



UNIDIR

**Examining Options
to Enhance Common Understanding and
Strengthen End Use and
End User Control Systems to Address
Conventional Arms Diversion**

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.

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Table of Contents

Acknowledgements	iii
About the research team	iv
Executive summary	v
Introduction: The harmonization of end use/r control systems to prevent arms diversion	1
1. International attention on end use/r control systems	5
1.1. The findings and recommendations of UN experts on arms embargoes: Evidence of diversion facilitated by weak end use/r control systems	5
1.2. International calls to strengthen end use/r control systems	24
1.3. Calls for international processes to strengthen end use/r control systems	30
1.4. Regional and multilateral processes to strengthen end use/r control systems	38
2. Key elements of an end use/r control system	41
2.1. End use/r documentation	42
2.2. Importer State responsibilities before export authorization	51
2.3. Exporter State responsibilities before export authorization	54
2.4. Post-delivery cooperation	57
3. National end use/r control practices	63
3.1. End use/r documentation requested by export licensing authorities	64
3.2. End use/r documentation provided by importer and end users ..	76
3.3. Post-delivery cooperation	82
3.4. International cooperation and information exchange	86
4. Areas for harmonization/the development of common understandings	87
4.1. Key areas for harmonization	88
4.2. Potential areas for harmonization	99

5. Potential processes for the development of common understandings	102
5.1. Lessons learned from multilateral efforts to harmonize end use/r control systems	102
5.2. Possible avenues for establishing common understanding on and strengthening of end use/r control systems	105
6. Conclusions	109
References	112
Acronyms and abbreviations	122

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Executive summary

The diversion of authorized conventional arms transfers, including small arms, poses a persistent problem for security at the global, regional and national levels, and lies at the heart of the illicit proliferation of arms. Evidence from diversion cases suggests that differences between national end use/r control systems (in particular the content, format and use of end use/r documentation), as well as a lack of common understandings of definitions and information to be shared among relevant stakeholders, pose challenges to efforts to tackle diversion.

States in United Nations forums have called for the examination of opportunities for greater harmonization of end use/r control systems to make them more effective in preventing diversion. Despite these repeated international calls, a global discussion has not yet been convened to consider possible ways and approaches to strengthen shared understanding and promote alignment in end use/r control systems. This study responds to the various international calls to explore opportunities for greater harmonization of end use/r control systems, with particular regard to end use/r documentation, in order to strengthen efforts to prevent diversion. It seeks to address two related objectives:

- Identify which aspects of national end use/r control systems could feasibly be harmonized;
- Explore the feasibility of, and potential frameworks for, a process to strengthen control systems and enhance cooperation to prevent diversion at the regional and/or global levels.

The central hypothesis of the study is that:

Greater cooperation and alignment between States with regard 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 their intended end use/rs.

To this end, the study examines options and processes for a meaningful dialogue on the harmonization of end use/r control systems. For the purposes of this study, harmonization is defined as:

- Enhancing international cooperation;
- Where possible, working towards a 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.

This study, via an analysis of cases of arms diversion investigated by United Nations (UN) experts mandated to monitor UN sanctions, identifies a number of ways in which weak end use/r control systems have been evaded to divert arms to unauthorized end

users, in particular targets of UN arms embargoes. Chapter 1 highlights the role played by end use/r documentation in facilitating diversion in cases where:

- End use/r documentation is not authenticated by exporting States, and forgeries are used to acquire export licences to divert arms;
- End use/r documentation is not verified by exporting States, with information missing or which should prompt the exporting State to conduct a thorough investigation of the proposed deal;
- Importing States do not have procedures for oversight and control of arms imports;
- Assurances on end use or re-export are ignored by the importing State, adherence to assurances is not monitored by the exporting State and actions are not taken when reports of violations are presented to the exporting State and international community; and
- High-ranking officials in importing States are willing to provide authentic end use/r documentation to facilitate diversion to embargoed entities either en route or by undertaking an unauthorized re-export after taking delivery of arms and ammunition, for financial or strategic gains.

As a result of uncovering such misuse and corruption, UN experts have provided a series of recommendations for preventing diversion and misuse in particular embargo cases as well as recommendations for action at the global level. This study has focused on three of the recommendations for action at the global level:

- An international standardized end user certificate;
- An international framework for exchanging information to assist in the authentication and verification of end user certificates; and
- An international database of entities that violate end use/r assurances.

This study documents support for these proposals in various UN forums and reports to address the illicit trade in small arms and in support of the Arms Trade Treaty (ATT) process. However, the report also notes that despite a lack of open opposition to these proposals, a global process has not been initiated to date to examine and discuss them.

Chapter 2 defines an effective end use/r control system, drawing on work carried out within frameworks provided by regional organizations and export control regimes to share and elaborate on common minimum standards for end use/r documentation and related practices to prevent diversion. The study draws extensively on best practice guidelines and instruments developed by the European Union (EU), the Organization for Security and Co-operation in Europe (OSCE) and the Wassenaar Arrangement, as well as the work of the UN Coordinating Action on Small Arms (CASA) mechanism, in identifying key elements for an effective end use/r control system.

