



UNIDIR

Meeting Summary

Examining Options and Models for Harmonization of End Use/r Control Systems

Informal Expert Group Meeting
Vienna, 22-23 April 2015

About UNIDIR

The United Nations Institute for Disarmament Research (UNIDIR)—an autonomous institute within the United Nations—conducts research on disarmament and security. UNIDIR is based in Geneva, Switzerland, the centre for bilateral and multilateral disarmament and non-proliferation negotiations, and home of the Conference on Disarmament. The Institute explores current issues pertaining to the variety of existing and future armaments, as well as global diplomacy and local tensions and conflicts. Working with researchers, diplomats, government officials, NGOs and other institutions since 1980, UNIDIR acts as a bridge between the research community and governments. UNIDIR's activities are funded by contributions from governments and donor foundations.

Note

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area, or of its authorities, or concerning the delimitation of its frontiers or boundaries.

The views expressed in this publication are the sole responsibility of UNIDIR. They do not necessarily reflect the views or opinions of the United Nations or UNIDIR's sponsors.

www.unidir.org

© UNIDIR 2015

Table of Contents

Acknowledgements	ii
About the summary paper	iii
1. Introduction	1
2. Key aspects of national end use/r control systems	6
3. Existing multilateral efforts to harmonize end use/r control systems	9
4. Desirable and feasible aspects of end use/r control systems for harmonization	14
5. Potential processes for harmonizing end use/r control systems	18
6. UNIDIR's survey on harmonization of end use/r control systems	20

Acknowledgements

The Institute would like to thank all subject experts, diplomats, and other policymakers who contributed their valuable inputs, time and support to this project.

This project is supported by the United Nations Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR).

This paper was drafted by Paul Holtom, with research assistance from Hardy Giezendanner. This project is managed by Himayu Shiotani.

About the summary paper

This paper provides a summary of the discussions that took place during a two-day informal expert group meeting for UNIDIR's project "Examining Options and Models for Harmonization of End Use/r Control Systems". The paper highlights some of the key issues addressed during the meeting, and is organized into three parts: First, an overview of existing national end use/r control systems and multilateral efforts to harmonize control systems; second, the identification of elements of end use/r control systems that could be harmonized; and third, the potential approaches, processes, and frameworks that could be used for moving towards international harmonization.

The objective of the informal expert meeting was to consolidate common positions on practices and procedures, as well as approaches and methods to harmonize end use/r control systems at the regional and global levels, in order to enhance cooperation and strengthen controls in combating diversion of arms.

1. Introduction

Diversion is likely to occur when there is a break in one of the key links in the arms transfer supply chain. A comprehensive end use/r control system—while varying among states in practice, procedure and approach—is widely recognized by practitioners as an effective mechanism in combating the diversion of arms. For example, end use/r documentation—when it contains relevant information on items, end user and end use—can assist in export control assessments that seek to determine the risk of diversion. Such documents can also contain assurances or undertakings that help to reassure and build confidence and trust among the relevant authorities involved in an arms transfer. Evidence from cases of diversion however indicates that the differences in the requirements and the use of end use/r controls (such as documentation), as well as a lack of common understanding of definitions and information to be shared among relevant stakeholders, pose significant challenges to the effective implementation of national transfer control systems.¹

The recently adopted Wassenaar Arrangement “Introduction to End User / End Use Controls for Exports of Military List Equipment” notes that:

*End User / End Use controls are put in place for exports of military equipment in order to ensure that exported equipment is not diverted to unintended end users or end uses, as the case may be. National systems for this purpose vary considerably, as does the terminology used.*²

The International Small Arms Control Standards (ISACS) module on *National controls over the end user and end use of internationally transferred small arms and light weapons* identifies several phases in the processes for ensuring effective end use/r controls:

- identifying and evaluating authorized end use/r;
- confirming delivery of weapons to the authorized end user (delivery verification); and
- confirming the end user abides by assurances on end use and does not divert the weapons (post-delivery controls).³

The module also notes that while they are a “powerful tool in combating the illicit trade in small arms and light weapons (SALW)”, end use/r controls are just one component in a comprehensive transfer control system. Therefore, greater harmonization of end use/r control systems can help to address diversion of conventional arms, including

1 Bromley, Mark and Griffiths, Hugh. 2010. *End user Certificates: Improving Standards to Prevent Diversion*. Stockholm: SIPRI Insights on Peace and Security No. 2010/3; Wood, Brian and Danssaert, Peter. 2011. *Study on the Development of a Framework for Improving End use and End user Control Systems*. New York: United Nations Office for Disarmament Affairs Occasional Papers No. 21.

2 Wassenaar Arrangement. 2014. *Introduction to End User/End Use Controls for Export of Military-List Equipment*. Adopted July 2014 p. 1.

3 United Nations Coordinating Action on Small Arms. 2014. *International Small Arms Control Standards (ISACS) 03.21: National controls over the end user and end use of internationally transferred small arms and light weapons*.

