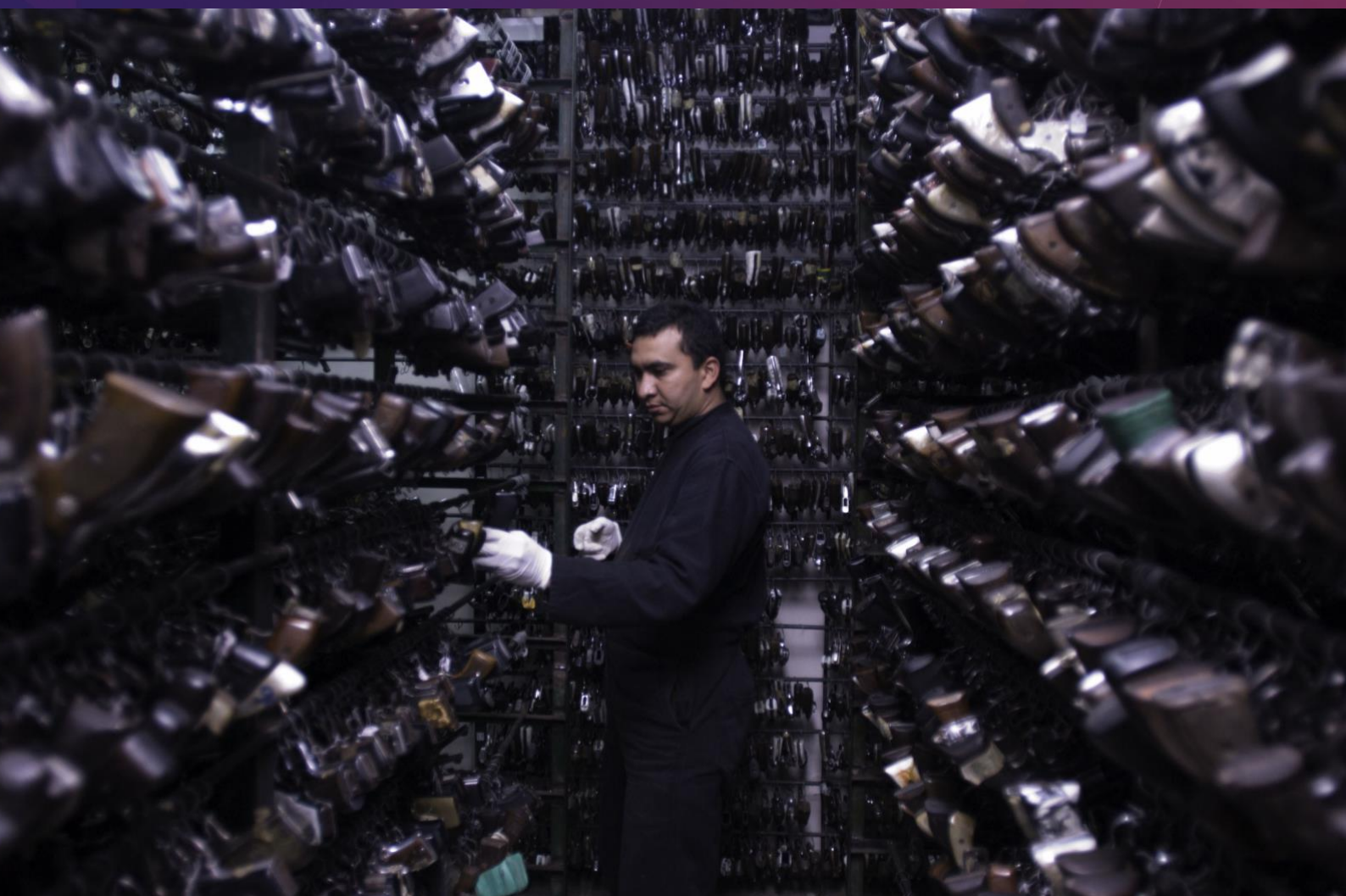


IANSA Briefing Paper
May 2022

Ten Goals to Prevent Diversion of Small Arms and Light Weapons



Ten Goals to Prevent Diversion of Small Arms and Light Weapons

In this briefing paper, IANSA outlines the main ways that small arms, light weapons (SALW) and their ammunition are diverted to unauthorised users, unauthorised uses and to the illicit markets, thereby fuelling armed violence, conflict, crime and a wide range of human suffering and harm. Further below, IANSA sets out ten broad clusters of good practice standards which States can use as a starting point to assess whether their laws, policies and practices are sufficiently robust to prevent incidents of SALW diversion.