The UNIDIR Survey and analysis in Chapter 3 shows that there are potentially good foundations on which to develop an international process to consider the details of end users, end use and items, as well as assurances on end use and re-export, to be included in end use/r documentation. The chapter shows the different national

approaches to exporting and importing conventional arms and the challenges to developing a standardized end use/r document. It shows several areas in which agreement could be reached and common understandings developed.

The UNIDIR Survey also found willingness by a significant group of States to exchange end use/r documentation templates and checklists. The potential for this to be a starting point for an international process has already been shown in the example of the OSCE. While not all UNIDIR Survey respondents are ready to engage in other exchanges to facilitate authentication and verification or examine post-delivery cooperation measures, this could be part of a longer-term process.

The preliminary research into post-delivery controls and monitoring described in Chapters 2 and 3 confirms the findings of earlier studies that showed the challenges and limits to measures being undertaken at this stage of a transfer. However, this study's proposal to promote post-delivery 'cooperation' is yet to be tested. It is recommended that further exploration be undertaken as there are some signs of States beginning to examine options that could be captured under the post-delivery 'cooperation' heading.

Chapter 4 presents six areas for harmonization, which reflect proposals discussed with the UNIDIR Expert Group, and which present the main findings of the UNIDIR Survey and the research conducted for this study. The UNIDIR Expert Group considered the experience of seeking to harmonize end use/r control systems via international and regional organizations and export control regimes, and identified four key areas in which opportunities for harmonization at the regional and/or global level are desirable and could be feasible:

- Definition of key terms;
- Details of items, end use and end use/r to be provided to export control authorities;
- Types of assurances to be provided by the end user/importer; and
- Role and functions of end use/r documentation.

A further two optional areas were identified as desirable but which merited further study before being considered by States. Nevertheless, further consideration of these areas would be welcome:

- Exchange of information and indicators for risk assessment; and
- Post-delivery cooperation.

The rationale for the harmonization of each area is provided, alongside an analysis of relevant best practice guidelines discussed in Chapter 2 and national practices identified in Chapter 3. Each section therefore presents available evidence that could be used as the basis for consideration of harmonization as part of a multilateral process.

Chapter 5 presents three key lessons learned from efforts to develop common understandings of end use/r control systems in export control regimes and regional organizations:

- Take a step-by-step approach;

- Understand opportunities and limitations of information sharing and international cooperation; and
- Involve States that are not participating States of export control regimes and Euro-Atlantic organizations.

These lessons inform the recommended potential processes for developing common understandings, which are discussed in the second part of Chapter 5. The study recognizes the ongoing work in international and regional organizations, as well as in export control regimes, to strengthen end use/r control systems as a measure to address the diversion of conventional arms. It seeks to promote regional and international dialogue that involve a broad range of States and other important stakeholders, such as industry, in consultations and the development of common understandings to strengthen end use/r control systems. Three potential processes are recommended for consideration to develop common understandings of end use/r control systems:

- UN;
- ATT;
- Regional approach.

The first two potential processes—the UN and the ATT—are international and potentially global in scope. The third potential process could be a series of regional processes, located in regions that do not host major arms exporters. All avenues could be pursued in a complementary fashion.

The final chapter presents the main conclusions of the study. It highlights the six potential options and three avenues for States to use to develop common understandings of end use/r control systems.

Introduction: The harmonization of end use/r control systems to prevent arms diversion

The diversion of authorized conventional arms transfers, including small arms, poses a persistent problem for security at the global, regional and national levels, and lies at the heart of the illicit proliferation of arms. Evidence from diversion cases suggests that differences between national end use/r control systems (in particular the content, format and use of end use/r documentation), as well as a lack of common understandings of definitions and information to be shared among relevant stakeholders, pose challenges to efforts to tackle diversion.

States in United Nations (UN) forums have called for the examination of opportunities for greater harmonization of end use/r control systems to more effectively prevent diversion. Despite these repeated international calls, a global discussion has not yet been convened to consider possible ways and approaches to strengthen shared understanding and promote alignment in end use/r control systems. This study responds to the various international calls to explore opportunities for greater harmonization of end use/r control systems, with particular regard to end use/r documentation, in order to strengthen efforts to prevent diversion.

The study 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, and potential frameworks for, a process to strengthen control systems and enhance cooperation to prevent diversion at the regional and/or global levels. 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 systems. The central hypothesis of the research project undertaken for this study is that:

Greater cooperation and alignment between States with regard 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 their intended end use/rs.

Specifically, the study seeks to address the following key research question:

- How can States enhance shared understandings and cooperation to strengthen their national end use/r control systems in a practical manner in order to mitigate the risk of diversion to unauthorized end users and/or end uses?

Therefore, this project intends to provide:

- 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;

- New ideas, avenues and potential areas for States to address challenges to, and opportunities for, cooperation towards alignment of common end use/r control practices and procedures;
- Targeted engagement with States that are not participating in the existing export control regimes in order to promote a comprehensive and global approach to strengthening the enforcement of end use/r controls to prevent diversion; and
- Identification of possible forums to further the discussion on international cooperation and shared understandings of end use/r control at the regional and global levels.

