European Parliament

Illicit small arms and light weapons

International and EU action

IN-DEPTH ANALYSIS

EPRS | European Parliamentary Research Service
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Members' Research Service
July 2015 — PE 565.869

EN

This publication aims to present the main processes and initiatives at United Nations and European Union level to prevent, combat and eradicate the illicit trade in small arms and light weapons.

PE 565.869
ISBN 978-92-823-6823-7
doi: 10.2861/030849
QA-02-15-270-EN-N

Original manuscript, in English, completed in July 2015.

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EXECUTIVE SUMMARY

Small arms and light weapons (SALW) are the main tools used in today's conflicts, be they inter-state wars, civil wars or the actions of organised crime, and the cause of the majority of deaths from armed violence in the world – of combatants, but also, and mainly, of civilians. As past efforts have mostly been dedicated to controlling nuclear weapons and weapons of mass destruction, the scourge of illicit SALW has only relatively recently drawn international attention, together with the increasing awareness that SALW are 'the real weapons of mass destruction'.

Estimations point to around 875 million SALW in circulation globally, with the majority of small arms belonging to the private sphere. Their illicit proliferation, both in areas experiencing armed conflict and in non-conflict settings, contributes to the increase in global armed violence, to insecurity due to fear of gun violence, and to delaying conflict resolution. Moreover, the accumulation of SALW also has destabilising effects on entire countries and regions. Furthermore, trafficking in SALW (including ammunition) and their diversion from legal to illicit users and/or uses can have important humanitarian and socio-economic consequences, including with regard to domestic violence and gender-based violence.

While the global legal trade in SALW and their ammunition has greatly increased in the past decade, so has the question about how to deal with the diversion of SALW from the licit to the illicit sphere. The United Nations (UN) Programme of Action, the International Tracing Instrument and, most recently, the UN Arms Trade Treaty represent the main international commitments on combating and eradicating illicit SALW. Within this framework, states agreed to cooperate in combatting and ultimately eradicating illicit SALW, through a series of legal and political commitments, at national, regional and international level.

The European Union (EU) is a strong supporter of international efforts to eradicate SALW, and, in this context, it has backed proposals on international legally binding instruments to address conventional weapons transfers, including SALW and their ammunition, and to fight the proliferation and trafficking of illicit SALW. Moreover, the EU has established a policy and legal framework to deal with illicit SALW, having at its centre the 'Strategy to combat illicit accumulation and trafficking of SALW and their ammunition'. Finally, the EU is a consistent provider of SALW-related assistance projects to third countries.

The European Parliament has also played a role in promoting EU initiatives on SALW, and in particular supported the UN Programme of Action from the start, as well as the Arms Trade Treaty. However, the Parliament has yet to adopt a resolution dedicated exclusively to the issue of SALW.

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List of main acronyms used

ATT: Arms Trade Treaty

BMS: Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons

DDR: Disarmament, demobilisation and reintegration

Interpol: International Criminal Police Organisation

ITI: International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (known as the International Tracing Instrument)

UN PoA: The United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons

SALW: Small arms and light weapons

UNODC: United Nations Office on Drugs and Crime

Glossary[1]

Small arm: 'any man-portable lethal weapon that expels or launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet or projectile by the action of an explosive' and that is designed to be carried and used by one person.

Light weapon: weapon designed for use by several persons serving as a crew; it may be transported by two or more people, a pack animal or a light vehicle. Weapons include heavy machine guns, portable anti-tank and anti-aircraft guns, etc.

Firearm: 'any portable barrelled weapon that expels, is designed to expel, or may be readily converted to expel a shot, bullet or projectile by the action of an explosive'. Mostly used interchangeably, one difference between the terms 'firearm' and 'small arm' is that the first is used more in a domestic context, including concerning civilian access, whereas small arms is also often used more in a military context.

Marking: the act of permanently stamping or imprinting a SALW, or its parts and components, with at least one unique identifying mark, typically a serial number, in order to provide information on the weapon's origin and history.

Tracing: the process of using a serial number of a weapon, or other identifying information, to track its movement from its source – the manufacturer or importer – through the chain of distribution (wholesale, retail, transfer) to the individual or body that procured it.

[1] Definitions from A diplomat's guide to the UN small arms process / Parker S., Wilson M., Small Arms Survey, 2014.

1. Introduction

Small arms and light weapons (SALW)[2] are considered by some to be 'weapons of daily destruction', as the number of deaths and injuries they cause on a daily basis worldwide is higher than any other weapon technology.[3] This realisation has led to increased efforts at national, regional and international level to eliminate armed violence through better regulation and control. At both international and EU levels, frameworks for controlling and preventing illicit SALW flows have been put in place, although it must be pointed out that almost all illegal small arms started as legally owned SALW.[4] The links between armed violence in general and the use of SALW are increasingly studied, as well as the humanitarian and socio-economic consequences of the proliferation and traffic of illicit SALW. One of the first points of action in the fight against the illicit SALW trade is the legal trade in SALW. Beyond that, a number of instruments (both legally binding and not) have been adopted at the international level. Moreover, the EU has developed its own policy framework on SALW, not least with the European Parliament's support. Globally, the Biennial Meetings of States to consider the implementation of the UN 'Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects' is the key initiative in bringing together countries to make progress on the issue.

2. The necessity of combatting illicit SALW

2.1. SALW and armed violence

According to the *Global Burden of Armed Violence 2015*, at least 508 000 people died violently every year in the 2007-12 period, including an estimated 70 000 direct conflict deaths, 377 000 intentional homicides, 42 000 'unintentional' homicides, and 19 000 killings during legal interventions. Moreover, about 60 000 women and girls are killed around the world each year. Firearms are used in 44% of all violent deaths.[5] Compared with the previous (2011) edition of the study, all categories of violent deaths are declining, with the exception of deaths in direct conflict, with annual average increasing from 55 000 to 70 000. The civil war in Syria and conflict in Libya have contributed to the rise in direct conflict deaths: for instance, in 2012 the number of people killed in Syria accounted for about 40% of the total number of deaths occurred in the more than 30 active armed conflicts that year.[6] The death toll in Syria since the beginning of the conflict has now passed 300 000.[7] In 2012, the countries with the highest rates of lethal

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[2] In this paper, the terms firearms and small arms are used interchangeably, although the EU, for example, differentiates at legal and policy level between the two, principally in respect of the intended use – civilian or military – of the weapons.

[3] What next? Thoughts for global civil society working on arms control and armed violence reduction / Mack D., Instituto SoudaPaz, April 2014.

[4] Combating the illicit trade in small arms and light weapons: strengthening domestic regulations / Cukier W., Saferworld, January 2001.

[5] See Global Burden of Armed Violence 2015: Every Body Counts, May 2015, and Global Burden of Armed Violence 2011, October 2011.

[6] Two out of five war fatalities occurred in Syria / Koffmar L., Uppsala University Conflict Data Programme, June 2014.

[7] Rights group: More than 300 000 people killed in Syria since 2011 / UPI, June 2015.

violence per 100 000 population were Syria (180.2), Honduras (90.4) and Venezuela (72.2).[8] However, nearly nine out of ten deaths occur in non-conflict settings.[9]

As concerns homicides alone, a UNODC study found that, in 2012, 437 000 people were killed intentionally worldwide. The Americas accounted for more than a third (36%), followed by Africa (31%) and Asia (28%). In Europe (42 countries) that percentage falls to 5%. Globally, firearms are used to perpetrate 4 in 10 homicides.[10] Although, according to data from 2007, the US has the highest civilian gun ownership rate in the world with on average 88.8 guns per 100 people[11] (in the EU the rate was 15.86 in 2013)[12] and seems to account for about one third of guns globally (roughly 875 million worldwide),[13] the highest homicide rates at sub-regional level are registered in Southern Africa and Central America (with averages above 25 victims per 100 000 population), followed by South America, mid-Africa and the Caribbean.[14] Between 2004 and 2009, six of the seven countries with the most recorded violent deaths in the world were in Latin America and the Caribbean (LAC):[15] El Salvador ranked above Iraq as the most dangerous country, followed by Jamaica, Honduras, Colombia, Venezuela and Guatemala, all with rates of over 43 murders per 100 000.[16] In particular, the rate of homicide by firearm per 100 000 population worldwide placed Honduras first (68.43), followed by El Salvador (39.9), Jamaica (39.4) and Venezuela (38.7); in comparison, the US registered 2.97, and Germany 0.19.[17] In 2012, firearms were used to commit 73% of all homicides in LAC.[18]

Despite regional differences,[19] the preponderance of small arms use in global armed violence is clearly confirmed. In countries experiencing armed conflict, SALW produce high death tolls, and can be responsible for as much as 93% of casualties (e.g. Republic of Congo).[20] Moreover, research confirms the SALW used in today's asymmetric conflicts are technologically unsophisticated weapons, a widespread example being the Soviet-era AK-47 automatic rifle. A study of illegal SALW in three countries with armed conflicts (Iraq, Afghanistan and Somalia) determined that the illicit SALW detected were models of Soviet bloc or Chinese origins. The study also offered a series of explanations for the lack of latest-generation weapons in those conflicts, from both supply and demand sides.[21] On the other hand, in countries not experiencing armed

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8 Global Burden of Armed Violence 2015: Every Body Counts, May 2015.