The Ten Goals to Prevent Diversion of SALW are largely derived from the Modular Small-Arms-Control Implementation Compendium (MOSAIC) which was developed by the United Nations Office for Disarmament Affairs (UNODA) and other UN agencies over a decade of coordinated work. The modules reflect good practice standards and key obligations from international instruments on SALW control, and they constitute an invaluable set of guidance for the policies that civil society should advocate to their governments.

IANSA is calling on all States to take action to achieve all of these goals and ensure they are robustly implemented so that irresponsible transfers and diversions of small arms and light weapons to unauthorized users can be prevented.

Diversion of Small Arms and Light Weapons and their Ammunition is a “Colossal Problem”

In report after report, and resolution after resolution, the United Nations Security Council, the General Assembly and the Secretary General have warned of the ‘colossal problem in many parts of the world’ of the diversion of SALW. United Nations and independent experts have shown that poorly managed holdings and high-risk transfers of SALW and their ammunition have led to the diversion and irresponsible use of those items. Flows of diverted weapons and ammunition exacerbate violent conflicts, contribute to organised crime, and result in grave violations of human rights and international humanitarian law, including gender-based violence.¹

The diversion of SALW and their ammunition has multiple causes. Among the main ones are institutional weaknesses and governmental failures related to the supply and demand of SALW, as well as their storage and uses. Crucial gaps in national regulations and shortfalls in their enforcement, mean that in many countries, guns and ammunition have been diverted, deliberately or negligently from manufacturers, transport carriers, shipping agents, warehouses, dealers, civilian gun holders, and official stockpiles, as well as from soldiers, police, and other security forces. Incidents of diversion result from illegal re-sales, thefts, and losses from holdings or through the desertion of armed personnel, and by enemy capture from combatants and prepositioned depots.²

¹ See for example, Special Court for Sierra Leone, *The Prosecutor v. Charles Ghankay Taylor*, SCSL-03-01-T, Trial Chamber II, SCSL, 18 May 2012; Reports of the Panel of Experts on Somalia, and the Security Council Committee pursuant to Resolution 751 (1992) concerning Somalia; Reports of the Panel of Experts on Mali pursuant to Resolution 2374 (2017); and Reports of the Panel of Experts on Libya pursuant to Resolution 1973 (2011); OHCHR, *Impact of Arms Transfers on the Enjoyment of Human Rights: Report of the Office of the United Nations High Commissioner for Human Rights*, A/HRC/35/8, 3 May 2017; UN General Assembly, *Children and Armed Conflict: Report of the Secretary-General*, A/72/361-S/2017/821, 2017; International Committee of the Red Cross, *Understanding the Arms Trade Treaty from a Humanitarian Perspective*, Geneva, 2015.

² United Nations Institute of Disarmament Research (hereafter UNIDIR), *Arms Trade Treaty Issue Brief 3: Diversion Analysis Framework*, Geneva, 31 August 2021.

Sometimes diversions are organised to circumvent a UN arms embargo or to arm organised crime and terrorist networks. Organised diversion can involve a variety of techniques, including the use of illicit brokering, clandestine routes, front companies, cross-border smuggling, reactivation of decommissioned weapons, fraudulent documentation, and corrupt practices.³ The 'dark web' has increasingly been used by criminal syndicates and terrorist networks to divert guns and ammunition.⁴ Organised criminality and a culture of profiteering from corrupt practices in business and public administration can fuel irresponsible supply, while the insecurity, fear, and perceived injustice arising from political violence, repression, and terrorism can increase irresponsible demand.⁵

Breakdowns in responsible regulation, management, and strict control of SALW are often caused or compounded by the lack of state capacity to ensure the accountability and training of security services according to international standards, and to strengthen border control, justice systems, and public awareness programmes on the dangers of the illicit trade and possession of firearms.⁶ At the same time, illicit markets for diverted SALW and ammunition can be driven by economic, political, and cultural factors related to crime and violence.

Typical Forms of Diversion

Analyses of SALW diversion cases point to common regulatory failings throughout the chains of transfer and the life cycle of the weapons and ammunition:⁷

Faulty Assessments of Arms Transfer Applications and End-User Documents

- (i) Exporting States issue export or brokering licences without undertaking adequate legal checks and registration or screening of participants, and without conducting rigorous assessments of the risks of diversion throughout the chain of transfer and the life cycle of the weapons and ammunition.
- (ii) Licensing authorities of the exporting State fail to authenticate and verify import and end-user/end-use documentation thereby running the risk that exporters and their intermediaries will make fraudulent use of front companies and provide false or misleading documentation.
- (iii) States authorise imports by issuing licenses without adequate checks or risk assessments of the intended end-user's reliability or their legitimate needs, including whether end-users have in the

³ See for example Transparency International's [Defence and Security Integrity Index 2021](#).