The study uses a wide variety of open source materials, including multilateral instruments for strengthening end use/r control systems and research carried out by internationally recognized experts in the field of arms trafficking and transfer controls. The study also draws upon the results of a UNIDIR Survey on national end use/r control systems and international cooperation and information exchanges, distributed to States in June–October 2015. In addition, several meetings and events convened by UNIDIR in 2015 were used to explore assumptions and proposals relating to the aspects of the end use/r control system to be harmonized, and potential international processes to be utilized:

- **Informal Expert Meeting:** April 2015, Vienna, Austria
- **Informal Industry Meeting:** July 2015, Geneva, Switzerland
- **Project presentation:** August 2015, Cancun, Mexico
- **Round-table on Menu of Options:** October 2015, New York, USA.

A note on harmonization

This study unpacks some of the key challenges to, and opportunities for, fostering common understanding of the 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 the fact that it is not desirable to seek a 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.

The project recognizes that greater cooperation and alignment between States with regard to common practices and procedures in end use/r control systems will enhance the ability of relevant stakeholders to more effectively identify and mitigate the risk of arms being diverted.

A note on end use/r control systems

This report uses the term end use/r control systems and not the more common terms 'end user certificate' or 'end use certificate'. This is a conscious decision to demonstrate that the research project and the report are not only interested in the format and content of end use/r documentation but also in the processes of certification, authentication and verification of such documentation and its role in international cooperation to prevent diversion.

Outline of the study

Drawing upon the investigations of UN experts appointed to monitor the implementation of UN sanctions, Chapter 1 of this study begins by providing various examples of the way in which weakly enforced end use/r controls have contributed to enabling the delivery of conventional arms and ammunition to entities subject to UN sanctions for use in violations of international humanitarian and human rights law. It also draws upon the recommendations made by UN experts to establish international processes to explore ways to strengthen end use/r control systems. The chapter also considers the way in which these recommendations were discussed and promoted by States in UN General Assembly (UNGA) and Security Council (Security Council) forums relating to UN sanctions but also the illicit trade in small arms and efforts to conclude an arms trade treaty (ATT). The chapter concludes by noting progress made in regional organizations and export control regimes to provide guidance to States on strengthening end use/r controls and defining minimum elements to be contained in end use/r documentation.

Chapter 2 provides an introduction to the main elements of an effective end use/r control system, drawing upon best practice guidelines prepared by regional organizations, the Wassenaar Arrangement and the UN Coordinating Action on Small Arms (CASA) mechanism. It considers recommended details to be contained in end use/r documentation with regard to the items to be transferred, end use, end users and entities involved in the transfer, as well as unique identifiers for the document. The assurances to be provided by the end user on use, re-transfer, re-export and post-delivery cooperation are also discussed in this chapter. The way in which importing and exporting States should utilize the documentation as part of their transfer control systems, and the checks that should be made before authorizing an export, are also addressed. The chapter concludes with consideration of methods for undertaking post-delivery cooperation.

Chapter 3 presents the findings of the UNIDIR Survey that sought to gather information on State practices with regard to the content and checks conducted on end use/r documentation, as well as post-delivery cooperation and possibilities for international information exchange on end use/r documentation. In addition, the chapter draws upon an analysis conducted by UNIDIR of national reports on implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA), the UNGA resolutions on UN exchange of national legislation on the transfer of arms, military equipment and

dual-use goods and technology, available samples of end use/r documentation and completed Arms Trade Treaty Baseline Assessment Project (ATT-BAP) surveys.

Chapter 4 contains four key areas in which opportunities for harmonization at the regional and/or global level are desirable and could be feasible:

- Definition of key terms;
- Details of items and end use/r to be provided to export control authorities;
- Types of assurances to be provided by the end user/importer; and
- Roles and functions of end use/r documentation.

The chapter also draws attention to two other areas that would strengthen end use/r control systems, but where further consultations and more time are likely to be required to produce positive results:

- Exchange of information and indicators for risk assessment; and
- Post-delivery cooperation.

Chapter 5 begins by highlighting three lessons drawn from multilateral efforts to harmonize end use/r control systems. The first lesson is based on the step-by-step approach taken by the Organization for Security and Co-operation in Europe (OSCE) for strengthening end use/r controls and developing a template end user certificate (EUC) for international transfers of small arms and light weapons (SALW). The second lesson draws upon the experience of the Wassenaar Arrangement in information exchange and efforts to establish guidelines for end use/r controls. The third lesson notes that little attention has been paid to States that are not participating States in export control regimes or Euro-Atlantic organizations on this issue, despite notable interest in the issue in Africa, the Americas and Asia/Pacific. The chapter therefore also examines three potential avenues for pursuing a global dialogue on the harmonization of end use/r controls. The first option examined is that of the UN and in particular the regular meetings to consider implementation of the PoA and the possibility of a Group of Governmental Experts (GGE) being convened to consider the issue. The second option is for a subsidiary working group of the ATT to examine the issue. The third option is for regional organizations beyond the Euro-Atlantic to consider regional approaches to strengthening end use/r control systems to prevent diversion.