SALW. It is of potential benefit to those states seeking to implement the provisions relating to cooperation and measures to address diversion, as outlined in the Arms Trade Treaty (ATT), which entered into force in December 2014.⁴

1.1. International calls for harmonization of end use/r control systems

It is almost two decades since the 1996 United Nations *Guidelines For International Arms Transfers* recommended a “requirement by the exporter for import licences or verifiable end use/end user certificates for international arms transfers as an important measure to prevent unauthorized diversion”.⁵ The Report of the Group of Experts on the Problem of Ammunition and Explosives in 1999 recommended the international standardization of the form and content of end use/r certificates.⁶ Under the 2001 United Nations Programme of Action on Small Arms, states committed to put in place measures to ensure the effective control over exports and transits, including the use of authenticated End Use/r Certificates (EUC).⁷ In 2002, a statement on small arms by the President of the United Nations Security Council urged states to establish effective national end user certificate systems and to “study the feasibility as appropriate in developing an end user certificate system at the regional and global levels, as well as an information exchange and verification mechanism”.⁸ Further, in 2007, the Group of Governmental Experts on illicit brokering encouraged states to put in place measures to prevent the forgery and misuse of EUC and to validate the authenticity of EUC as well as international cooperation and information sharing to authenticate EUC.⁹ The 2008 Secretary General report on small arms recommended that the Security Council “may wish to consider encouraging states to significantly enhance their efforts to verify end user certificates” and “should develop an international framework for authentication, reconciliation and standardization of end user certificates”.¹⁰

Despite these repeated international calls to examine the potential for the standardization of EUCs and end use/r control practices, a global discussion has not yet been convened to consider the potential ways and approaches to strengthen shared understanding and to promote alignment in end use/r control systems, with a particular focus on key elements to be contained in relevant documentation, sources of information and processes for risk assessment, as well as cooperation during the delivery and post-delivery stages. Several initiatives have been undertaken at the

4 See article 11 of the Arms Trade Treaty, <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>. See also General Assembly. 2008. *Report of the Secretary General. Small Arms*. UN document S/2008/258 of 17 April, recommendation 11, p. 19.

5 General Assembly. 1996. *Report of the Disarmament Commission: Guidelines For International Arms Transfers in the Context of General Assembly Resolution 46/36 H of 6 December 1991*. UN document A/51/42 of 22 May, annex 1.

6 General Assembly. 1999. *Report of the Group of Governmental Experts on Small Arms*. UN document A/54/258 of 19 August, para. 105 (g).

7 General Assembly. 2001. *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.195/15 of 20 July, section II, para. 12.

8 Security Council. 2002. *Statement by the President of the Security Council*. UN document S/PRST/2002/30 of 31 October, pp. 1, 2.

9 General Assembly. 2007. *Report of the Group of Governmental Experts established Pursuant to General Assembly Resolution 60/81 to Consider Further Steps to Enhance International Cooperation in Preventing, Combating and Eradicating Illicit Brokering in Small Arms and Light Weapons*. UN document A/62/163 of 30 August, paras. 55, 63(v-vi).

10 General Assembly. 2008. *Report of the Secretary General. Small Arms*. UN document S/2008/258 of 17 April, recommendation 11, p. 19.

regional and multilateral levels to develop and share good practice guidelines for end use/r control systems in recent years, as demonstrated in Table 1 below. These initiatives have been primarily driven by major exporters of conventional weapons located in Europe and North America and members of the Wassenaar Arrangement export control regime. Therefore, there are opportunities for discussions via other regional arrangements, or at the global level via a United Nations process or a new international framework, such as that provided by the ATT, to examine possible options and models for harmonizing end user control system, in order to strengthen controls and enhance global and regional cooperation in mitigating the risk of arms diversion.

Table 1. Relevant Regional and Multilateral Initiatives or Instruments for Strengthening End Use/r Control Systems

Organization	Relevant End-Use/r Control System Initiative or Instrument
European Union (EU)	User's Guide to Council Common Position 2008/944/CFSP Defining Common Rules Governing the Control of Exports of Military Technology and equipment (2009; 2015)
Organization for Security and Co-operation in Europe (OSCE)	End User Certificate for Small Arms and Light Weapons (2011)
	Information Exchange with Regard to Sample Formats of End-User Certificates and Relevant Verification Procedures (2008)
	Best Practices to Prevent Destabilising Transfers of SALW through Air Transport (2008)
	OSCE Principles for Export Controls of Man-Portable Air Defence Systems (2004; 2008)
	Standard Elements of End-User Certificates and Verification Procedures for SALW Exports (2004)
United Nations Coordinating Action on Small Arms (UN CASA)	Best Practice Guide on Export Control of Small Arms and Light Weapons (2003)
	National Controls over the End-User and End-Use of Internationally Transferred Small Arms and Light Weapons (Module 03.21, International Small Arms Control Standards) (2014)
Wassenaar Arrangement (WA)	National Controls over the International Transfers of Small Arms and Light Weapons (Module 03.20, International Small Arms Control Standards) (2014)
	Introduction to End User/End Use Controls for Export of Military-List Equipment (2014)
	Elements for Objective Analysis and Advice Concerning Potentially Destabilising Accumulations of Conventional Weapons (1998; 2004; 2011)
	Best Practice Guidelines on Subsequent Transfer (Re-export) Controls for Conventional Weapons Systems contained in Appendix 3 to the WA Initial Elements (2011)
	Best Practices to Prevent Destabilising Transfers of SALW through Air Transport (2007)
	Best Practice Guidelines for Exports of SALW (2002; 2007)
	Elements for Export Controls of MANPADS (2003; 2007)
	End-User Assurances Commonly Used: Consolidated Indicative List (1999; 2005)
	Best Practices for Effective Enforcement (2000)