9 Instruments of Violence: Weapons Control Efforts to Reduce and Prevent Armed Violence / Wilson M., Geneva Declaration Secretariat, April 2014.

10 Global Study on Homicide 2013 / UNODC, April 2014.

11 Gun homicides and gun ownership listed by country / The Guardian, July 2012.

12 Data for the European Union at GunPolicy.org.

13 Analysis: Fewer U.S. gun owners own more guns / Brennan A., CNN, August 2012.

14 Global Study on Homicide 2013 / UNODC, 2014.

15 Some estimates suggest the numbers of illegal weapons in circulation in LAC equal the legally registered firearms (around 63 million), while others suggest this figure reaches 80 million.

16 Countries ranked by violent death rate per 100 000 population, 2004-09 in Global Burden of Armed Violence 2011, 2011.

17 Gun homicides and gun ownership listed by country / The Guardian, July 2012.

18 Crime and Violence in Latin America and the Caribbean / Action on Armed Violence, June 2014.

19 Global impact of armed violence / GunPolicy.org.

20 Mack D., *op. cit.*, p. 20.

21 Surveying the Battlefield: Illicit arms in Afghanistan, Iraq, and Somalia in Small Arms Survey 2012, August 2012.

conflict, the rate of annual gun death and injury can be comparable or higher than in armed conflicts, while insecurity caused by fear of gun violence can have a serious impact on the daily life of people. Moreover, the mere presence of SALW may encourage various types of violence.[22]

2.2. Humanitarian and socio-economic impact of SALW

The humanitarian and socio-economic consequences of illicit SALW are immense, and civil society representatives have insisted on addressing the human costs of SALW and on placing the 'human factor' (i.e. giving proper attention to victims and survivors of gun violence) at the centre of international efforts to curb the proliferation of illicit SALW.[23] Gun violence has important psychological consequences for survivors – an estimated 7 million people live with gun injuries received outside armed conflict around the world – and represents a tool for intimidation, also being linked to violence against women and girls and domestic violence.[24] Women have advocated laws preventing the perpetrators of domestic violence from having access to guns, and generally for binding international instruments on SALW to better address the needs of women, and gender-based violence.[25]

Furthermore, SALW are considered one of the major obstacles to achieving sustainable human development.[26] Armed violence is directly associated with lower levels of attainment of the Millennium Development Goals, which in turn may be linked to higher levels of lethal violence.[27] The proliferation of SALW, according to the International Red Cross Committee (ICRC), contributes to the prolongation of conflicts, the violation of international humanitarian and human rights law, and to a culture of violence that persists even after the end of conflicts. The ICRC refers to both legal and illicit SALW, and calls for better control of their supply.[28] The United Nations Security Council (UNSC) chooses to focus on illicit SALW,[29] when considering that the 'illicit transfer, destabilizing accumulation and misuse of SALW ... pose threats to international peace and security, cause significant loss of life, contribute to instability and insecurity'. The UNSC has also recognised that (illicit) SALW 'fuel conflicts and have a wide range of negative human rights, humanitarian, development and socio-economic consequences, in particular on the security of civilians in armed conflict, including the disproportionate impact on violence perpetrated against women and girls'. To this must be added the recruitment and use of children by parties to armed conflict.[30] In 2006, the UN Human Rights Council adopted a Special Report with recommendations on the Prevention of human rights violations committed using SALW.[31]

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22 Mack D., *op. cit.*, p. 16.

23 Considering the human cost at BMS5 / Acheson R., Reaching Critical Will, June 2014.

24 Mack D, *op. cit.*, p. 17.

25 Disarm Domestic Violence Campaign by IANSA (International Action Network on Small Arms).

26 A programme of action to address the human cost of SALW / Inter-Agency Standing Committee, Unicef.

27 More Armed Violence, Less Development, in Global Burden of Armed Violence 2011.

28 ICRC Statement on the implementation of the UN Programme of Action on Small Arms and Light Weapons / International Committee of the Red Cross, June 2014.

29 Civil society points out the difficulty of differentiating the effects of licit or illicit SALW on the victims.

30 Security Council adopts first-ever Resolution dedicated to Question of Small Arms, Light Weapons / UNSC meetings coverage, September 2013.

31 Prevention of human rights violations committed with small arms and light weapons / Frey B. Special Rapporteur, UN Human Rights Council, July 2006.

2.3. Legal trade and the road to illicit SALW

Figures on the **trade in SALW** vary significantly and are difficult to confirm, because they rely mostly on reporting from states, which may not always provide complete or accurate data. Moreover, national data might not be comparable, due to varying categorisation of weapons. In particular, data about ammunition flows are difficult to obtain, with as much as 80% of global trade in ammunition not being covered by reliable export data. Some databases (e.g. NISAT) however provide valuable information about states' legal SALW transfers. Estimates point to around 875 million SALW in circulation globally and 7.5 to 8 million produced each year. Around 70% are in civilian possession.[32]

Overall, the value of the global small arms trade has increased by 95% over the 2001-11 period, with trade in ammunition experiencing the largest absolute increase (205%).[33] The Small Arms Survey estimates the total value of the global authorised SALW trade at US$8.5 billion at least,[34] with ammunition sales amounting to around US$4.2 billion.[35] In 2011, the United States was both the top exporter (annual exports of at least US$100 million) of SALW, including their parts, accessories and ammunition, and the top importer globally, and remained so in 2012 (exports totalled US$935 million and imports US$1.9 billion in 2012). In 2012, Italy joined the US in the top tier category of countries with exports above US$500 million (with US$544 million). Although the number of top and major exporters and importers decreased slightly in 2012 compared to 2011, the total value of both exports and imports increased – by US$340 million and US$341 million respectively.[36]

Table 1 – Major exporters and importers of SALW, 2011 and 2012

Category	Value (US$ million)	Exporters		Importers	
		2011	2012	2011	2012
Top	≥ 500	United States	United States, **Italy**	United States	United States
	100-499	**Italy**, **Germany**, Brazil, **Austria**, Switzerland, Israel, Russian Federation, South Korea, **Belgium**, China, Turkey, **Spain**, **Czech Republic**	**Germany**, Brazil, **Austria**, South Korea, Russian Federation, China, **Belgium**, **Czech Republic**, Turkey, Norway, Japan	Canada, **Germany**, Australia, Thailand, **UK**, **France**, **Italy**	Canada, **Germany**, Australia, **France**, **UK**, Thailand, Indonesia
Major	50-99	Japan, Canada, Norway, **United Kingdom**, **France**, Pakistan, **Finland**, **Croatia**	**UK**, **Spain**, Israel, **Croatia**, Finland, Canada, Switzerland, Mexico, **France**, Serbia	Norway, Switzerland, Colombia, Côte d'Ivoire, **Netherlands**, Afghanistan, Russian Federation, **Belgium**, Israel, **Sweden**, **Spain**, **Austria**, **Denmark**, Mexico	Russia, Mexico, **Belgium**, Chile, United Arab Emirates, Norway, Philippines, **Italy**, Saudi Arabia, **Estonia**, Malaysia, **Austria**, Israel, **Denmark**, Turkey, South Korea

[32] See United Nations Office for Disarmament Affairs (UNODA).

[33] 'Trade Update: transfers, retransfers and the ATT' (Chapter 4) in Small Arms Survey 2014: Women and Guns, Cambridge University Press, 2014.

[34] 'Piece by piece: authorized transfers of parts and accessories' in Small Arms Survey 2012: Moving targets, 2012.

[35] Under the gun: can a global treaty regulate small arms trade? / Jane's Intelligence Review, 2013.