The study concludes by highlighting the opportunities and challenges for exploring the six options and three potential avenues for States to engage in a dialogue to develop common understandings of end use/r control systems.

1. International attention on end use/r control systems

This chapter notes how UN experts mandated to monitor Security Council sanctions have provided a significant body of evidence on how end use/r controls and documentation are evaded to enable the supply of arms and ammunition to unauthorized end users subject to UN arms embargoes. It also presents the recommendations made by UN experts to strengthen national end use/r controls to prevent such diversion, paying particular attention to proposals for international processes to establish common standards and harmonized end use/r control systems. Several of these recommendations resonated with UN Member States in Security Council and UNGA forums, which echoed the calls of the UN experts for greater attention to be paid towards strengthening end use/r control systems for international transfers of conventional arms, in particular SALW, and the potential for international frameworks to be established to achieve this goal. In particular, this chapter records the calls that focus on initiatives for harmonizing end use/r documentation and elaborating methods for effective certification, authentication and verification of such documentation, as well as proposals for enhanced international cooperation to address diversion. The chapter concludes by examining developments in other multilateral settings to establish guidance on end use/r control systems, in particular Euro-Atlantic organizations and the Wassenaar Arrangement export control regime.

1.1. The findings and recommendations of UN experts on arms embargoes: Evidence of diversion facilitated by weak end use/r control systems

‘End user verification is one of the most important instruments to prevent exported arms and military equipment from reaching unauthorized persons and organizations’.¹

International attention on the need to strengthen end use/r control systems gained prominence in the late 1990s as UN experts provided a series of well-documented cases of diversion to embargoed non-State and State entities in Angola, Liberia and Sierra Leone, which were facilitated by weak end use/r controls. The work of subsequent UN experts appointed to monitor UN arms embargoes has contributed further evidence on the various ways in which end use/r control systems are being evaded. They also show that corrupt officials at various points along the end use/r control chain can enable diversion. In particular, the findings highlight the risk of diversion when end use/r documentation is neither authenticated nor verified by exporting States. The findings also indicate that the risk of diversion is higher when end use/r documentation is utilized in isolation from a comprehensive system to assess risk and engage in international cooperation to prevent diversion. This section provides examples provided by UN experts on the ways in which entities have sought to evade end use/r controls. It concludes with a summary of the UN expert recommendations

¹ Security Council, *Report of the Team of Experts Appointed pursuant to Security Council resolution 1407 (2002), paragraph 1, concerning Somalia*, UN document S/2002/722, 3 July 2002, para. 69.

addressed to the international community to strengthen end use/r controls and country-specific recommendations for States that host entities subject to UN sanctions. To the author's knowledge this is the first study to provide such a comprehensive overview of evidence and recommendations provided by UN experts. This is conducted in full recognition of the fact that the high-risk cases that are investigated by UN experts with limited resources represent only a fraction of diversion cases, and that there are many diversion cases each year that do not involve entities targeted by UN embargoes.²

UN experts repeatedly note that the variety of formats used for EUCs issued by governments, let alone similar documents issued by non-State end users, poses challenges for exporting States when assessing such documentation. Therefore, if an exporting State treats the submission of end use/r documentation as an administrative criterion and does not check the authenticity of the document or verify its contents, such practices can facilitate diversion.³ For example, the Monitoring Mechanism on Angola Sanctions noted that many States lack a framework for managing arms imports and that the issuing of EUCs can be the responsibility of the ministry of defence, but that the format of an EUC can be 'mere administrative correspondence on an official letterhead paper containing no security features other than the official seal, coat of arms and signature of the issuing authority'.⁴

UN experts have shown that there are cases in which exporting States have not checked the authenticity of end use/r documentation, and forged documents or copies have been used to enable diversion. UN experts and independent researchers have highlighted that end use/r documentation is regarded as an important element of an application for an export licence, but that they can be produced in formats that are easy to forge.⁵ For example, UN experts monitoring the implementation of arms embargoes on the Uniao Nacional Para a Independencia Total de Angola (UNITA) in Angola, on Liberia and on the Revolutionary United Front (RUF) in Sierra Leone documented a series of cases during 1995–2002 in which forged end user documentation naming the armed forces of West African States as end users was successfully used to acquire an export licence to transfer arms and ammunition to entities subject to UN sanctions/arms embargoes. Guinean authorities informed the UN Panel of Experts monitoring sanctions on Liberia that forged EUCs indicating the Guinean armed forces as the end user were used by a company based in Guinea and various brokers to support export licence applications for small arms, missiles, helicopters and cargo aircraft in Eastern Europe to be delivered to Liberia in violation of the arms embargo.⁶ The Panel

2 For example, see: Hugh Griffiths and Adrian Wilkinson, *Guns, Planes and Ships: Identification and Disruption of Clandestine Arms Transfers*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, August 2007; Matt Schroeder, Helen Close and Chris Stevenson, "Deadly Deception: Arms Transfer Diversion", in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, pp. 120–122.