A note on harmonization

This project seeks to unpack some of the key challenges and opportunities to form common understanding in identifying key aspects of end use/r control systems that could be harmonized. The project recognizes the difficulty of designing an end use/r control system and is aware that it is not desirable to seek development on an one-size-fits-all model. Therefore, this project defines “harmonization” as:

- Enhancing international cooperation;
- Where possible, working towards agreement on common understanding of key terms; and
- Aligning standards, in particular key elements to be contained in end use/r documentation and general principles for ensuring effective end use/r controls.

1.2. Towards a harmonized end use/r control system?

In 2015, UNIDIR began work on the project “Examining Options and Models for Harmonization of End User/r Control Systems”. This project responds to the various international calls for exploring opportunities for greater harmonization of end use/r control systems, with particular regard to documentation. The project has two related objectives: First, to identify which aspects of national end use/r control systems could feasibly be harmonized; and second, to explore the feasibility of a process to strengthen control systems and enhance cooperation to prevent diversion at the regional and/or global level.

It seeks to offer options for states to have a meaningful dialogue on potential areas for cooperation, shared understanding and possible alignment of measures to strengthen end use/r control, including for documentation, risk assessments before authorizing exports as well as cooperative measures to ensure end users abide by assurances on end use and preventing diversion. The project recognizes that greater cooperation and alignment among states with regards to common practices and procedures in end use/r control systems will enhance the ability of relevant national stakeholders to more effectively identify and mitigate the risk of arms being diverted from intended end use/r.

An informal expert meeting, organized by UNIDIR in April 2015, was the first step towards the achievement of the above-stated goal and objective. The meeting sought to help lay the groundwork for a comprehensive study of the potential options and models for harmonization of end user control systems. Specifically, the subsequent study—scheduled to be released later this year—will address the following questions:

- What could a reliable and achievable global and/or regional end use/r control system look like?
- What are some of the key definitions, elements and processes involved in existing end use/r control systems?

- What type of technical/technological tools may be required for such an end use/r control system?
- What type of legal, technical and financial cooperation among states may be required to achieve a global end use/r control system?
- What methodologies may be used to overcome challenges to harmonize end use/r control systems?

This project intends to establish:

- Strengthened common understanding between stakeholders in the frameworks, methods, practices and processes needed to harmonize end use/r control systems at the regional and global levels;
- Enhanced levels of awareness by stakeholders on efforts to harmonize end use/r control systems at the regional and global levels in order to support the practical and effective implementation of existing instruments, such as the Programme of Action and the ATT; and
- Enhanced dialogue and cooperation between stakeholders in their effort to strengthen end use/r control systems and to prevent arms diversion.

1.3. Added value of the project

The intended added values of this project include:

- Providing an analysis of key areas of national end use/r control systems that could be aligned and/or subject to enhanced cooperation at the national, regional and/or global levels;
- Offering new ideas, avenues and potential areas for states to address challenges to and opportunities for cooperation towards alignment of common practices and procedures of end use/r control;
- Targeting engagement with those states that are not participating in the existing export control regimes to collect relevant information on their experiences, challenges and perspectives, in order to promote a balanced approach in achieving shared understanding and cooperation in strengthening end use/r controls to prevent diversion; and
- Identifying possible forums to further the discussion on cooperation and shared understanding of end use/r control at the regional and global levels.

2. Key aspects of national end use/r control systems

Several key aspects of different effective end use/r control systems were considered by the informal group of experts (hereafter referred to as the group) at the UNIDIR expert meeting in Vienna in April 2015. The following were discussed as key aspects of national systems, but also of potential interest for an international dialogue to share understanding and practice with regard to end use/r control systems to address diversion. The expert discussion on the four aspects listed below revealed that there will be challenges in forming consensus at the global level on all issues; however much work has already been carried out in some areas.

2.1. Essential elements in end use/r documentation

The group agreed on the value of end use/r documents for informing risk assessments conducted by national authorities tasked with authorizing or denying arms exports, as well as for building confidence between parties to an arms transfer. The group also agreed on the fact that documentation is only one element in a comprehensive system.