[36] Trade Update: After the 'Arab Spring' (Chapter 4) in Small Arms Survey 2015: Weapons and the World, 2015.

	10-49	**Sweden**, **Portugal**, Mexico, India, Serbia, Taiwan, Philippines, Singapore, **Cyprus**, Ukraine, Australia, **Denmark**, Argentina, Hong Kong, **Romania**, **Poland**, **Hungary**	**Sweden**, India, Philippines, Singapore, **Portugal**, **Hungary**, **Bulgaria**, Argentina, Taiwan, **Cyprus**, **Romania**, Australia, Ukraine, **Denmark**, **Poland**	**Poland**, Jordan, Turkey, United Arab Emirates, South Korea, Singapore, Philippines, **Portugal**, Morocco, Cambodia, Indonesia, Saudi Arabia, Iraq, Japan, **Finland**, Pakistan, Lebanon, New Zealand, Brazil, Estonia, Argentina, South Africa, Chile, **Czech Republic**, Ukraine, Sudan, India, Kenya, Kuwait, Peru, **Cyprus**, Honduras, Malaysia, **Greece**, **Hungary**, **Bulgaria**, Venezuela, Oman, **Slovakia**, China, **Luxembourg**, Dominican Republic	Switzerland, **Sweden**, **Spain**, **Poland**, **Netherlands**, Colombia, Jordan, Lebanon, New Zealand, Singapore, South Africa, Japan, **Portugal**, **Finland**, Egypt, **Czech Republic**, Afghanistan, **Slovakia**, Pakistan, Iraq, Ukraine, India, Kuwait, Argentina, Kazakhstan, Brazil, **Greece**, Peru, Oman, **Bulgaria**, Paraguay, **Cyprus**.

Source: Small Arms Survey 2014: Women and Guns and Small Arms Survey 2015: Weapons and the World.

The increase in the global trade in SALW and, particularly, in SALW ammunition raises the question of how to deal with **illicit SALW**. SALW may enter the illicit sphere at any moment during their life-cycle: manufacture, transfer, possession, storage or final disposal. But, the majority of SALW belong initially to the legal sphere (legally produced or transferred).[37] States themselves may intentionally supply SALW and ammunition to fragile states, for example, where the risk of diversion to illicit users and of corruption is high, and where these weapons may fuel armed conflicts.[38] This was certainly the case during the Cold War era, when both the US and the Soviet Union transferred weapons to their proxies in different parts of the world; many of those Cold War stockpiles are a source of illicit trafficking even today. However, irresponsible exports are just part of the picture; with large numbers of legal SALW entering the illicit trade (years after their export) through corruption, loss or theft. The numbers of illicit SALW in circulation are extremely difficult to estimate.[39] In 2001, the Small Arms Survey valued the illicit trade in SALW at between 10% and 20% of the value of the legal trade, with today's estimates probably much higher.[40]

The **illicit trade in SALW** has been defined in a UN report as 'that international trade in conventional arms, which is contrary to the laws of States and/or international law.'[41] Two types of markets are considered illicit. The black market covers sales of SALW that both the buyer and the seller should not possess.[42] Normally, these transactions involve private individuals, organised crime or non-state actors. The grey market is more difficult to tackle, as it covers the diversion of legally sold/produced SALW to

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37 Mack D., *op. cit.*, p. 24.

38 See note 32.

39 Starving the dark markets: international injunctions as a means to curb SALW trafficking / Salton D.M., in Connecticut Law Review, November 2013, Vol. 46 Issue 1, pp. 369-414. 46p.

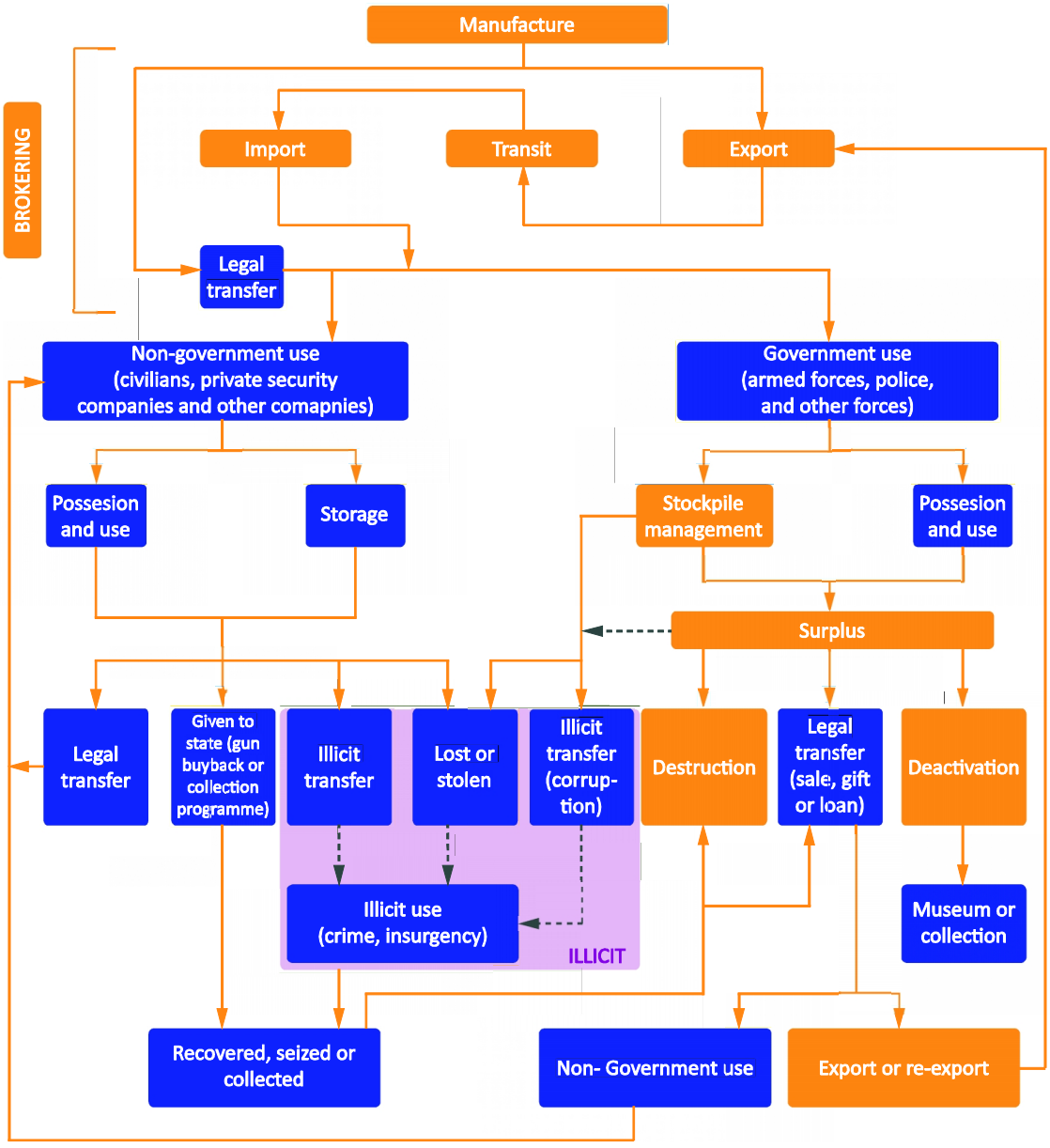
40 Chapter 6: Firearms in The globalization of crime: a transnational organized crime threat assessment / UNODC, 2010.

41 Two Sides of the Same Coin? The Legal and Illegal Trade in Small Arms / Marsh N., The Brown Journal of World Affairs, Issue 9.1, spring 2002.

42 Salton D.M., *op. cit.*, pp. 379-384.

unauthorised recipients, mostly due to gaps in legislation. Legally authorised transfers by states, but which contravene international law (e.g. to embargoed countries, to non-state groups), form the main part of the grey market.[43] For example, in past years, governments have covertly delivered thousands of SALW to various armed groups in Somalia, despite the embargo in place.

Figure 1 – Life-cycle of SALW



Source: After Parker S., Wilson M., A diplomat's guide to the UN small arms process, Small Arms Survey, 2014.

One of the most prevalent forms of SALW trafficking is the 'ant trade' – small quantities of smuggled SALW, which accumulate over time to destabilising levels.[44] Arms brokers may facilitate SALW trafficking by bringing together the supplier and the buyer/unauthorised user, although they may not even come into contact with the trafficked SALW. Usually, arms-broker activity benefits from largely unregulated domestic legislation.[45]

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[43] Marsh N., *op. cit.*, see note 41.