⁴ Matt Schroeder, [Beyond the Dark Web: Arms Trafficking in the Digital Age](#), Small Arms Survey, 16 February 2018; Small Arms Survey and Security Assessment in North Africa, [Working Paper](#), Geneva, 26 April 2017, pp. 41 and 46; Giacomo Persi Paoli, [The Trade in Small Arms and Light Weapons on the Dark Web: A Study](#), New York, UNODA Occasional Papers – No 32, October 2018.

⁵ United Nations Office on Drugs and Crime, [Legislative Guide to the Convention Against Corruption](#), 2003, p. 30, which states that "the anti-corruption requirements for public procurement mentioned are only the minimum required by the Convention."

⁶ Organisation for Economic Development and Co-operation, [OECD DAC Handbook on Security Sector Reform: Supporting Security and Justice](#), Paris, February 2008; UNIDIR, [Addressing Conventional Arms Risks and Impacts to Prevent Conflict and Build Peace: What More Should the United Nations Do?](#) Geneva; Transparency International [Out of the Shadows: Promoting Openness and Accountability in the Global Arms Industry](#), Transparency International, London 2018; Jakkie Cilliers, [Violence in Africa: Trends, Drivers and Prospects to 2023](#), Pretoria, Institute for Security Studies, 2018; Muggah R, Sang F, [The enemy within: rethinking arms availability in sub-Saharan Africa](#), *Conflict, Security & Development*, (13)4, 2013, p 417-447.

⁷ UNIDIR, [The Arms Trade Treaty: Measures to Prevent, Detect, Address and Eradicate the Diversion of Conventional Arms](#), Geneva, 30 October 2020; UNIDIR, [Enhancing the Understanding of Roles and Responsibilities of Industry and States to Prevent Diversion](#), Geneva, 29 August 2019, <https://unidir.org/publication/enhancing-understanding-roles-and-responsibilities-industry-and-states-prevent>; UNIDIR, [Strengthening End Use/r Control Systems to Prevent Arms Diversion: Examining Common Regional Understandings](#), Geneva, 13 August 2017; Conflict Armament Research, "Diversion Digest Issue 02", 2019; Brian Wood and Peter Danssaert, [Study on the Development of a Framework for Improving End-Use and End-User Control Systems](#), United Nations Office for Disarmament Affairs, New York, 2008.

past complied with licence conditions and with relevant regulations, or whether the end-users have safe and secure storage sites.

Inadequate Systems for National Authorities to Control Arms Trade Transactions

- (iv) National arms control authorities have insufficient capacity to carry out their tasks and are subject to inadequate oversight; sometimes if officials engage in or allow corrupt practices; these can easily result in the re-routing and/or misappropriation of SALW, including by facilitating a change of effective ownership and/or control of the items, whether directly negotiated or brokered, through grant, credit, lease, barter, and cash at any time during the lifecycle of the items.
- (v) National authorities have not established a workable system of international cooperation for the prior notification of SALW consignments intended for transit and trans-shipment and clearance through their ports and territories, and/or have inadequate trained customs and border control personnel to carry out such tasks.

Weak Regulation of Arms Transportation, Trans-shipment and Physical Stockpiles

- (vi) Items are lost, stolen, or otherwise diverted during trans-shipment or delivery as a result of insecure transportation, circuitous shipping routes, and/or inadequate checks of sea, air, and road carriers and containers along the route or when they cross borders.
- (vii) Security arrangements in the importing State's national stockpiles and at intermediate storage sites or depots along the distribution routes and battlefield positions in many cases do not conform to international good practice standards.

Absence of Post-Shipment Delivery Verification and Robust End-User Controls

- (viii) Importing and exporting States and their authorised arms trading companies have inadequate post-shipment delivery verification systems to ensure that the SALW and/or ammunition safely reach the intended end-users for lawful end-uses.
- (ix) Importing State officials are negligent or complicit in allowing an authorised shipment of items, to be diverted domestically to dealers or end-users within the country, or to be re-exported contrary to the original end-use and end-user documentation.