The group further agreed that the essential elements to be included in end use/r documentation include:

- Details of end user and declared end use;
- Details of items being transferred, and potential end uses;
- Relevant information on other entities involved in the transfer and the route, if known; and
- Assurances or undertakings on end use and re-export.

The group noted that there are different approaches to the use, content and form of end use/r documentation in the following areas:

- Some states oblige exporters to provide end use/r documentation as part of their application for authorization to export controlled items, while others do not have such a legal requirement;
- Some states provide end use/r documentation templates and the elements to be included in end use/r documentation to be provided to the relevant authorities in the exporting state. Some states provide a variety of templates, with slightly different contents depending on the type of end user (government or non-government) or item (SALW, conventional arms, dual-use items, technology, parts and components to be integrated into a system);
- The types of assurances or undertakings on end use and re-export required by the relevant authorities in the exporting state can vary depending on the end user; and

- The format of the end use/r documentation (e.g. documentation provided on banknote paper, original and authenticated letterhead paper or via electronic means).

The group discussed and acknowledged that the different national requirements (e.g. different assurances and guarantees depending on the controlled items and end users; certification by government agency in importing state; use of special paper for end use/r documentation, etc.) and the variety of end use/r documentation templates can cause confusion for relevant national authorities in the importing state as well as for entities seeking authorization to export controlled items. The group considered the potential for the simplification of end use/r documentation to capture the essential information required for informing risk assessment processes and the necessary assurances or undertakings to give confidence to the relevant authorities in the exporting state.

The group noted that the relevant authorities in exporting states often accept, on a case by case basis, end use/r documentation that is missing requested information. This can be because importing states have their own end use/r documentation that does not contain all of the required elements, or can be the result of a misunderstanding by the exporter that is submitting an application for authorization to export.

2.2. Cooperation between importing and exporting states

It was recognized that it can be useful for the process being developed to centralize processes for importing conventional arms. While some states have put in place centralized import control systems, this is not the situation in all states. For example, there can be one government agency responsible for authorizing imports of small arms for civilians and a separate government agency responsible for authorizing imports of small arms for government end users (e.g. armed forces, police). In addition, it can be useful to have a limited number of officials that are authorized to sign and certify end use/r documentation.

The fact that states have different requirements with regards to the content of end use/r documentation and other more general requirements before authorizing an export of conventional arms has led some states to decide not to develop and standardize their own end use/r documentation for imports of conventional arms, but to utilize end use/r documentation templates provided by the state from which they are importing conventional arms. In this regard, the group noted on the added value of enhanced cooperation between the parties involved in an arms transfer.

2.3. Risk assessment and indicators

The group noted that it was important to secure understanding of the key terms used in end use/r control systems, and where harmonization of end use/r documentation is possible. The critical issue discussed by the group related to ensuring that relevant information is provided on the controlled items to be transferred, the end user, importer and consignee, and other relevant information to enable a thorough risk assessment before agreeing to authorize or deny an arms export.

The group noted that, in their risk assessment, states use diplomatic and consular channels, intelligence and open-source information to check and assess information contained in end use/r documentation:

- *Bona fide* [trustworthiness] of the declared end user, consignee, importer and other relevant parties to the transfer to assess the risk of diversion or misuse; and
- If there is a risk that the items will be misused: How can the controlled items be used? Is the declared end use in line with knowledge of use? Does the end user possess the necessary knowledge to utilize the controlled items?

The end user and the nature of controlled items can influence the type of information required for the risk assessment. Challenges for undertaking a risk assessment before authorizing an export include:

- The lack of reliable or verifiable information in the end use/r documentation;
- Changing circumstances in the country of import or changes regarding the declared end user;
- Complexity of supply chains;
- Cooperation with the relevant authorities in the country of import can be difficult to secure; and
- Cooperation with entities involved in the transfer.

The group discussed possibilities for exchanging information to assist in risk assessments with other states, noting some of the challenges for exchanging information secured from intelligence.

2.4. Post-delivery controls/monitoring

The group agreed that once controlled items have been exported it is not possible for the relevant authorities in the exporting state to ask for the controlled items to be returned if they have been misused or diverted. Therefore, the assurances (undertakings) on re-export contained in end use/r documentation are a political commitment and not regarded as legally binding. However, information on entities that have not abided by assurances or undertakings on end use and re-export will have implications for future decisions on exports. In some cases, this information can be shared with other states to help inform their decision-making with regard to arms export authorization applications.

The challenges of costs and capacities for putting in place a system for post-delivery controls and monitoring were discussed by the group. The group noted the different approaches taken towards this issue among major exporters. Currently only a limited number of states request the verification of deliveries. It was also noted that post-delivery controls and monitoring can be conducted not only by government agencies but also by commercial entities involved in the transfer (e.g. the exporting company can in some cases monitor the end use through the ongoing provision of technical assistance over several years after deliveries of complete systems have been completed).

