, each of which has its own marking characters.

53 The so-called "essential" component is that which, if destroyed or damaged, implies the destruction of the weapon. Moreover, it should only be possible to replace the essential component with another essential component, also having a unique serial number, in exchange with the original manufacturer.

54 This does not represent a difficult task. Significant producers, such as Belgium's FN, only produce nine types of weapons at Herstal. Any requested changes should be possible on condition of approval by the Technical Committee.

55 This could be based on, or simply subscribed to, the international harmonized marking and documentation system used for ammunitions and explosives packaging in the framework of the transport of dangerous goods: <<http://www.unece.org/trans/danger/danger.htm>>.

56 The text is largely inspired by Ilhan Berkol, "Draft Convention on the Marking, Registration and Tracing of Small Arms and Light Weapons", Groupe de recherche et d'information sur la paix et la sécurité, GRIP Report n° 2004/4, 2004.

57 To enable a weapon to be traced, information needs to be registered from the time of manufacture and upon each change of ownership (that is, each time a transaction takes place, whether within the same country or a transfer to another state).

58 They should also inform the relevant authorities of their intervention in any arms transaction.

- ⁵⁹ As stipulated in General Assembly, *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 document A/RES/55/255, 8 June 2001, article 3(a). Other existing mechanisms also exclude antique arms, such as the SADC Protocol (article 1.2).
- ⁶⁰ This concerns the last owner of the weapon known by the authorities. They must be registered in the national registry without waiting for the markings or any other parameters to be adopted in accordance with the provisions of the Directive
- ⁶¹ The national agency would operate as the point of contact foreseen in the Programme of Action adopted by the UN July 2001 Conference (Article II.5), as well as in other existing mechanisms (for example, Art. 13(2) of the Vienna Protocol). The national agency could also be responsible for verifying markings and for in-field registration, and for any other issues related to SALW. This would facilitate traceability and constitute an improvement over the current situation in which six or seven different authorities are involved, making it virtually impossible to carry out investigations.
- ⁶² The text is largely inspired by Ilhan Berkol, "Draft Convention on the Marking, Registration and Tracing of Small Arms and Light Weapons", Groupe de recherche et d'information sur la paix et la sécurité, GRIP Report n° 2004/4, 2004.
- ⁶³ Numerous clauses exist on the exchange of data and cooperation among states in different existing mechanisms (for example, Organization for Security and Co-operation in Europe, *Document on Small Arms and Light Weapons*, document FSC.DOC/1/00, 24 November 2000); See also Ilhan Berkol and Michel Wéry, "Small Arms and Light Weapons Traceability: A Comparison of the Principal Existing International Mechanisms", in Owen Greene, et al., *The Scope and Implications of a Tracing Mechanism for Small Arms and Light Weapons*, United Nations Institute for Disarmament Research, 2003.
- ⁶⁴ In the case of an investigation, a deadline of 48 to 72 hours may be set (taking into account statutory holidays).
- ⁶⁵ Such as the Vienna Protocol and the UN SALW tracing instrument.
- ⁶⁶ Note that the purpose of the ICA is not to render transparent that which is legal, but rather to permit the identification of those responsible for weapons deviations to illicit channels. The centralization of data would allow tracing operations to be carried out without the risk of encountering inaccessible data (due to refusal or loss).
- ⁶⁷ Inspections are currently limited to states via the contact points (see also Organization for Security and Co-operation in Europe, *Document on Small Arms and Light Weapons*, document FSC.DOC/1/00, 24 November 2000, § III, art. B.6, for example). They can be adapted according to the competences eventually assigned to the ICA.
- ⁶⁸ See Organization for Security and Co-operation in Europe, *Document on Small Arms and Light Weapons*, document FSC.DOC/1/00, 24 November 2000, § IV, art. B.1.i–ix of the OSCE Document, op. cit.
- ⁶⁹ Sanctions shall be defined in the relevant legislation of each member state, or by the Commission. However, a certain degree of harmonization at the EU level is preferable.
- ⁷⁰ In conformity with the existing EU Common Position and those possibly to come in view of regulating brokering activities.
- ⁷¹ The purpose is to prevent the use of occasional transporters in deviating SALW towards the illicit market.
- ⁷² Ilhan Berkol, "Draft Convention on the Marking, Registration and Tracing of Small Arms and Light Weapons", Groupe de recherche et d'information sur la paix et la sécurité, GRIP Report n° 2004/4, 2004.
- ⁷³ For example, European sugar exporters must present to the relevant authorities the maritime bill of lading and the inward manifest stamped by the port authorities in the country of destination in order to receive EU subsidies (which are incidentally as important as the price of sugar on the international market). Under these conditions, sellers can only sell under CIF (cost, insurance, freight) terms to ensure that the product has actually been imported by the consignee.
- ⁷⁴ See the GRIP *note d'analyse*, produced by Cotecna, on physical inspections: <<http://www.grip.org/bdg/g4545.htm>>.

- ⁷⁵ These commissions could start at a few hundred euros, but ceilings could be envisaged in the case of a contract. For more on this topic, see Ilhan Berkol, "Draft Convention on the Marking, Registration and Tracing of Small Arms and Light Weapons", Groupe de recherche et d'information sur la paix et la sécurité, GRIP Report n° 2004/4, 2004.

ACRONYMS

CFSP	Common Foreign and Security Policy
CIF	Cost, Insurance, Freight
CODUN	EU Working Group on Global Arms Control and Disarmament
ECOSAP	ECOWAS Small Arms Control Project
ECOWAS	Economic Community of West African States
ESDP	European Security and Defence Policy
ESS	European Security Strategy
EU	European Union
GRIP	Groupe de recherche et d'information sur la paix et la sécurité
ICA	International Control Agency
IWETS	International Weapons and Explosives Tracking System
JRC	Joint Research Centre
OAS	Organization of American States
OECD	Organisation for Economic Co-operation and Development
OECD DAC	OECD Development Assistance Committee
OSCE	Organization for Security and Co-operation in Europe
PoA	Programme of Action
PSC	Political and Security Committee
RECSA	Regional Centre on Small Arms in the Great Lakes Region and Horn of Africa
SADC	Southern African Development Community
SALSA	SALW Administration System
SALW	small arms and light weapons
SEMS	Southeast Europe Messaging System
SGS	<i>Société Générale de Surveillance</i>
UN	United Nations
UNIDIR	United Nations Institute for Disarmament Research
WMD	weapons of mass destruction