Leaving Gaps in the Regulation of Law Enforcement and Civilian Firearms

- (x) States fail to sufficiently regulate commercial dealers in SALW and civilian gun holders who then conduct sales and resales of SALW and ammunition, or who re-activate decommissioned weapons for sale, resulting in diversion to unauthorised users.
- (xi) State military, police, other security forces and security companies sometimes have inadequate systems of management, accountability, training, and safe storage and this can easily result in SALW and ammunition being stolen, lost, or otherwise misappropriated from official holdings and from weapons collection and destruction programmes. If security forces commit violent acts against unarmed civilians with impunity, that can also drive up demand for diverted SALW and ammunition.

International Good Practice Standards

In the UN Programme of Action and light weapons (UNPoA), the participating States agreed amongst other things:

"To put in place, where they do not exist, adequate laws, regulations and administrative procedures to exercise effective control over the production of small arms and light weapons within their areas of jurisdiction and over the export, import, transit or retransfer of such weapons, in order to prevent illegal manufacture of and illicit trafficking in small arms and light weapons, or their diversion to unauthorized recipients."

Since 2001, States have agreed to implement a range of good practices and common standards designed to prevent, detect, prosecute, and address the diversion and illicit trade in small arms. Those measures are contained in a range of international and regional instruments. At the global level, relevant obligations and policy commitments for all States are in the UN Firearms Protocol,⁸ and the UN Programme of Action (PoA) on small arms and light weapons⁹ with its accompanying International Tracing Instrument (ITI).¹⁰ States committed themselves in the PoA to take measures to prevent the 'diversion to unauthorised recipients' of SALW, and to take into account the risk of diversion before authorising an export. The PoA also commits States to prevent the 'illicit manufacture', 'illicit transfer', 'illicit circulation', 'illicit trade', 'illicit export, import, transit and retransfer', 'illicit trafficking', and 'illicit brokering' of SALW, and recommends the use of authenticated end-use documentation. The Security Council urged States to 'fully implement' the Programme of Action.¹¹

Drawing upon these international instruments as well as several relevant regional and other multilateral instruments, United Nations bodies and agencies that address human suffering and instability resulting from irresponsible and illicit circulation and use of small arms have since developed practical guidance. This guidance is contained in the International Small Arms Control Standards (ISACS series 05.60) modules, which are now renamed MOSAIC.¹² Although these modules are purely voluntary and don't constitute agreements between governments, they do contain many standards that reflect relevant international obligations and good practice recommended by multilateral organizations that can contribute to the prevention and ultimate eradication of small arms and light weapons diversion. MOSAIC is the result of a decade of coordinated work within the UN system. Modules from the compendium are used in well over half of Member States, assisting authorities around the world to improve their small-arms control measures.

The Arms Trade Treaty (ATT), which was adopted by the UN General Assembly in April 2013 and now has 111 State Parties, established rules and principles to guide transfers of conventional arms and prevent their diversion. One of the two objects and purposes of the ATT set out in Article 1, is to "prevent and eradicate the illicit trade in conventional arms and prevent their diversion" in order to contribute to international peace,

⁸ 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 ('[Firearms Protocol](#)'); adopted by resolution 55/25 on 31 May 2001, and now has 147 State parties and 190 signatories; in force 3 July 2005.

⁹ [Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects](#); adopted by the UN General Assembly on 21 July 2001.

¹⁰ [International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons](#), adopted by the UN General Assembly on 8 December 2005.

¹¹ [Security Council resolution 2370](#) adopted on 2 August 2017, para 9.

¹² [Modular Small-arms-control Implementation Compendium \(MOSAIC\)](#), United Nations Office for Disarmament Affairs. MOSAIC is a compendium of voluntary, practical guidance notes in modules that each reflect international standards agreed by the General Assembly and are consistent with current small-arms expertise. The modules are supported by all relevant UN agencies and used in over half of the UN Member States.

security and stability, and to reduce human suffering.¹³ The other main objective is to “establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms.” Article 11(1) of the ATT requires that each State Party involved in the “transfer” of conventional arms “shall take measures to prevent their diversion”.

IANSA believes that the rigorous implementation of the ATT, the UN Firearms Protocol, the UNPoA-ITI and other regional instruments,¹⁴ as well as using the guidance contained in the MOSAIC Modules, is key to ensuring that arms transfers do not contribute to serious violations of International Human Rights Law and International Humanitarian Law.

Ten Goals to Prevent Diversion of SALW

IANSA is highlighting the following priorities for action by States to prevent the diversion of SALW to unauthorised or unlawful end-users or for an unauthorised or unlawful end-use/user.