3. Existing multilateral efforts to harmonize end use/r control systems

International calls for harmonization of end use/r control systems have been frequent during the last two decades. Some European and Euro-Atlantic regional organizations and multilateral export control regimes have drawn upon national experience to develop a number of initiatives and instruments that seek to establish common basic standards for effective end use/r control systems, as Table 2 shows. These initiatives and instruments include good practice guidelines for end use/r control systems, checklists or templates for end user documentation (e.g. EUC or end user statements) and related practices and information exchange mechanisms. The group reflected upon the experience of seeking to harmonize end use/r control systems via international and regional organizations and export control regimes.

Table 2. Examples of Types of Multilateral Efforts to Establish Common Standards for End use/r Control Systems

Regional or multilateral organization	Guidelines for end use/r control system	Exchange of end use/r documents	Checklist or template for end use/r documentation	Information-sharing mechanism
European Union	X	-	X	X
Organization for Security and Co-operation in Europe	X	X	X	X
UN CASA (ISACS)	X	-	X	-
Wassenaar Arrangement	X	-	X	X

3.1. Common essential elements for end use/r documentation

Table 3 shows that existing good practice guidelines on end use/r documentation for conventional arms and SALW highlight the same items as essential elements for end use/r documentation. The authors of the review conducted by the United Nations Office for Disarmament Affairs (UNODA) on end use/r certificates noted that many significant arms exporters already include the “essential” and “optional elements” of good practice guidelines in their national requirements for end user certificates or document templates.¹¹ However, the group noted that efforts to agree on essential elements in end use/r documentation have thus far been restricted to a limited number of states that are either members or participating states in export control regimes or the EU and OSCE.

¹¹ Wood, Brian and Danssaert, Peter. 2011. *Study on the Development of a Framework for Improving End use and End user Control Systems*. New York: United Nations Office for Disarmament Affairs Occasional Papers No. 21, p. 31.

Table 3. Guidelines for Elements that Export Licensing Authorities Should Request to be in the Contents of Government-issued End Use/r Certificates¹²

Element	Recommendation contained in guidelines produced by			
	European Union	Wassenaar Arrangement	Organization for Co-operation and Security in Europe	International Small Arms Control Standards
<i>Essential elements</i>				
Unique identifier of the EUC	-	-	-	X
The details of the exporter (at least name, address and business name)	X	X	X	X ^a
The details of the end user (at least name, address)	X	X	X	X
Contract number or order reference and date	-	-	X	X ^a
Country of final destination	X	X	X	-
A description of the goods being exported (type, characteristics) or reference to the contract concluded with the authorities of the country of final destination	X	X	X	X
Quantity and/or value of the exported goods	X	X	X	X
Signature, name and position of the end user's representative	X	X	X	X
The date of issue of the end user certificate	X	X	X	X
The date of expiration of the end user certificate	-	-	-	X
Description of the end use of the goods	X	X	X	X
An undertaking, where appropriate, that the goods being exported will not be used for purposes other than the declared end use	X	X	X	X

¹² Adapted from: Bromley, Mark and Griffiths, Hugh. 2010. *End-User Certificates: Improving Standards to Prevent Diversion*. Stockholm: SIPRI Insights on Peace and Security No. 2010/3, p. 4. See also: EU (European Union). 2009. *User's Guide to Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment*. EU document 9241/09. Brussels, 29 April; ISACS (International Small Arms Control Standards). 2014. *ISACS 03.21: National controls over the end-user and end-use of internationally transferred small arms and light weapons*. United Nations Coordinating Action on Small Arms (UN CASA); OSCE (Organization for Security and Co-operation in Europe). 2003. 'Best practice guide on export control of small arms and light weapons'. *Handbook on Best Practices on Small Arms and Light Weapons*. Vienna: OSCE. 2004. *Forum for Security Co-operation. Decision No. 5/04: Standard Elements of End-User Certificates and Verification Procedures for SALW exports*. OSCE document FSC/DEC/5/04, 17 November, pp. 53-54; WA (Wassenaar Arrangement). 2005. *End user assurances commonly used: consolidated indicative list*. Adopted in 1999, revised in 2005; WA (Wassenaar Arrangement). 2014. *Introduction to End User/End Use Controls for Export of Military-List Equipment*. Adopted July 2014.

Element	Recommendation contained in guidelines produced by			
	European Union	Wassenaar Arrangement	Organization for Co-operation and Security in Europe	International Small Arms Control Standards
An undertaking that the declared end user will be the ultimate recipient of the goods being exported	-	-	-	X
The name, address and contact details of the government agency issuing the certificate	-	-	-	X
<i>Additional or optional elements</i>				
A clause prohibiting re-export of the goods covered in the certificate	X	X	X	X
Full details, where appropriate, of any intermediaries involved in the transfer	X	X	X	-
A commitment by the importer to provide the exporting state with a delivery verification upon request	X	X	X	X
Certification that the goods will be installed at the premises of the end user or will be used only by the end user	-	X	-	X
Agreement by the importer/end user to allow on-site verification	-	X	-	X
Assurance from the importer/end user that any re-exports will only be carried out under the authority of the importer's/end user's export licensing authorities	-	X	-	X ^b
An undertaking from the importer/end user not to divert or relocate the goods covered by the end use certificate/statement to specific destinations or locations in the importing country	-	X	-	X
Unique identifying number, if issued by the government authority	-	X	X	X ^b

Notes

^a This is a recommendation of ISACS 03.21 and should be included if known at the time that an EUC is issued by the importing state.