[44] See Small Arms Survey webpage on Illicit Trafficking.

[45] Marsh N., *op. cit.*, see note 41.

The trafficking of SALW on the international black market is considered to be relatively less important compared to the diversion or misuse of legal transfers of SALW (the grey market). Moreover, experts assert that regional and sub-regional markets are more significant for the flow of SALW to conflict areas than global black markets. For them, state preoccupations with black markets are a political choice, while they do not tackle the massive loss/theft of legal arms properly, or amend ineffective domestic law.[46]

3. United Nations-led processes on SALW

Conventional arms appeared on the international community agenda rather late, as priority was given to disarmament and control of nuclear and other weapons of mass destruction. SALW were considered by the UN in the mid-1990s, when steps were taken to convene an International Conference on 'the illicit arms trade in all its aspects'. The process led to the adoption of the UN 'Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects' (PoA).[47] Several other instruments on SALW form the international legal framework on SALW,[48] culminating with the adoption of the legally binding Arms Trade Treaty (ATT) in June 2013.[49]

3.1. The UN Programme of Action

The UN PoA was adopted by consensus in 2001, in the framework of UN arms control efforts.[50] It constitutes a politically binding set of commitments to develop and implement practical measures (at national, regional and global levels) for SALW control and for curbing the illicit trade in SALW. PoA signatories have pledged to undertake measures relating to: national controls on production and transfers; criminalising the illegal manufacture, possession, stockpiling and trade of SALW; marking, record-keeping and tracing; stockpile management; surplus disposal; brokering; disarmament, demobilisation and reintegration (DDR), public awareness programmes and international cooperation and assistance.[51]

Although seen as the 'most ambitious model of SALW regulation yet adopted by the UN' (prior to the ATT entering into force),[52] the PoA is nevertheless the result of a compromise. It leaves out important areas of action and falls short of taking up some commitments, demonstrated by the legally non-binding character of the UN PoA; the absence of language on human rights and international human rights violations that result from the excessive accumulation of SALW; the refusal to agree on the concept of restraint in the legal acquisition or export of SALW; and no reference to ammunition.[53]

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46 Mack D., *op. cit.*, p. 25.

47 A Banner Year for Conventional Arms Control? The Arms Trade Treaty and the Small Arms Challenge / Meyer P., in Global Governance, vol. 20, 2014, pp. 203-212.

48 See UNODC webpage on the Legal framework on firearms.

49 The ATT entered into force on 24 December 2014, 90 days after the deposit of the 50th instrument of ratification. In July 2015, 69 states – of the 130 signatories – have now ratified the ATT.

50 United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UN Document A/CONF.192/15).

51 A diplomat's guide to the UN small arms process / Parker S., Wilson M., Small Arms Survey, 2014.

52 Salton D.M., *op. cit.*, p. 393.

53 Parker S., Wilson M., *op. cit.*, Small Arms Survey, 2014.

3.1.1. Main commitments of the UN PoA

The **main provisions** of the UN PoA to which states have committed are:[54]

- *National Coordination Agency (NAC) and National Point of Contact (NPC)*: establishing NACs responsible for policy guidance, research and monitoring, while NPCs act as liaison with other states;
- *Marking, record-keeping and tracing*: ensuring SALW are marked appropriately and reliably in the production process and adopting measures that prevent unmarked or inadequately marked SALW; keeping records indefinitely on the manufacture, possession and transfer of SALW, while ensuring that surplus SALW are marked and recorded if not destroyed; cooperating with other states on tracing;[55]
- *Export and import controls*: adopting appropriate laws and measures for exercising effective control over the export, import, transit and retransfer of SALW, including an effective authorisation system that assesses the risk of diversion;
- *Brokering*: regulating arms-broker activities through appropriate domestic laws and administrative procedures;
- *Disposal*: destroying seized, confiscated and collected SALW, and surplus SALW (i.e. any quantity of SALW exceeding the state and security forces' needs), unless they are assigned officially to a different use;
- *Stockpile management*: setting up adequate standards and procedures for the management and security of stockpiles, including commitments to review stocks regularly and destroy surplus;

Poor **management of SALW stockpiles** increases the risk of diversion and proliferation of SALW,[56] and government stockpiles are important sources of illegal SALW. During armed conflict, weapons are diverted from military stockpiles through theft, capture or corrupt sales. In some places, such as DR Congo or Iraq, soldiers admitted to having sold their weapons. In post-conflict situations, inadequately secured stockpiles become a source of proliferation in the region (e.g. Libya). In countries not at conflict, the greatest risk comes from theft and loss by law enforcement and military forces, as well as by citizens.[57] Other challenges concern unplanned explosions at ammunition and explosive stockpile sites, which cause a great number of casualties yearly all over the world. Between 1979 and 2014, 514 such incidents were recorded globally, with their frequency increasing over the decades.[58]

It is, therefore, a constant preoccupation at international level that states secure and manage their weapon and ammunition stockpiles. The UN also developed voluntary **International Small Arms Control Standards** (ISACS),[59] launched in 2012, which are built on best practice guidelines, model regulations and legislation, codes of conduct and standard operating procedures for the whole life-cycle of SALW, including stockpile management and security. Ammunition stockpile management and security is covered by the **International Ammunition Technical Guidelines** (IATGs), developed in 2011, also of a voluntary nature.[60]

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54 Ibidem.

55 The most significant provisions on marking, record-keeping and tracing are however contained in the Firearms Protocol and the International Tracing Instrument (*see below*).

56 Stockpile management: a top priority? / Baffour Dokyi Amoa, International Action Network on Small Arms, 2014.

57 Preventing Diversion: The Importance of Stockpile Management / Marsh N., Gugu Dube, Prio Papers, 2014.

58 See webpage on Unplanned explosions at munitions sites, Small Arms Survey, 2014.

59 See International Small Arms Control Standards website.

60 See International Ammunition Technical Guidelines webpage at UNODA.

- *Regional and global measures*: ratifying and implementing legally binding instruments addressing the illicit trade in SALW, strengthening trans-border cooperation and information-sharing between relevant state agencies, supporting effective stockpile management and DDR programmes, increasing transparency, cooperating with the UN to ensure implementation of arms embargos, internationally on SALW tracing, and with regional and international organisations and civil society;
- *International cooperation and assistance*: for states in a 'position to do so', offering financial and technical assistance to other states that need it to implement the PoA effectively.

In the UN PoA process, states submit, on a voluntary basis, national reports on the implementation of the PoA and the International Tracing Instrument (ITI).[61] Every two years, states convene to discuss the measures taken. In June 2014, the fifth Biennial Meeting of States (BMS5) concluded with the adoption by consensus of the outcome document (A/CONF.192/BMS/2014/2). Every six years, Review Conferences assess the implementation of the PoA and the ITI. Exceptionally, the First Review Conference was organised in 2006 (five years after the adoption of the PoA). Following the Second Review Conference in 2012, the Third Review Conference will take place in 2018.

3.1.2. Implementation and reporting

A 2012 study by the Small Arms Survey and the UN Institute for Disarmament Research, published before the Second Review Conference, detailed the significant efforts undertaken by states to **implement the PoA and the ITI**, based on their reporting. According to the national reports, most states had established an NPC and regulations on the control of manufacture, including marking, as well as systems for controlling exports/imports of SALW. States also undertook significant efforts to improve management and security of stockpiles. On the other hand, a series of shortcomings were found in the implementation of the PoA: most states did not mark SALW at import; records were not kept for the minimum time required; transit controls were found ineffective and arms brokerage activities continued largely unregulated. The study's main recommendation for the 2018 Review Conference is to adapt efforts in combating the illicit trade in SALW to regional and sub-regional needs and specific contexts, while maintaining a strong global commitment.[62]

As concerns **reporting** (on both the PoA and the ITI) between 2002 and 2013, a draft briefing paper by the Small Arms Survey shows that overall participation in reporting has been good, with 134 states having submitted at least two reports since 2002. At regional level, Europe had the highest rate in reporting, followed by Africa and the Americas. However, reports can be vague or contain little detailed information about the measures taken. A new template for reporting, introduced in 2011, while simplifying the submission of reports for states, has at the same time reduced the amount of information provided, as well as lessened the opportunity to share best practices through these reports.[63]

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61 A Decade of Implementing the United Nations Programme of Action on Small Arms and Light Weapons: Analysis of National Reports / Parker S., Green K., Small Arms Survey and UNIDIR, 2012.