3 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 Occasional Papers No. 21, December 2011, p. 5.

4 Security Council, *Final report of the Monitoring Mechanism on Angola Sanctions*, UN document S/2000/1225, 21 December 2000, para. 30.

5 Security Council, *Report of the Group of Experts submitted pursuant to Paragraph 9 of Security Council resolution 1643 (2005) concerning Côte d'Ivoire*, UN document S/2006/735, 5 October 2006, para. 30.

6 Security Council, *Report of the Panel of Experts pursuant to Security Council resolution 1343 (2001), paragraph 19, concerning Liberia*, UN document S/2001/1015, 26 October 2001, paras 168 and 224–267. The Guinean company also reportedly attempted to use a forged EUC naming the Namibian Ministry of Defence as an end user. Security Council, *Report of the Panel of Experts established pursuant to Security*

also found that a Ukrainian broker had created several unauthorized copies of an EUC that had been signed by the Head of State of Côte d'Ivoire and authenticated by the Ambassador of Côte d'Ivoire to the Russian Federation on 2 June 2000.⁷ The Ambassador of Côte d'Ivoire to the Russian Federation emphasized that while the EUCs looked legitimate, it was clear that his signature was forged on the additional copies. In another case reported by UN experts, a Belgrade-based company provided forged end use/r documentation that identified the Nigerian Ministry of Defence as the end user to support export licence applications, when the real end user was the embargoed forces of Charles Taylor in Liberia.⁸ The former Yugoslav export licensing authorities granted two export licences based on these forged documents, suggesting that insufficient attention was paid towards assessing their authenticity, and did not check whether they complied with the Moratorium on the Importation, Exportation and Manufacture of Light Weapons of the Economic Community of West African States (ECOWAS). A forged EUC based on an original Burkina Faso EUC was also found in connection with efforts to transfer ammunition to Côte d'Ivoire in violation of UN sanctions.⁹ The UN experts identified two EUCs that contained the same reference number, date and signature of the Minister of Security of Burkina Faso for the purchase of 450,000 rounds of ammunition and 200 RPG-7 rockets, and suspected that copies were made of the original. Cases have also been noted by the UN experts on Iran in which false EUCs have been presented in support of export licence applications. The UN experts highlighted one case in which a crude copy of an EUC template available on a government website has been used and brought to the attention of national authorities by a private company.¹⁰ Another example provided to the UN experts involved intermediaries in third countries providing false EUCs to acquire items that would be re-transferred to the Islamic Republic of Iran.¹¹

Yet, perhaps the most galling example of a diversion reported by UN experts that could have been avoided with a simple check is the case in which an arms broker provided an EUC from the People's Democratic Republic of Yemen to export licensing officials in Poland, two years after the People's Democratic Republic of Yemen had merged with the Arab Republic of Yemen in May 1990 to form the Republic of Yemen.¹² Polish authorities duly licensed the export of surplus arms for the non-existent country and the arms were supplied to Croatia in violation of the UN arms embargo on the former Yugoslavia. The Polish investigation concluded that:

Council resolution 1343 (2001), paragraph 19, concerning Liberia, UN document S/2001/1015, 26 October 2001, para. 253.

7 Security Council, *Report of the Panel of Experts pursuant to Security Council resolution 1343 (2001), paragraph 19, concerning Liberia*, UN document S/2001/1015, 26 October 2001, paras 211-223.

8 Security Council, *Report of the Panel of Experts appointed pursuant to Security Council resolution 1408 (2002), paragraph 16, concerning Liberia*, UN document S/2002/1115, 25 October 2002, paras 64-82.

9 Security Council, *Report of the Group of Experts submitted pursuant to Paragraph 9 of Security Council resolution 1643(2005) concerning Côte d'Ivoire*, UN document S/2006/735, 5 October 2006, paras 30-34; Security Council, *Report of the Group of Experts submitted pursuant to Paragraph 2 of Security Council resolution 1708 (2006) concerning Côte d'Ivoire*, UN document S/2006/964, 12 December 2006, paras 18-20.

10 Security Council, *Final report of the Panel of Experts established pursuant to resolution 1929 (2010)*, UN document S/2013/331, 5 June 2013, para. 117.

11 Security Council, *Final report of the Panel of Experts established pursuant to resolution 1929 (2010)*, UN document S/2013/331, 5 June 2013, para. 115.

12 Security Council, *Report of the Panel of Experts on Somalia pursuant to Security Council resolution 1425(2002)*, UN document S/2003/223, 25 March 2003, paras 41-48.

