

FRAMEWORK FOR IMPROVING END-USE AND END-USER CONTROL SYSTEMS

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% of Reporting States Implementing Transfer Controls on SALW 2001-2011

	Africa	Americas	Asia	Europe	Oceania
Export controls	67%	86%	85%	100%	83%
EUCs	10%	39%	35%	93%	50%
Import controls	84%	96%	91%	73%	83%
Transit controls	41%	68%	56%	83%	100%
Illegal trade a criminal offence	22%	61%	50%	76%	67%

Source: UNIDIR Report on the UNPOA 2012

Focus of the UNODA Study 2010-11

- ◆ concepts, documents and procedures relating to the regulation of end use and end users of conventional arms
- ◆ political and practical obstacles to the development of an international framework for authentication, reconciliation and standardization of end-user certificates

Systemic Problems Reported

End-use / user certificates can too easily be:

- ◆ Forged or falsified
- ◆ Obtained from corrupt officials
- ◆ Misused by arms brokers or undeclared agents
- ◆ Unchecked by export authorities
- ◆ Disconnected from delivery verification
- ◆ Breached when end users re-transfer arms
- ◆ Not used to assess risks of unsafe transport, storage and management of the arms

Names of End Use / User Documents

- ◆ “end-*use* certificate” and “end-*user* certificate” (officially certified)
- ◆ “end-use statement” (private commercial entity)
- ◆ “private end-user certificate” versus “official end-user certificate”
- ◆ “end-user undertaking”
- ◆ “end-use assurance” and “end use guarantee”

Documents that supplement EUCs:

- ◆ Import authorisations, commercial contracts

OSCE and Wassenaar - Standard Elements for end-use certificates

The OSCE and Wassenaar standards generally require:

- ◆ the date of issue, preferably accompanied by a register number and the expiry date
- ◆ a detailed description (type, quantity, characteristics) of the SALW or technology related to the design, production, testing and upgrading of arms to be exported;
- ◆ contract number or order reference and date;
- ◆ final destination country;
- ◆ description of the end use of the arms (for example, use by the armed forces or internal security forces);
- ◆ exporter's details, at least name, address and business name;
- ◆ end-user information, specifically, name, position, full address and original signature;

OSCE – WA Standard Elements - continued

- ◆ assurances that the arms will be used only by the end user and for the stated end use;
- ◆ assurances that re-export of imported arms can take place only after receiving a written authorization from the exporting country unless the exporting country decides to transfer that authority to the export licensing authorities of the importing country;
- ◆ information on other parties (intermediate consignees/ purchasers) involved in the transaction, as appropriate, including, name, title and original signature of any consignee or information on the intermediate consignee and purchaser might be provided in writing during the authorizing procedure;
- ◆ Certification by the relevant Government authorities, according to national practice, as to the authenticity of the end user (the certification must include the date, name, title and original signature of authorizing official):

Delivery Verification and On-site Inspections

The OSCE asks that the receiving State should verify the end use of the arms (e.g. by requiring the final consignee to provide the exporter with a *delivery verification certificate* once the export has reached the final destination or by *conducting on-site inspections*)

The inclusion of a clause on *post-shipment control* in the end-user certificate is deemed optional e.g. Finland, Norway, Romania, Sweden and Switzerland require it in their end-use / user certificates

“Optional requirements” contained in the Wassenaar list are:

- (a) certification that the goods *will be installed at the premises of the end user* or will be used only by the end user;
- (b) agreement by the importer / end user *to allow on-site verification*;
- (c) an undertaking from the importer / end user not to *divert or relocate* the goods covered by the end-use certificate /

Elements found in most EUCs in the sample studied

- ◆ A detailed description of the arms, their types and quantities and values;
- ◆ The end use(s) and the location where the items shall or shall not be used;
- ◆ The name(s) and address(es) and signatures of the immediate consignees or purchaser and of the end-user(s) and the country of final destination;
- ◆ The contract of sale number, date and names / addresses of parties involved;
- ◆ An undertaking that the items will not be used for purposes other than those declared, or by end users other than those declared;
- ◆ The date of issue, register / serial number and the duration of the certificate.
- ◆ Assurances by the end user that the re-export of imported arms will either not be permitted, or can take place only after

Variations found in Document Design

- ◆ only two States in the sample, Azerbaijan and Romania, appear to include expiry dates as a routine element in their end-use / user certificates, both limiting their end-use / user certificates to six months only.
- ◆ the details of the end user (e.g. Switzerland only requires a letterhead)
- ◆ details of the exporter (e.g. Italy only requires the name of the applicant)
- ◆ description of the end use (e.g. Australia, Italy, Portugal, Sweden and the United States do not include this aspect)
- ◆ the assurance about end use (e.g. Australia, Hungary, Italy, and Singapore do not include this aspect)
- ◆ Some States only require the name of the exporter and / or the name of the end user (e.g. Finland, France, Norway, Romania, Sweden, Switzerland and the United States), while the majority of other States demand the full street address.

Safeguards in End Use Documents

- ◆ End use/user documents should bear a unique serial number. Letterhead of company used for an end user statement must first be certified by a designated agency of the importing State.
- ◆ The number of officials and institutions authorized to stamp or sign such documents should be kept to a minimum, preferably one national office with comprehensive registry.
- ◆ End use/user documents should only be valid for a specified period, preferably one year, and only used once for the items specified. Upon expiry, a new end use/user document should be requested.
- ◆ *For low risk* items and destinations, the exporting State can decide to pass the authority for re-export to the importing State.
- ◆ *For higher risk*, States may require an undertaking that the

Authentication and Verification

The designated exporting State authority should carefully check/cross check:

- ◆ The authenticity of the end use / user document itself and also verify the details are accurate
- ◆ If the import is supported by the designated importing State authority before authorizing the export
- ◆ The certification stamp / seal, number and signatures of names, addresses of certification / Apostille or government agency
- ◆ The accuracy of name, address, legal status and reliability of end user and other parties involved
- ◆ That the stated end use is legal and authorized
- ◆ The information pertaining to the arms on the EUC corresponds with the order / s from the purchaser / importer regarding the specific transaction