62 Ibidem.

63 What the national reports reveal / Parker S., Rigual C., Small Arms Survey Issue Brief No 13, June 2015.

3.2. The International Tracing Instrument

The UN International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons – the International Tracing Instrument,[64] or ITI – is a politically binding instrument adopted in 2005, and the only UN instrument to contain definitions of small arms and light weapons. ITI aims to promote the development of marking, record-keeping, and tracing measures, including international cooperation in tracing.[65]

For the purpose of the ITI, SALW are **illicit** when: a) they are considered illicit under the law of the state within whose territorial jurisdiction the SALW is found; b) they are transferred in violation of UNSC arms embargos; c) they are not marked in accordance with the provisions of the ITI; d) they are manufactured, assembled or transferred without licence or authorisation from state authorities.

3.2.1. Marking, record-keeping and tracing under the ITI

Tracing refers to establishing a weapon's life-cycle, from manufacture to the latest legal owner, with the aim of determining the circumstances of its diversion into the illicit sphere. Tracing thus applies to weapons suspected to be illicit and needing verification. **Marking** (a unique code to identify the weapon) and **record-keeping** (establishing the weapon's history) are thus essential elements in tracing investigations: if no marking elements or records exist, prior to the weapon's status changing from licit to illicit, tracing is impossible.[66]

ITI sets commonly accepted standards for SALW **marking**:

- SALW and their essential or structural components must have *unique markings*, readable, durable and recoverable, of the manufacturer, the country of manufacture and a serial number or an alternative marking combining simple geometric symbols with a numeric/alphanumeric code allowing the identification of the weapon;
- Each imported arm must be marked to identify the country of import (and where possible the year);
- Arms in the possession of the state must be marked, as well as those transferred from government stockpiles to civilian use;
- All illicit arms found or seized must be uniquely marked and recorded unless they are immediately destroyed.

Secondly, ITI sets minimum time limits for **record-keeping**: records of all weapons marked on national territory must be kept indefinitely, or for at least 30 years (manufacturing records) and 20 years (transfer and all other records).

Finally, the ITI provides that states need to implement **tracing** systems and cooperate in undertaking traces and responding to tracing requests, in accordance with specific procedures and protocols defined in the ITI.

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64 International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons.

65 Parker S., Wilson M., *op. cit.*, Small Arms Survey, 2014.

66 Weapons Tracing in Conflict Theatres: Lessons and Perspectives / Gramizzi, C., GRIP, June 2014.

Conflict tracing refers to observing the weapons in use (both licit and illicit) in an armed conflict and to detecting inflows of quantities of weapons in the country/region.[67] Useful in providing information on illegal arms transfers and embargo breaches, tracing SALW in conflict situations however poses challenges in terms of the investigators' access to weapons, their legal status or their dependence on the cooperation of the parties to the conflict. With its roots in the activities of the UN Panel of Experts monitoring the implementation of arms embargos, conflict tracing has also evolved as an area of interest for researchers, NGOs and journalists – not limited to the embargo aspects.[68] Moreover, their activity in the field has led to improving the methods of collecting and analysing information, as well as to highlighting a series of trends concerning SALW in conflict zones: a) most SALW in conflict areas are old generation weapons coming from Cold War era supplies, including ammunition, and have been identified as having Chinese or Soviet bloc origin; b) newer SALW and ammunition point to Iran, China and Sudan as their countries of manufacture; and c) the importance of local and regional markets for the supply of illicit SALW is confirmed.[69]

3.2.2. International cooperation and assistance

States 'in a position to do so' commit to providing technical and financial assistance to other states to build their national capacity with regard to marking, record-keeping and tracing; as well as to facilitate the transfer of technologies in order to improve tracing and detection of illicit SALW. States also undertake to cooperate with the UN and the International Criminal Police Organisation (Interpol). They submit national reports on their implementation of the ITI every two years, which may be part of the PoA reports.

The Interpol Firearms Programme,[70] launched in 2013, supports international cooperation against firearm-related crime and illicit firearms. The iArms Database is a component of the programme and represents the first global centralised database of illicit firearms and licit firearms involved in crimes, facilitating information exchange on lost, stolen, trafficked or smuggled firearms as well as the submission of, and responses to, trace requests. In 2014, 121 countries out of 190 members of Interpol were connected to iArms. The EU provides funding for iArms but also funds the iTrace project,[71] an open access database, providing information on diverted weapons and ammunition, in conflict and post-conflict zones.

Finally, states are required to put in place the proper domestic legal framework – where it does not yet exist – to ensure the implementation of the ITI, to establish national points of contact to exchange information related to the ITI and to cooperate at bilateral, regional and international level in order to implement the ITI effectively.

Despite its role in standard-setting and facilitating cooperation, the ITI has been criticised for its legally non-binding character, for excluding ammunition from its scope, for defining marking and record-keeping as national prerogatives, and for lacking an effective implementation mechanism.[72]

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[67] Revealing provenance: Weapons tracing during and after conflict in Small Arms Survey 2009: Shadows of War, Small Arms Survey, 2009.

[68] Gramizzi C., op. cit.

[69] Documenting weapons in situations of armed conflict: methods and trends, Research Note 42, Small Arms Survey, June 2014.

[70] See Interpol website and Firearms Programme Strategic Plan 2013-2015.

[71] See iTrace project website, Conflict Armament Research.

[72] Gramizzi C., op. cit.

3.3. The Firearms Protocol

The **UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition**, supplementing the UN Convention against Transnational Organised Crime (2000),[73] entered into force in 2005 and was the **first legally binding** global instrument on small arms.

The Firearms Protocol, as it is known, criminalises the illicit manufacturing and trafficking of firearms and provides a framework for states to control legal arms flows, prevent their diversion to illicit markets and facilitate cooperation with regard to investigation and prosecution of offences. Moreover, it requires states to introduce domestic regulations and legislation to ensure the legitimate manufacturing and effective control of transfers of firearms.[74]

Unlike the PoA and ITI – which are instruments concluded in an arms-control framework – the Protocol was adopted in the framework of the fight against organised crime and thus has a narrower focus on law enforcement and crime prevention. It does not apply to state-to-state transfers, including transfers for military purposes, and it is left to the states to decide whether to apply it to transfers from state to non-state actors.[75] A positive aspect of the Protocol is that it set some standards for arms exports[76] and many of the major arms exporters have signed or ratified it.[77] However, notable exceptions – France, Russia and the US – have not yet signed the Protocol, and China, which signed in 2002 but has not ratified.[78]

3.4. The Arms Trade Treaty

3.4.1. Main provisions related to SALW

The signature in June 2013 of the Arms Trade Treaty (ATT),[79] a legally binding instrument covering the legal 'international trade' in conventional weapons, including SALW, has been welcomed as an opportunity to combat the illegal trade in SALW. The ATT entered into force on 24 December 2014 and applies to the seven categories of conventional arms, as established by the UN Register of Conventional Arms (1992), plus SALW (which do not constitute an official category on the UN Register, although states are invited to submit reports on SALW as well). Some of the ATT's provisions cover ammunition/munitions and parts and components; nevertheless, the Treaty does not include obligations for states to regulate the import, transit or brokering of ammunition and parts and components, nor to keep records or report on their import/export.

The ATT's core provisions relate to:

- **Prohibitions** (article 6) on the transfer of weapons under certain circumstances (arms embargos, violation of relevant international obligations, knowledge the arms transferred will be used to commit genocide, crimes against humanity or other war crimes);

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[73] Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organised Crime, UNODC.

[74] Parker S., Wilson M., *op. cit.*, Small Arms Survey, 2014.

[75] Ratifying the UN Firearms Protocol / Ferraro F., EPRS, 2013.

[76] Salton D.M., *op. cit.*, p. 386.

[77] UN Treaty Collection - Ratification status of the Firearms Protocol.

[78] See note 35, Jane's Intelligence Review.

[79] Breaking new ground? The Arms Trade Treaty in Small Arms Survey 2014: Women and Guns, 2014.

- **Obligation to conduct a risk assessment** (article 7) before authorising the export of conventional arms, ammunition, or parts and components, which must take into account the risk that the arms transfer would undermine peace and security; would contribute to violations of international humanitarian and human rights law; would constitute offences under international instruments related to terrorism and organised crime; or contribute to gender-based violence or serious acts of violence against women and children;
- **Obligation to assess the risk of diversion** (article 11) through risk assessments, information-sharing or mitigation measures; this obligation excludes ammunition or parts and components.