'the official who authorized the export licence claimed that the documents did not raise any doubts about their authenticity. At the time Polish authorities did not check the veracity of foreign documents with their foreign embassies'.¹³

UN experts have identified several ways in which the verification of information provided by the end user or importing State should signal concerns for export licensing authorities. The first way is to check whether the documentation lacks essential information necessary for conducting a risk assessment—an unfortunately common situation in which the information simply cannot be checked.¹⁴ For example, the UN experts on Sudan have noted that the signature on Sudanese-issued EUCs is 'unclear' and the EUCs 'do not contain full information on the ammunition being transferred [making] tracing, should it be necessary, all but impossible'.¹⁵ Another example is provided by the Angola Monitoring Mechanism. It identified several Togolese EUCs that should have caused concern to Bulgarian export licensing authorities, as they were written in English as well as French, and were issued on the same or on dates very close together.¹⁶ Burkina Faso EUCs feature in another case that should have raised concerns. An EUC that named the Ministry of Defence of Burkina Faso as the sole end user, and that had been signed by the Head of the presidential guard of Burkina Faso, was used to acquire 68 tons of arms and ammunition from Ukraine in 1999, which were then re-exported to Liberia and subsequently believed to have been used by the RUF in Sierra Leone.¹⁷ The Commander of the Economic Community of West African States Monitoring Group (ECOMOG) for Sierra Leone accused the President of Burkina Faso of complicity in the diversion of the shipment to Liberia and its subsequent transfer to the RUF in Sierra Leone in the first half of 1999.¹⁸ Ukrainian authorities stated that the seals on the EUC were authentic and that the 'relevant documentation did not contain any indication that the shipment was destined for re-export to any other legal or natural person in any other third country'.¹⁹ However, the fact that the armed forces of Burkina Faso use NATO-standard weaponry should have been a warning sign considering that the order placed with Ukraine was for former Warsaw Pact ammunition. If the Ukrainian authorities had verified the information contained in the EUC this would have led to greater caution on the part of the Ukrainian authorities and could have prevented a transfer that was diverted to embargoed entities.

13 Security Council, *Report of the Panel of Experts on Somalia pursuant to Security Council resolution 1425(2002)*, UN document S/2003/223, 25 March 2003, para. 45.

14 Hugh Griffiths and Adrian Wilkinson, *Guns, Planes and Ships: Identification and Disruption of Clandestine Arms Transfers*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, August 2007.

15 Security Council, *Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)*, UN document S/2014/87, 11 February 2014, paras 65–66.

16 Security Council, *Final report of the Monitoring Mechanism on Angola Sanctions*, UN document S/2000/1225, 21 December 2000, para. 34.

17 Security Council, *Report of the Panel of Experts appointed pursuant to Security Council resolution 1306 (2000), paragraph 19, in relation to Sierra Leone*, UN document S/2000/1195, 20 December 2000, paras 203–211. The signature of the same individual was also on EUCs received by Romania between 1996 and 1999 that are believed to have been used by UNITA to procure arms. The individual 'denied ever having signed the documents; nor could he speculate as to who could have had access to documents with his signature'. However, the Angola Monitoring Mechanism determined that the EUCs were authentic. (Security Council, *Final report of the Monitoring Mechanism on Angola Sanctions*, UN document S/2000/1225, 21 December 2000, paras 48–49.)

18 Human Rights Watch (HRW), "HRW Letter to President Compaoré", 28 March 2000, <<http://www.hrw.org/press/2000/03/burkina0330letter.htm>>.

19 Security Council, *Report of the Security Council Committee established pursuant to resolution 985 (1995) concerning Liberia*, UN document S/1999/1301, 31 December 1999.

Another set of challenges are present in cases where the importing State does not have procedures for oversight and control in place. Libya currently represents an extreme case in this regard, with UN experts highlighting the dangers of supplying arms to Libya when the identities of end users are unclear and there is a lack of clarity over the procurement authority with oversight of the fragmented security sector and its arms imports.²⁰ In April 2013, the Chair of the Libya Sanctions Committee requested Libya to create such a structure and use EUCs.²¹ The Libyan authorities responded by identifying the Military Procurement Department of the Ministry of Defence as the only focal point for arms procurement for Libya, and providing information on the two individuals authorized to sign EUCs for Libyan arms imports. However, UN experts have received copies of end use/r documentation signed by individuals in the Libyan Ministry of Defence other than the two named signatories that have been used to attempt to procure over 42 million rounds of 7.62 x 39 mm ammunition and more than 65,000 assault rifles.²² Therefore, the system established by the Libyan authorities was not adhered to by exporters. For example, UN experts found that a contract signed on 18 December 2012 between a US-registered broker reportedly acting on behalf of the Libyan Ministry of the Interior and a company registered in the United Arab Emirates (UAE) for 15,000 pistols and 9 mm ammunition appeared to only have come to the attention of Libyan authorities when an EUC was sent to the Libyan Embassy in the UAE for approval.²³ The Libyan Embassy sent a request to the company in February 2014 to terminate the deal as the Libyan Ministry of Interior had not authorized the purchase. However, 1,500 pistols had already been delivered to the Libyan Supreme Security Committee in Mitiga. An independent non-governmental organization tracking illegal weapons in conflict zones, Conflict Armaments Research, found that at least one of the pistols had been sold by a Supreme Security Committee officer to a jewellery shop owner in Tripoli.²⁴ UN experts also identified exports to Libya that were diverted after delivery.²⁵