^b This is a requirement of ISACS 03.21.

The group also considered the experience of the World Customs Organization (WCO) in standardizing documents at the international level. In this regard it was noted that a limited number of simple essential elements on a standardized form could aid enforcement agencies. It could also help address some of the concerns listed above with regard to aiding cooperation between importing and exporting states.

3.2. Step-by-step approaches

The OSCE provides an example of a step-by-step approach towards harmonization of end use/r documentation. First, a best practice guide was developed, which listed a set of standard elements for EUC and their verification. Based on the list of EUC elements, participating states adopted a politically binding decision outlining standard elements of end user certificate and verification procedures for SALW exports. In order to assess the implementation of the decision, states then exchanged information on their national systems and samples of end use/r documentation. The next stage consisted of the development of an informal EUC template based on the adopted elements as well as a best practice guide as well as existing practices of participating states. The group considered if the OSCE experience provides a potential method for moving forward with harmonization in other regions, but also for a potential approach for a global mechanism.

3.3. Cooperation and information-sharing

The types of information that are recommended to be shared among participating states of the Wassenaar Arrangement as part of the general information exchange on risks associated with transfers of conventional arms could provide inspiration for a regional/global system to assist with end use/r checks. For example, the Wassenaar Arrangement “Best Practices to Prevent Destabilising Transfers of SALW through Air Transport” encourages the voluntary exchange of information about exporters, air carriers and agents that do not comply with national transfer controls, as well as “cases of transit or transshipment by air of SALW that may contribute to a destabilising accumulation or be a potential threat to security and stability in the region of destination”.¹³ As demonstrated by the Wassenaar Arrangement, information exchange is likely to play a critical role in the realization of end use/r control harmonization. In this regard, the group noted some of the challenges of sharing information at the international level on the risks of diversion or misuse. The need for legal agreements on exchange of information were discussed and it was noted that bilateral arrangements and multilateral agreements can be concluded.

3.4. Challenges for like-minded states to agree on end use/r control systems

The Wassenaar Arrangement has made a significant contribution to the development of good practice standards on end use/r controls, as evidenced by Table 2. However, the group noted that while the participating states of the Wassenaar Arrangement

¹³ Wassenaar Arrangement. 2007. *Best Practices to Prevent Destabilising Transfers of SALW through Air Transport*. Adopted December 2007, para. 2.4.

have considered the issue of end use/r controls for many years, it has been challenging to secure consensus on mandatory elements. For example, in July 2014 the Wassenaar Arrangement's participating states adopted an "Introduction to End user/End use Controls for Export of Military-List Equipment", indicating that the participating states could not agree on its adoption as "Elements" or "Guidelines".

3.5. The need to involve non-European states

One of the key topics of discussion in the group was the fact that states that are not participating states in export control regimes or the EU and OSCE have not been sufficiently involved in the development of end use/r control system standards.

The ISACS module 03.21 on end use/r control is to be distinguished from the other efforts because its development involved not only officials from European and North American states, but drew primarily upon regional organization and export control regime good practice guidelines. It is also the result of engagement with states that have not thus far contributed to the development of good practice guidelines and documentation for strengthening and harmonizing end use/r control systems.

4. Desirable and feasible aspects of end use/r control systems for harmonization

The group exchanged views and reviewed the challenges and opportunities for harmonizing end use/r control systems. In particular, the meeting's discussions helped to identify:

- Desirable aspects of end use/r control systems to harmonize; and
- Feasible aspects of end use/r control systems to harmonize.

Several studies have highlighted the various national approaches and key elements for national end use/r control systems, noting the way in which states place emphasis on different elements of a national end use/r control system:

- Assessing risks of diversion or misuse;
- Types and contents of end use/r documentation;
- Certifying and authenticating end use/r documentation in importer states;
- Verifying end use/r documentation in exporter states;
- Assurances on end use, end user and re-export;
- Cooperation and information-sharing;
- Monitoring shipments;
- Post-delivery monitoring and enforcement; and
- National and multilateral responses to diversion and/or disregard for end use/r assurances.

The group identified several areas that merit further international discussion with regard to consideration for harmonizing end use/r control systems. While most of the group agreed that it would be useful for efforts to be undertaken to harmonize understanding of key terms and essential elements to be included in end use/r documentation, there was no consensus among the group on the potential for harmonization of risk assessment and post-delivery cooperation.