The ATT also establishes obligations related to information-sharing between exporting and importing states concerning risk assessments; includes provisions on brokering, transit and transhipment, enforcement and international cooperation and assistance. Under a transparency commitment, states assume legally binding obligations to keep records of transfers for at least ten years and to report on diversion, exports and imports, and implementation.

3.4.2. Relationship with other instruments

The ATT represents a significant development in the international framework on SALW. It complements and strengthens some provisions of the PoA or the Firearms Protocol, but at the same time weakens certain commitments on SALW, in particular with regard to regulating the import, transit and brokering of SALW, and certain established best practices, such as its record-keeping limits which are less than those of the UN PoA and ITI. The ATT will ultimately make a difference when applied in practice, if states fully respect their commitments under the Treaty.[80]

3.5. UN Security Council and UN General Assembly resolutions

The **UN Security Council** adopted the first ever stand-alone resolution on SALW in 2013 (UNSC 2117 (2013)) aimed at strengthening the UNSC response to SALW-related threats to international peace and security. On 22 May 2015, the UNSC adopted Resolution 2220 (2015) calling for increased cooperation between states in stemming the 'illicit transfer, destabilizing accumulation and misuse' of SALW and emphasising their impact on the protection of civilians in conflict and, in particular, on women, children and other vulnerable groups. The resolution ensued from an open debate in the UNSC on the human cost of illicit SALW. Nine members of the UNSC abstained in the vote, arguing the resolution did not take up their concerns about the supply of SALW to non-state actors.[81]

UNSCAR

The UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR) was established as a multi-donor, flexible mechanism to support the ratification and implementation of the ATT with effective funding. UNSCAR resources may also be used for activities under the PoA to address the illicit trade in SALW. It also funds 'special circumstances' projects in emergency situations.

General Assembly (UNGA) resolutions, as an expression of the will of all UN members, are also an important tool in SALW-related processes. Each year since 2002, the UNGA has adopted a resolution on 'The illicit trade in small arms and light weapons in all its

[80] Ibidem.

[81] See UNSC Resolution 2117 (2013) and Resolution 2220 (2015), as well as the UNSC open debate on 13 May 2015 on the human cost of the illicit transfer, destabilising accumulation and misuse of small arms and light weapons (S/PV.7442) and UNSC meeting of 22 May 2015 (S/PV.7447).

aspects' ('omnibus' resolution). Moreover, the UNGA has adopted resolutions on specific aspects of SALW, such as on 'assistance to States for curbing the illicit traffic of small arms and collecting them' or on 'addressing the negative humanitarian and development impact of the illicit manufacture, transfer and circulation of small arms and light weapons and their excessive accumulation'.[82] In December 2014, the UNGA adopted the latest resolutions on the illicit trade in SALW in all its aspects (A/69/51) and on the assistance to states for curbing the illicit traffic of SALW (A/69/33).

Finally, the **UN Secretary-General** (UNSG) has regularly produced reports containing observations and recommendations on SALW issues, submitted either to the UNGA or the UNSC. The UN Secretary-General's reports to the General Assembly present the actions undertaken by member states, the UN system and other organisations concerning the implementation of UNGA resolutions on SALW and the implementation of the UN PoA. For example, the UNSG report (A/69/132)[83] of July 2014 offered an overview of efforts undertaken at all levels for the implementation of three UNGA Resolutions related to the illicit trade in SALW (namely, 67/50 on the consolidation of peace through practical disarmament measures, 68/34 on the assistance to states for curbing the illicit traffic in SALW and collecting them and 68/48 on the illicit trade in SALW in all its aspects).

The UN Secretary-General has also submitted a biennial report on SALW to the UNSC since 2008 and UNSC Resolution 2117 (2003) requests the UNSG to continue to submit biennial reports, including on the implementation of the Resolution. In addition, the recent UNSC Resolution 2220 (2015) requests the UNSG to submit specific reports on the impact of illicit SALW on vulnerable groups. On 27 April 2015, the UN Secretary-General presented his latest report to the UNSC. It recommended inter alia the inclusion of ammunition in arms regulation, the full participation of women in processes related to combatting illicit SALW, the signature and ratification of the ATT by all UN states, the adaptation of mandates for UN missions to include assistance to host countries on effective stockpile management, and encouraged reporting to the UN by countries subject to an arms embargo.

At BMS5 in June 2014, delegates discussed another report of the UN Secretary-General on new SALW-related technologies (see next chapter). At institutional level, the UN put in place the UN CASA (Coordinating Action on Small Arms), a coordination mechanism between all UN bodies that touch upon the issue of SALW in their activities.

3.6. Other initiatives on SALW

A number of other instruments and initiatives, at multilateral and regional level, are committed to the fight against illicit SALW.[84]

The **Wassenaar Arrangement** (1995) is a **multilateral** agreement, whereby the 41 participating states seek to promote greater transparency and responsibility in the transfer of conventional arms and dual-use goods. The Arrangement establishes criteria related to export assessments, as well as commitments by states to share information, in particular concerning decisions on transfers and denials (which remain a national

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[82] See the Small arms webpage of the UN Office for Disarmament Affairs.

[83] Consolidation of peace through practical disarmament measures; assistance to states for curbing the illicit traffic in small arms and light weapons and collecting them; and the illicit trade in small arms and light weapons in all its aspects : report of the Secretary-General (A/69/132), July 2014.

[84] Parker S., Wilson M., *op. cit.*, Small Arms Survey, 2014.

prerogative). Since 1996, a series of guidelines, elements and procedures, including control lists and best practice guidelines for exports of SALW, have been agreed by states under the Wassenaar Arrangements.[85]

Regional agreements and instruments tackling SALW have proliferated, including some which are legally binding, such as the Inter-American Convention on the illicit manufacturing of and trafficking of firearms, ammunition, explosives and other related materials (CIFTA, in force since 1998), which served as a model for the Firearms Protocol; the ECOWAS Convention on SALW, their ammunition and other related materials (in force since 2009); the Nairobi Protocol for the Prevention, Control and Reduction of SALW in the Great Lakes Region and the Horn of Africa (in force since 2006); and the EU Common Position 2008/944/CFSP on arms exports control (in force since 2008).[86]

The **Geneva Declaration on Armed Violence and Development**, adopted in 2006 by 42states and partner organisations (e.g. UN Development Programme) at a ministerial summit in Geneva, addresses the link between armed violence and its impact on development. Under the declaration, states endeavour to 'achieve, by 2015, measurable reductions in the global burden of armed violence and tangible improvements in human security worldwide'. With regard to SALW, the Geneva Declaration tackles aspects related to the demand for weapons, the causes of armed violence and development concerns.[87]

4. European Union policy framework on SALW

The main areas of EU action on SALW relate to: promoting multilateralism to establish international norms to combat illicit SALW, proposing assistance to third countries/regions, and mainstreaming SALW in broader peace and security initiatives. At international and regional level, the EU has particularly supported a legally binding character for the UN PoA and ITI, and the inclusion of ammunition within their scope, as well as the inclusion of SALW and ammunition in the scope of the ATT. The EU cooperates with other regional organisations on the issue and, bilaterally, it promotes the adoption of SALW-related commitments in dialogue with third countries.[88]

4.1. The EU Strategy on SALW (2005)

In 2005, the EU's Heads of State or Government adopted the EU **Strategy to combat illicit accumulation and trafficking of SALW and their ammunition**, to create 'an integrated approach and a comprehensive plan of action to combat the illicit trade in SALW and their ammunition'.[89] The Strategy still forms the core element of the EU's efforts to devise a comprehensive policy in the field of SALW. A progress report on the

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[85] See Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies.

[86] Regional organisations and the UN Programme of Action on Small Arms / Berman E.G., Maze K, Small Arms Survey, 2012.

[87] Handbook: Implementing the Geneva Declaration on armed violence and development / Geneva Declaration Secretariat, Geneva, 2014.

[88] European Union initiatives to control small arms and light weapons: towards a more coordinated approach / Poitevin C., Non-proliferation Papers, no. 33, December 2013.