Another reason for not relying solely on information provided by the importer, end user and/or government official that certifies end use/r documentation is that these entities might not intend to abide by the assurances on end use, location, or re-transfer due to corruption or strategic interests. UN experts reported a case of concern with regard to the end user using items for a purpose other than the declared end use relates to the appearance in the 2012 military parade in North Korea of six transporter-erector launchers, for which there is evidence to suggest that they were built on WS51200 trucks that had been supplied from China in 2011. China investigated the case and presented an EUC that had been provided by the North Korean buyer in which the 'Democratic People's Republic of Korea Forestry Ministry [...] certified that the six

20 Security Council, *Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya*, UN document S/2014/106, 19 February 2014, para. 49.

21 Security Council, *Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya*, UN document S/2014/106, 19 February 2014, para. 50.

22 Security Council, 2014, *Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya*, UN document S/2014/106, 19 February 2014, para. 53.

23 Security Council, *Final report of the Panel of Experts established pursuant to resolution 1973 (2011)*, UN document S/2015/128, 23 February 2015, paras 125-131.

24 Security Council, *Final report of the Panel of Experts established pursuant to resolution 1973 (2011)*, UN document S/2015/128, 23 February 2015, para. 131.

25 Security Council, *Final report of the Panel of Experts established pursuant to resolution 1973 (2011)*, UN document S/2015/128, 23 February 2015, paras 135-148, and Annex 19, Transfers to the Ministry of Defence (2012 to mid-2014), pp. 96-98.

units of the off-road trucks (WS51200) which were imported from [a Chinese import and export company] are the vehicles for transporting the timbers in the Democratic People's Republic of Korea'.²⁶ The Panel therefore concluded that '[o]n the basis of the information currently available, the Panel considers it most likely that the Democratic People's Republic of Korea deliberately breached the end user guarantee that it officially provided to [the Chinese Import and Export Company] and converted the WS51200 trucks into transporter-erector-launchers'.²⁷

Sudan is another State for which UN experts have questioned the reliability of assurances contained in EUCs, and called upon States to monitor Sudanese compliance with assurances.²⁸ As Table 1 shows, UN experts have repeatedly called for exporting States to pay particular attention to Sudanese certification of EUCs and compliance with assurances. For example, the UN Panel has documented that Su-25 ground attack aircraft were used in Darfur and that Sudan acquired 15 Su-25 from Belarus between 2008 and 2010 'under a letter of guarantee by the Government of Sudan that they would not be used in violation of resolution 1591 (2005)'.²⁹ The Government of Sudan insisted that 'in conformity with its rights as a sovereign State, such aircraft are deployed based upon their limited-scale utilizations, such as guarding troop convoys and movements in addition to [African Union/United Nations Hybrid operations in Darfur] (UNAMID) and humanitarian non-government organization convoys'.³⁰ The Panel took a different view, considering such a deployment without prior authorization from the UN Sanctions Committee on Sudan to be a violation of UN sanctions. The Panel also found evidence of S-8 air-to-ground missiles being used in Darfur, which the Panel strongly believed were acquired from Belarus based upon an EUC dated 11 November 2010 in which Sudan states that S-8 missiles will not be used in contradiction of Security Council resolutions and a delivery control certificate of 18 April 2011 certifying delivery of 3998 S-8DM and S-8KO missiles.³¹ In addition, the Panel observed Mi-24 attack helicopters in Darfur. The Russian Federation informed the Panel it had supplied 44 Mi-24 to Sudan in 2005 and 2009, with an end user undertaking that the helicopters would not be used in Darfur.³² Sudan did not confirm if the Mi-24s based in Darfur came from the Russian supplies of 2005 and 2009, but the Panel suspects that the Mi-24s in Darfur are part of these consignments.³³ The UN Panel of Experts maintains that Sudan has demonstrated a pattern of violations of UN sanctions and end user assurances concluded with Belarus and the Russian Federation.

26 Security Council, 2013. *Report of the Panel of Experts established pursuant to resolution 1874 (2013) concerning Liberia*, UN document S/2013/337, 11 June 2013, para. 54. A copy of the EUC is contained in Annex XII of the report (p. 80).

27 Security Council, *Report of the Panel of Experts established pursuant to resolution 1874 (2013) concerning Liberia*, UN document S/2013/337, 11 June 2013, para. 57.

28 Security Council, *Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)*, UN document S/2011/111, 8 March 2011, para. 60.

29 Security Council, *Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)*, UN document S/2011/111, 8 March 2011, para. 81; Security Council, *Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)*, UN document S/2013/79, 12 February 2013, paras 60-63.

30 Security Council, *Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)*, UN document S/2013/79, 12 February 2013, para. 62.

31 Security Council, *Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)*, UN document S/2013/79, 12 February 2013, paras 48-50.

32 Security Council, *Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)*, UN document S/2011/111, 8 March 2011, paras 85-87.

33 Security Council, *Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)*, UN document S/2013/79, 12 February 2013, para. 72.