4.1. Definitions of key concepts and terminology

The group recommended that a good starting point for considering aspects of national end use/r control systems to harmonize is to begin with sharing understanding of the different key concepts and terminology used by different states. Therefore, a task for the project could be to identify the key concepts and terminology used by states.

4.2. Essential elements to include in end use/r documentation to inform risk assessments

Much of the discussion in the group related to end use/r documentation. As shown in Table 3, work has been carried out via Euro-Atlantic organizations and export control regimes to identify essential elements for EUC—i.e. end use/r documentation for government end users. Several different issues relating to end use/r documentation were discussed by the group.

4.2.1. Considerations for different types of controlled items

One of the reasons given for states to provide a variety of end use/r documentation templates is that different types of information or assurances are required for risk assessments for different types of controlled items. Some in the group raised the possibility for the project to consider dealing with SALW as one form of conventional arms. Some also requested the project to examine the end user/r documentation for dual-use items alongside those used for SALW and conventional arms, and technology and production equipment. Therefore, one of the areas of inquiry for the study will be to examine the commonalities and differences in requests for information and assurances in end use/r documentation for different types of controlled items.

4.2.2. Considerations for different end users

Another reason given for states to provide a variety of end use/r documentation templates is that distinctions are made between end use/r documentation provided for end users that are government security forces and those that are commercial arms producers, arms dealers, private security companies or other non-state end users. This is therefore another area in which the project's attention could be focused. It was noted that most of the efforts undertaken by regional organizations and export control regimes have focused upon end use/r certificates for government end users. ISACS provides provisions for non-state end users, many of which are comparable to the provisions contained in the existing good practice documents for end use/r certificates for government end users.

4.2.3. Essential elements for end use/r documentation

The group recommended that the project explain the importance of and the reasons for including essential elements in end use/r documentation to enable a risk assessment. One of the most significant potential benefits of the project could therefore be to promote agreement among states on information to share and on the use of end use/r documentation as agreed international practice to inform risk assessments. In general, the essential elements could be grouped into the following areas:

- Details of end users;
- Details of items being transferred and their end use;
- Other relevant information on entities or routes involved in the transfer; and
- Assurances, guarantees, or undertakings on end use and re-export.

As Table 3 shows, there is some agreement among major exporters on essential elements. However, this project should seek input from states that have not played a role in developing these good practice guidelines and templates.

4.2.4. End use/r documentation exchange

The group discussed a proposal for states to share either their end use/r documentation templates or a checklist of “essential elements”.

4.3. Responsibilities in the risk assessment process

Existing good practice guidelines on end use/r control systems, developed by regional organizations and export control regimes, provide guidance for relevant authorities in the importing and exporting states involved in particular arms transfers to check information contained in end use/r documentation and to conduct risk assessments utilizing the information contained in these documents. Some in the group noted that the Arms Trade Treaty provides guidance on the responsibilities of government agencies involved in an arms transfer, as well as encouraging international cooperation to prevent diversion and misuse. Overall, the group was divided on the extent to which this project could contribute to strengthening international cooperation and understanding of risk assessment.

The possibility for sharing information on risk indicators was noted as a potential area for international discussion. However, some in the group were uncertain as to the utility of such exchanges or the value-added for this particular project to promote such an exchange. The potential for considering the types of information that could assist with assessing or giving reassurance in high risk cases was discussed.

Several very broad spheres of cooperation were raised that the project will not address at this stage, but which merit further consideration in the medium term in connection with end use/r control processes:

- Cooperation and information-sharing between government agencies involved in risk assessment and enforcement of controls (i.e. licensing and customs);
- Cooperation and information-sharing between commercial entities involved in the arms trade and relevant government agencies, before authorization and during the transportation of controlled items;
- International cooperation and information-sharing with relevant authorities in other states involved in the transfer; and
- Information-sharing on contact points and entities authorized to certify end use/r documentation, as well as licensing authorities more generally.

4.4. Post-delivery cooperation and information-sharing

One of the means to mitigate the risk of end users not abiding by assurances and undertakings is to put in place mechanisms to enable cooperation between the relevant authorities in the exporting state and the end user to increase confidence

and ensure that follow-on deliveries are possible. The group considered the possibility of reframing the terminology used from post-delivery controls or monitoring to post-delivery cooperation, as cooperation between relevant authorities in the exporting state, the end user and relevant authorities in the importing state can help to reassure all parties to the transfer. For some in the group, this better reflected the intentions of existing national programmes that examined the post-delivery phase of an arms transfer. These experts explained that they considered cooperation in the post-delivery phase as a mean to build confidence and trust.

A range of options for cooperation and information-sharing in the post-delivery phase of an arms transfer were raised during the meeting, including:

- Confirmation of receipt of items (e.g. delivery verification certificates—DVCs);
- Record-keeping by recipients of controlled goods;
- Notification, in a timely manner, to relevant authorities in exporting states on loss or theft of controlled items;
- Abiding by assurances on re-export, whichever options are utilized;
- On-site inspection of the location of end use by the relevant authorities in the importing state and/or in cooperation between the relevant authorities in the importing and exporting states; and
- Exchanging information on entities that can, or cannot, be trusted to prevent diversion or misuse.