1. **State review of counter-diversion measures.** States should conduct a thorough review of the legislative, administrative, security-related, logistical, and other *measures* that the country has in place to prevent, detect, and prosecute the rerouting and misappropriation of SALW and related ammunition, parts, and components, throughout the following points in the chain of transfer:¹⁵
 - a. Manufacture and assembly;¹⁶
 - b. Brokering of transactions;
 - c. Pre-export preparation of cargo;
 - d. Shipment, transit, and trans-shipment;
 - e. Import delivery unloading, warehousing and local transport;
 - f. End-use/user operations and stockpiles;
 - g. Retransfer.
2. **Criminalise diversion through national legislation.** If not yet established, States should criminalize the deliberate or negligent act of diverting SALW or related ammunition, parts, or components, by making the unauthorised re-routing and misappropriation a crime subject to criminal sanctions, whether by means of theft, fraud, deception, corruption, violence, or any other method. Legislation should enable cross border cooperation and international tracing operations to deter, detect, and intercept illicit movements and diversion of SALW, ammunition, parts, and components.¹⁷

¹³ Article 1 [Object and Purpose], [Arms Trade Treaty \(ATT\)](#). ‘Certified True Copy (XXVI-8).’ May 2013; the ATT was adopted by the General Assembly in April 2013 and now has 111 States Parties; the other main objective of the ATT set out in Article 1 is to “establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms.”

¹⁴ [Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition and All Parts and Components That Can Be Used For Their Manufacture, Repair and Assembly](#), 2010; [Convention of the Economic Community of West African States to Combat and Eradicate the Illicit Trade in Small Arms, Light Weapons, their Ammunition and Other Related Materials](#), 2006; [European Union User's Guide to the Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment](#); [Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials](#), adopted in 1997; [Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in East Africa, the Great Lakes and the Horn of Africa](#), 2002.

¹⁵ MOSAIC 03.20 National controls over the international transfer of small arms and light weapons, UNODA June 2014; MOSAIC 04.40 Monitoring, evaluation and reporting, UNODA August 2020; MOSAIC 04.10 Designing and implementing a National Action Plan, UNODA April 2016.

¹⁶ MOSAIC 03.10 National controls over the manufacture of small arms and light weapons.

¹⁷ MOSAIC 05.60 Border controls and law enforcement cooperation, UNODA August 2012; MOSAIC 05.31 Tracing illicit small arms and light weapons, UNODA August 2021.

3. **Ensure sufficient capacity in national transfer control systems** for export and import authorisations, and for transit authorisation or notifications, including sufficient capacity to assess the risks of diversion of all transfers and, where necessary, to take measures to reduce risks to an absolute minimum, as well as capacity to screen applicants and to objectively assess undertakings from the prospective receiving State that it will and can fully comply with relevant best practice transfer control standards to prevent diversions.¹⁸
4. **Standardise detailed forms authorising exports and imports.** Authorisations should in all cases be in standardised written form with a limited expiry date and include a detailed description of the items to be transferred, their origin, quantity, weight, and value, as well as the names and full addresses of the contract holders, the consignee, the consignor, any intermediaries or agents involved, and the proposed route and means of delivery.¹⁹
5. **Verify End-Uses and End-Users and Authenticate Related Documentation.** End-use/user certificates should include signed undertakings not to re-transfer or re-circulate the items to another state or end-use/user without the agreement of the sending national authority. Documents should not be issued to authorise any transfers unless the end-use/user documents are first authenticated with an expiry date, and until the legitimacy and reliability of the intended end-user/end use, and the other entities involved in the transfer of the SALW and related items, have first been verified with the importing state.²⁰
6. **Destroy Illicit and Surplus Stocks.** This should be the preferred method of disposal of SALW and their ammunition by the authorities, including from collection programmes, in order to prevent conflict and violence. In addition, the reactivation and conversion of weapons to enable live firing without official authorisation and direct control should be made illegal, including unauthorised possession of deactivated SALW that are not rendered inoperable and can be reactivated, or readily convertible weapons, such as acoustic expansion weapons and alarm pistols, which can be converted from blank to live fire and thus adapted for an unintended end-use.²¹
7. **Ensure Marking, Record Keeping and Safe Storage of all Holdings.** This should follow international best practice standards carried out by the authorities at safe and secure facilities with strictly controlled access and practices that are subject to regular robust inventory management and accounting procedures. It should include the comprehensive and unique marking of all weapons, essential parts and components, and ammunition packages at the time of manufacture, import, transfer to civilian use, confiscation and deactivation, and the recording of all marked items' movements and transactions, which are inspected by the national authorities.²²
8. **Organize and Fund Public Awareness and Community Safety Programmes.** The aim should be to build capacities at local, provincial, and national levels for communities and authorities to encourage all persons, including adolescents and youth, to proactively solve private and community level disputes in non-violent ways and to create conditions that discourage demand for weapons and clarify understanding of the firearms control law. Programmes should be sufficiently resourced to