[89] See EEAS website.

implementation of the Strategy is presented to the Council every six months.[90] The latest progress reports – the 16th and 17th – were published in June 2014 and October 2014 respectively.[91]

Its objectives are to build support at international level for global SALW-related norms; to help third countries through projects; streamline SALW into all aspects of EU external policy; ensuring consistency between the EU's security and its development policies; and strengthening export controls. Experts assess that the Strategy appears to have succeeded in organising EU assistance programmes on SALW, but has fallen short of strengthening Member States' export control policies to consider the impact of their arms exports on countries/regions where the EU provides SALW assistance as well as development cooperation programmes. At the time of its adoption, the SALW Strategy identified two priority regions: sub-Saharan Africa and eastern and south-eastern Europe, followed by central Europe and Latin America and the Caribbean as other affected regions.[92]

Calls have been made for a review of the EU SALW Strategy, to include recent developments, such as the adoption of the ATT. The revision of the EU SALW Strategy could also be encouraged to a certain extent by the 2013 Communication on 'Firearms and the internal security of the EU',[93] in which the Commission promised to assess whether it will present a 'Firearms Package' in 2015.

4.2. Legally binding instruments

In its legal acts, the EU considers 'firearms' to designate weapons destined for civil use, while SALW are 'specially designed for military use' (including firearms for military use).[94] The EU has put in place the legislative framework to tackle trafficking in firearms (within its internal security policy framework) and illicit SALW (within the EU's external competences).

Although the measures taken under the internal security policy of the EU are not the focus of this paper, it is worth mentioning that, with the adoption in 2010 of the EU Internal Security Strategy and the European Action Plan to combat illegal trafficking, which also covers 'heavy' firearms, a link between the internal and external aspects has been established.[95] Moreover, in March 2014 the EU ratified the UN Firearms Protocol, to the extent of its competence (i.e. the common commercial policy and other areas where the EU has adopted common rules – the internal market), making it binding in this respect for all EU Member States.[96] Germany, Luxembourg and the UK have signed but not yet ratified the Protocol, while France, Ireland and Malta have not yet signed. The outline of the abovementioned '2015 Firearms Package', reportedly to be presented by the end of July 2015, could include two legislative proposals, a first on

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90 See EEAS list of the six-monthly progress reports.

91 Sixteenth Progress Report on the implementation of the EU Strategy to Combat Illicit Accumulation and Trafficking of SALW and their Ammunition — (2013/II), OJ C 178, 12.6.2014, p. 9–19; Seventeenth Progress Report on the implementation of the EU Strategy to Combat Illicit Accumulation and Trafficking of SALW and their Ammunition — (2014/I), OJ C 385, 31.10.2014, p. 2–11

92 Poitevin C., op. cit.

93 European Commission Communication 'Firearms and the internal security of the EU: protecting citizens and disrupting illegal trafficking', COM(2013) 716 final, 2013.

94 Poitevin C., op. cit.

95 Ratifying the UN Firearms Protocol / Ferraro F., EPRS, 2013.

96 See Council Decision 2014/164/EU of 11 February 2014.

firearms deactivation and marking proceedings and a second on approximating criminal sanctions against illicit trafficking in firearms at EU level.[97] The Commission will also present a report on the implementation of the EU Firearms Directive (Directive 91/477/EEC, as amended by Directive 2008/51/CE).[98] Finally, the EU has in place Regulation 258/2012 on illicit manufacturing and trafficking of firearms which establishes authorisation standards on imports, exports and transfers of firearms for civilian use.[99]

With respect to its external action, the EU policy in combatting illicit SALW has built on the 1998 Code of Conduct on Arms Exports and the 1998 Joint Action on the EU contribution to combating the destabilising accumulation and spread of SALW – replaced in 2002 with a new Joint Action (2002/589/CFSP) to include ammunition. The EU has thus adopted several legally binding instruments related to SALW, among which the most relevant are:[100]

- Common Position 2003/468/CFSP on the control of arms brokering (2003);
- Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment (2008);
- EU Council Decision 2010/765/CFSP on EU action to counter the illicit trade of SALW by air (2010);
- EU Council Decision 2011/428/CFSP in support of UNODA activities to implement the UN PoA (2011).

Besides the decisions above, the Council has also adopted two Joint Actions: 2008/113/CFSP supporting the International Tracing Instrument and 2008/230/CFSP to promote the control of arms exports among third countries. More recently, the Council adopted Decision 2013/698/CFSP in November 2013 on the 'iTrace' mechanism (see above),[101] as well as Decision 2013/768/CFSP on EU activities in support of the implementation of the ATT.

Despite the visible commitment at EU level to taking action to combat illicit SALW, Member States still do not fully comply, for various reasons, with the common position on arms exports,[102] confirming the reality of 28 export control systems in the EU. Brokering activities still suffer from disparities between Member States' laws.[103]

4.3. Political dialogue with third countries on SALW

SALW issues are part of a number of EU political dialogues with third countries and cooperation with regional organisations. Moreover, since 2008, when the Council formulated, in its Conclusions (17186/08), the need to include a SALW element in the relevant international agreements between the EU and third countries, negotiations on this issue took place with Brunei, Japan and Kazakhstan. The latest report on the

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97 See Speech of EU Commissioner for Home Affairs, at the High-level Panel 'Firearms strategy: one year after', 24 October 2014.

98 See Fighting terrorism at EU level, an overview of the Commission's actions, measures and initiatives, European Commission factsheet, 11 January 2015.

99 See Trafficking in firearms, DG Migration and Home Affairs, European Commission.

100 Berman E.G., Maze K, op. cit.

101 A decision to extend iTrace is currently under consideration in the Council (the 2013 Decision provides for funding for two years).

102 EU arms exports: Member States' compliance with the common rules / Cîrlig C., EPRS, 2013.

103 En Europe, les courtiers en armes ne sont pas assez contrôlés… / O'Farell K., rtbf.be, 2013.

implementation of the SALW Strategy underlines in this respect that, inter alia, the negotiations contribute to awareness-raising on the EU's SALW policy and provide a forum for discussing the respective positions on SALW, for identifying areas for future cooperation and encouraging partners in their implementation of international instruments on SALW.[104] In its Conclusions of 15 December 2014, the Council adopted a revised text for the SALW provision on agreements with third countries, so as to take into account the entry into force of the ATT in December 2014. The provision thus aims to be more comprehensive, covering aspects of both illicit and legal trade in SALW.[105]

4.4. EU SALW assistance programmes

The EU has provided assistance to third countries aimed, for instance, at building their administrative capacity on SALW control, securing and/or destroying stockpiles, and supporting DDR and Security Sector Reform.[106] According to the Commission, the EU supported DDR activities and countering illicit trafficking in SALW around the world (2011-13) with €21 million from different budget lines. Among these, the Instrument Contributing to Stability and Peace is the main EU tool for technical and financial 'support for measures to combat … the illicit use of and access to firearms, SALW'.

The EU has provided support to **regional programmes** such as:

- In Africa, the Regional Centre on Small Arms (RECSA) in the Great Lakes Region and the Horn of Africa. So far, progress has been achieved in establishing National Commissions on SALW and in strengthening legislative capacity regarding harmonisation with SALW instruments in some of these countries;
- In the Western Balkans, SEESAC/UNDP (South-Eastern and Eastern Europe Clearinghouse for the Control of SALW);[107]
- In Central America, the Central American Small Arms and Light Weapons Control Programme (CASAC) whereby the EU aims at creating a regional structure and long-term strategy to fight the illicit trafficking of SALW, both at national and regional level. Implementation has been ensured by UNDP, followed by the Central American Integration System (SICA).

Other significant contributions by the EU to the fight against illicit SALW are seen in the funding support given to the **iArms and iTrace** projects, as well as to projects in West Africa and South America destined to promote the **ratification and implementation of the Firearms Protocol**. Through Council Decision 2012/662/CFSP in support of activities to reduce the risk of illicit trade in, and excessive accumulation of, SALW in the region covered by the **Organization for Security and Co-operation in Europe** (OSCE), a programme was implemented to carry out security upgrades of stockpile depots of conventional weapons and ammunition in Belarus and Kyrgyzstan. In 2013, the European Council approved a five-year programme to support the **Libyan government** with ensuring the physical security and management of its SALW stockpiles in

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[104] See note 88, Sixteenth Progress Report on the implementation of the EU Strategy to Combat Illicit Accumulation and Trafficking of SALW and their Ammunition.

[105] Council Conclusions on the amendment of the Small Arms and Light Weapons (SALW) article in agreements between the EU and third countries, 16899/14, 15 December 2014.

[106] Poitevin C., op. cit.