5. Potential processes for harmonizing end use/r control systems

During the meeting, the group considered the following:

- Approaches, processes and frameworks that could be utilized to harmonize end use/r control systems;
- Tools and resources that are required to harmonize end use/r control systems.

The group noted that a key driver for the project should not simply be to repeat the processes that have already been undertaken by regional organizations and export control regimes but rather to further seek a global approach, or at the very least to engage with regions and states that are not part to existing instruments and agreements. The group also called for the project to consult with commercial entities involved in the international arms trade for their perspectives on different national practices and aspects of end use/r controls to which they could make a meaningful contribution to efforts to prevent diversion. The options that were briefly considered by the group regarding potential processes for harmonizing end use/r control systems are as follows.

5.1. United Nations processes

The group discussed the potential for initiating a United Nations process to explore harmonization of end use/r control systems. A United Nations process has the potential to be adopted globally by all Member States and bring together significant importers and exporters in a single forum, such as a Group of Governmental Experts (GGE). It was noted that if a GGE is to be considered, this project should deliver a clearly defined scope, including consideration on terminologies used to promote the concept, as well as options to consider for harmonizing end use/r control systems to address diversion and misuse. To ensure that this approach would have potential, it would require significant support among Member States.

5.2. Arms Trade Treaty processes

Some in the group noted that if the ATT has subsidiary bodies that address operational issues relating to its provisions, in particular addressing diversion and promoting international cooperation, then harmonizing end use/r control systems could be a particularly useful topic for consideration. However, some in the group noted that several significant players in the international arms trade are neither signatories nor states parties to the ATT at this time. The ATT still provides a useful forum for consideration of this topic, and it would be a significant benefit to international efforts to address diversion if ATT states parties and signatories contributed to an international process to harmonize end use/r control systems, whether via the United Nations, the ATT or regional initiatives.

5.3. Regional processes

The group reflected on the positive experience of regional and export control regime efforts to consider the harmonization of end use/r control systems. One option for the project is to examine possibilities for supporting consideration of end use/r control systems among groups of states that have not given the issue significant attention to date, but which have developed instruments or mechanisms for addressing diversion concerns. Regional initiatives in Latin America and the Caribbean, as well as in sub-Saharan Africa—led by CARICOM, ECOWAS, SADC and the parties to the Nairobi Protocol—provide useful forums for further consideration of the issue. Such regional processes could take place in coordination with other international processes, such as those listed above.

5.4. Informal processes

As an option for a practical way forward, some in the group suggested an informal process to undertake regional and national consultations with relevant national stakeholders—in particular with those states that are not participating states in export control regimes or the EU and OSCE—with the view to raise awareness of the issue and further consolidate common understanding and positions for harmonization of end use/r control systems to prevent diversion. It was noted in the meeting that such informal processes could take place in parallel to efforts to the options presented above, to provide substantive support to the potential development of a process for states to have a meaningful dialogue on harmonization of end use/r controls.

6. UNIDIR's survey on harmonization of end use/r control systems

As part of this project, UNIDIR will conduct a global survey on end use/r control systems. The survey is designed to assist in the collection of information on existing procedures, practices and policies exercised by relevant national and international/regional entities to implement effective national controls over end use/r control systems. It is expected to help establish a baseline to identify possible common positions in essential information and components—including on elements, practices, and approaches—necessary to harmonize end use/r control systems. This information will therefore provide a sound evidence base for identifying potential areas for cooperation and harmonization for an international process.

For a large number of states, relevant information may already exist in the public domain that can be used to answer some of the questions contained in the draft survey (for example, end user certificate templates, PoA national reports, Arms Trade Treaty Baseline Assessment Survey responses, UNODA Occasional Studies). The findings of the survey will contribute towards the comprehensive study on this issue.

The group closely examined a draft version of the survey and provided detailed technical inputs in supporting its validation and finalization. The finalized survey will be circulated to states beginning of June 2015.



UNIDIR

Meeting Summary

Examining Options and Models for Harmonization of End Use/r Control Systems

Informal Expert Group Meeting
Vienna, 22–23 April 2015

This paper provides a summary of the discussions that took place during a two-day informal expert group meeting for UNIDIR’s project “Examining Options and Models for Harmonization of End Use/r Control Systems”. The paper highlights some of the key issues addressed during the meeting, and is organized into three parts: First, an overview of existing national end use/r control systems and multilateral efforts to harmonize control systems; second, the identification of elements of end use/r control systems that could be harmonized; and third, the potential approaches, processes, and frameworks that could be used for moving towards international harmonization.

The objective of the informal expert meeting was to consolidate common positions on practices and procedures, as well as approaches and methods to harmonize end use/r control systems at the regional and global levels, in order to enhance cooperation and strengthen controls in combating diversion of arms.