¹⁸ MOSAIC 03.40 National coordinating mechanisms on small arms and light weapons control, UNODA June 2014.

¹⁹ MOSAIC 03.20 National controls over the international transfer of small arms and light weapons, UNODA June 2014.

²⁰ MOSAIC 03.21 National controls over the end-user and end-use of internationally transferred small arms and light weapons, UNODA June 2014.

²¹ MOSAIC 05.50 Destruction: Weapons, UNODA August 2012; MOSAIC 05.40 Collection of illicit and unwanted small arms and light weapons, UNODA August 2012; EUROPOL, [The role of EUROPOL in combatting firearms trafficking](#), Brussels 15 March 2016.

²² MOSAIC 05.30 Marking and Record Keeping, UNODA August 2012; MOSAIC 05.20 Stockpile management: Weapons, UNODA August 2012.

promote values and analyses consistent with the rule of law, human rights, equality, and democratic accountability. Activities should include the full and effective participation of underrepresented groups and the mainstreaming of gender in conflict prevention, management and resolution. Specific local structures should facilitate equal access to justice and equal protection by impartial security services.²³

- 9. Implement UN Standards for the Law Enforcement Use of Firearms.** The UN standards should be reflected in strict legislation and administrative procedures to ensure that the management of law enforcement firearms and ammunition is fully accountable, and that officers using firearms are rigorously trained to comply with the law. Specific rules should be included in the regulations to prevent officers diverting firearms and ammunition issued to them, and to avoid any arbitrary act likely to provoke illegal demand for weapons amongst civilians. UN standards should be implemented that require officers to apply non-violent means before resorting to the use of force and firearms and to only use lawful force and firearms to the minimum extent necessary if other means remain ineffective. The UN standards also require arbitrary or abusive use of force and firearms by law enforcement officials to be punished as a criminal offence.²⁴
- 10. Strictly Limit and Control Civilian Possession of Firearms.** National legislation should only allow the possession and use of a firearm and its ammunition and parts/components by a civilian if the individual has been granted an official licence or permit specifying the purpose. All such licenses or permits should be subject to regular renewal and only be approved by the national authority in cases where the applicant can demonstrate (a) a compelling reason to possess a certain type of firearm and ammunition; (b) has undergone background checks to ensure the applicant has no previous involvement in illegal activity related to acts of diversion, illicit trafficking or violence; (c) has completed a recognised firearms training course for civilians; and (d) has the capacity to keep the firearm and ammunition in separate safe storage and file annual reports to the authorities.²⁵

IANSA is calling on all States to take action to achieve all of these goals and ensure they are robustly implemented so that irresponsible transfers and diversions of small arms and light weapons to unauthorized users can be prevented.

This paper was written by Dr. Brian Wood in cooperation with Seydi Gassama.²⁶ It was edited by Clare da Silva, Teresa Dybeck, and Dr. Natalie Goldring. It was designed by Emily Callsen.

United Nations Trust Facility Supporting Cooperation on Arms Regulation



²³ MOSAIC Module 04.20 Designing and implementing community safety programming, UNODA January 2017; MOSAIC Module 04.30 Awareness-raising, UNODA March 2017; MOSAIC Module 06.10 Women, men and the gendered nature of small arms and light weapons, UNODA October 2017; MOSAIC 06.20 Children, adolescents, youth and small arms and light weapons, UNODA April 2018.

²⁴ [United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#), 7 September 1990; United Nations Code of Conduct for Law Enforcement Officials.

²⁵ MOSAIC 03.30 National regulation of civilian access to small arms and light weapons, UNODA June 2015.

²⁶ The authors are both members of the IANSA leadership team. Seydi Gassama presented a summary of this text to a side event of the Arms Trade Treaty Working Group meetings and Second CSP8 Preparatory Committee meeting. The side meeting was hosted by the [Permanent Mission of Sweden in Geneva](#), and NGO's: [IM Swedish Development Partner](#) and IANSA.