[107] SEESAC stands for the South Eastern and Eastern Europe Clearinghouse for the Control of SALW, created in 2002, in the framework of the Stability Pact for South Eastern Europe. SEESAC's activity includes awareness raising and SALW collection campaigns, stockpile management, surplus reduction and improving marking and tracing capabilities.

conventional weapons and ammunition (2013/320/CFSP), with co-funding from Germany. The EU has been providing up to €5 million to help the Libyan authorities stop the uncontrolled spread of conventional weapons and ammunition in the region. Finally, in December 2014, the Council allocated €3.5 million to support states in the Sahel in improving stockpile management and physical security measures for SALW.[108]

4.5. European Parliament debates

The EP has on different occasions recognised the challenge posed by the proliferation of illicit SALW, and called on the EU to address the issue several times. In particular, in both the run-up and follow-up to the UN Conference which led to the UN PoA, the EP expressed its support for this process, including for a legally binding international instrument on transfers of conventional weapons, and strong export controls, as well as other legally binding instruments on arms brokerage, and on marking and tracing.[109]

More recently, in its 2012 resolution on the Common Foreign and Security Policy,[110] the EP called on the High Representative to evaluate the effectiveness of EU action against SALW, including its 2005 Strategy and other relevant policy frameworks, and to strengthen EU capacity in this area. In another resolution on the EU Strategy for the Horn of Africa,[111] the EP noted the role the EU can play in 'fighting the proliferation of illicit SALW and facilitating demobilisation, disarmament and reintegration of former combatants in the region'. In the resolution on the implementation of Common Position 2008/944/CFSP on arms export controls,[112] the Parliament called on Member States to ensure a more uniform implementation of the Common Position, including respect of all the criteria included, as well as to increase transparency and the amount of detail in their reporting. Finally, in its resolution on the ratification of the ATT,[113] the EP noted with satisfaction the inclusion of SALW, their ammunition and parts and components in the scope of the Treaty. However, it must be pointed out that no specific resolution on SALW has appeared on the EP agenda in recent years.

5. BMS5 – assessing the implementation of the PoA and the ITI

From 16 to 20 June 2014, the Fifth Biennial Meeting of States discussed the implementation of the PoA and ITI.[114] Following the negotiations, an outcome document was adopted by consensus, made possible by a number of compromises and weakened language on particular issues.[115]

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[108] Council conclusions, 16928/14, 15 December 2014 and Council Decision 2014/912/CFSP of 15 December 2014 in support of physical security and stockpile management (PSSM) activities to reduce the risk of illicit trade in small arms and light weapons (SALW) and their ammunition in the Sahel region.

[109] European Parliament resolution of 15 March 2001 on the UN Conference on illicit trade in small arms and light weapons ... to be held in July 2001; resolution of 15 November 2001 on small arms; resolution of 19 June 2003 on implementation of the UN programme to combat the illegal trade in light weapons.

[110] Resolution of 12 September 2012.

[111] Resolution of 15 January 2013.

[112] Resolution of 4 July 2013.

[113] Resolution of 5 February 2014.

[114] See Fifth Biennial Meeting of States 2014 website.

[115] Report of the Fifth Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (A/CONF.192/BMS/2014/2), June 2014.

5.1. Main issues

The discussions were organised in three main parts, focusing on:

- Implementation of the UN PoA, in particular stockpile management, including physical security measures of SALW*;*
- The ITI;
- International cooperation and assistance, in particular capacity-building, including training and transfer of technology and equipment.

During the debate, a number of issues proved contentious among states, in particular including in the outcome document references to:

- UNSC 2117(2013) and the UNSC 1325(2000) on Women, peace and security;
- The responsibility of producers to transfer the proper technologies to developing countries;
- Integrated border management;
- New technologies;
- The proposals from the states forming the Non-aligned Movement for the creation of a trust fund with voluntary contributions and a training programme for developing countries;
- The holistic approach to the management of the entire life-cycle of SALW.

While solution to some of these issues were found through compromise, others remained divisive until the very end, and led to a lack of agreement on including language on the synergies or linkages between the international instruments on SALW (PoA, ITI and the ATT), on illicit brokering and, importantly, on ammunition.

5.2. Report of the UN Secretary-General on new technologies

A report of the UN Secretary-General on recent developments in SALW related to manufacturing, technology and design was also considered at BMS5.[116] The report presents new technology trends in weapon manufacturing and design which can pose a significant challenge to arms-control efforts, focuses then on new technologies that could be used in SALW marking and tracing (e.g. microstamping) and finally outlines some suggestions for making use of these technologies. The report also recommends that states adopt a supplementary document to the ITI to take into account recent developments in technology, not least the advent of 3D printing as a means to make weapons. The issue was further addressed at the Second Open-Ended Meeting of Governmental Experts (MGE2), in June 2015.[117]

5.3. The European Union's position at BMS5

Ahead of BMS5, the EU submitted a position paper,[118] agreed by all Member States, underlining the EU's priorities with respect to the implementation of the PoA and the ITI. Among these figure the need for effective tracing in conflict and post-conflict zones and better exchange of information on tracing results; analysing the relationship

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[116] Recent developments in small arms and light weapons manufacturing, technology and design and implications for the implementation of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons: Report of the Secretary General (A/CONF.192/BMS/2014/1), May 2014.

[117] See Second Meeting of Governmental Experts webpage and Chair's summary, June 2015.

[118] EU working paper in preparation for the BMS5, April 2014.

between the PoA/ITI and the ATT; and examining the opportunities (and the challenges) of new developments in SALW manufacturing, technology and design for improving the security and management of stockpiles, as well as marking, record-keeping and tracing.

During BMS5, the EU expressed its support for the development of agreed standards and best practices in the field of SALW stockpile management and security, similar to the ISACS and the IATG. Concerning the ITI, the EU statement called the instrument an important practical achievement of the UN PoA process and emphasised the need for tracing SALW in conflict and post-conflict situations. In this context, the EU reiterated the support for iArms and iTrace. Finally, the EU mentioned the assistance it has provided together with its Member States for the implementation of the PoA, through its regional programmes and specific country projects.

6. Perspectives

The UN PoA remains the cornerstone of international efforts to combat illicit SALW, although its impact has increasingly been put into question. National reports do not provide the full picture with regard to PoA/ITI implementation and many sensitive issues are kept out of the debate, such as integrated border controls or ammunition. Other issues need to be paid more attention, including the gender perspective or the victims of armed violence. The ATT is expected to have an impact, should states fully implement their obligations. On its part, the EU is recommended to revise its 2005 SALW Strategy, and to better integrate its SALW related initiatives, particularly to ensure consistency between SALW assistance programmes, arms exports controls and development cooperation.[119] Finally, those civil society organisations in favour of arms control (civil society has been divided from the start through the existence of a significant lobby against arms regulation) point to a variety of issues that could transform the current discourse on SALW: addressing the human cost, restricting civilian possession of guns, which constitute the majority of small arms globally,[120] and fully integrating efforts on small arms and gun violence reduction into development frameworks.[121]

7. Main references

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European Union initiatives to control small arms and light weapons: towards a more coordinated approach / Poitevin C., Non-proliferation Papers, no. 33, December 2013.

[119] Poitevin C., op. cit.

[120] Mack D, op. cit. p.25.

[121] Small arms, big picture: armed violence beyond First Committee / Mack D., Instituto Sou Da Paz and Reaching Critical Will, October 2014.

Small arms and light weapons (SALW) are one of the main instruments of armed violence around the world, both in conflict and non-conflict situations, with significant impact on entire societies from a humanitarian and socio-economic point of view.

The international community, in particular the United Nations, has identified the proliferation and traffic of illicit SALW as an important field of action, and in this context, it has established a binding framework to prevent, combat and ultimately eradicate the illicit trade in SALW in all its aspects. The main political process – the UN Programme of Action – emerged from the disarmament and arms control agenda, while the legally binding Firearms Protocol is part of international law enforcement cooperation. Recently, the Arms Trade Treaty has made a significant addition to the efforts of regulating trade in SALW.

The European Union is an active promoter of the instruments and processes aimed at fighting against illicit SALW: it has created its own policy framework on firearms and SALW, it is a staunch supporter of norms at international level and an important provider of assistance to countries around the world to deal with the illicit trade and proliferation of SALW.

QA-02-15-270-EN-N

This is a publication of the
Members' Research Service

Directorate-General for Parliamentary Research Services, European Parliament

PE 565.869
ISBN 978-92-823-6823-7
doi: 10.2861/030849

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