Although the Government of Sudan stated that such arms would not be used against civilians, UN experts identified a case of Su-25 combat aircraft firing S-8 missiles at a civilian convoy that they considered a violation of the 'Protocol additional to the Geneva Conventions of 12 August 1949'.³⁴ As a result of disregard for EUC assurances, the UN experts called for 'more detailed and specific language' to be included in Sudanese-issued EUCs, which would:

- Be explicit on the Security Council provisions that 'apply to the supply of weapons systems and ammunition to the Government of Sudan';
- Provide information on the lot or batch number of ammunition being supplied;
- Hold signatory individuals responsible for subsequent violations of Security Council resolutions.³⁵

The UN experts included sample text that could be included in EUCs issued by Sudan:

'We, the Ministry of Defence of the Government of the Sudan, hereby officially certify that the goods supplied or purchased under the auspices of this end user certificate will not be physically transferred to Darfur or used on aircraft operating over the Darfur region in accordance with the provisions of paragraphs 7 and 8 of Security Council resolution 1556 (2005), paragraph 7 of Security Council resolution 1591 (2005) and paragraph 10 of Security Council resolution 1945 (2010), as updated in subsequent resolutions, unless approved in advance by the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan'.³⁶

Security Council resolution 1945 of 14 October 2010 decided that all authorized arms exports to Sudan 'are made conditional upon the necessary end user documentation so that States may ascertain that any such sale or supply is conducted consistent with the measures imposed by those resolutions'.³⁷

A common element in arms embargo evasion, as documented by various UN experts, is the willingness of States to provide authentic end use/r documentation to acquire arms and then to re-export said arms to embargoed entities. The UN experts on Sierra Leone found that arms were reaching the RUF despite the arms embargo imposed on them, because of 'the willingness of some countries to provide their end user certificates and/or facilitate the safe passage of weapons through their territory',³⁸ which has become clear in other cases too. For example, the UN experts on UNITA documented the use by brokers acting on behalf of UNITA of authentic EUCs supplied to the brokers by the then Zairian Government to be used to procure arms for UNITA.³⁹ The EUCs were reportedly supplied in exchange for money and diamonds from UNITA, with arms arriving in Zaire before being re-transferred to UNITA.

34 Security Council, *Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)*, UN document S/2014/87, 11 February 2014, paras 69–81.

35 Security Council, *Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)*, UN document S/2014/87, 11 February 2014, para. 67.

36 Security Council, *Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)*, UN document S/2014/87, 11 February 2014, para. 68.

37 Security Council, UN document S/RES/1945 (2010), 14 October 2010, para. 10.

38 Security Council, *Report of the Panel of Experts appointed pursuant to Security Council resolution 1306 (2000), paragraph 19, in relation to Sierra Leone*, UN document S/2000/1195, 20 December 2000, para. 254.

39 Security Council, *Report of the Panel of Experts on Violations of Security Council Sanctions against UNITA*, UN document S/2000/203, 10 March 2000, para. 20.

In several cases, the importing State is the end user for some of the arms and ammunition listed in the EUC, but it shares the order with an embargoed entity. For example, Togo reportedly agreed to supply UNITA with EUCs after the overthrow of President Mobutu in Zaire if it could keep a 20 per cent share of the arms and ammunition listed on the EUC, with the other 80 per cent destined for UNITA.⁴⁰ The UN experts contacted the governments of Belarus, Bulgaria, the Russian Federation and Ukraine as part of its investigations into the misuse of Togolese EUCs for supplying arms and ammunition to UNITA. Bulgaria reportedly received 18 Togolese EUCs between 1996 and 1998, with US\$14 million worth of SALW, ammunition, artillery and Man-Portable Air Defence Systems (MANPADS) exported in relation to nine of the EUCs.⁴¹ Romania also reported exporting almost US\$650,000 worth of SALW and ammunition to Togo during 1996-1999. The Monitoring Mechanism on Angola Sanctions determined that all 20 EUCs that were provided to export licensing authorities in Bulgaria (18) and Romania (2) were forged.⁴² However, Togolese authorities did admit that an EUC that was issued in July 1997, and signed by the Togolese Army Chief of Staff, was given to a UNITA representative and, it is believed, was used as the basis for the 20 forgeries.⁴³ Despite the forgeries, the Monitoring Mechanism concluded that 'all events described concerning Togo could not have taken place without the consent or complicity of authorities in the country'.⁴⁴

Another case relates to copies of an authentic EUC that a Ukrainian broker acquired from a former Head of State of Côte d'Ivoire, who explained that he had agreed to use the EUC not only to acquire arms for Côte d'Ivoire, but also for embargoed Liberia. An arrangement was made by the Liberian Ambassador-at-large to split the shipment, with some ammunition remaining in Côte d'Ivoire and most of the shipment being re-exported to Liberia in violation of UN sanctions.⁴⁵ Therefore, an authentic EUC was used to acquire arms for post-delivery onward diversion with the blessing of the Head of State of the importing State.

The conflicts in Libya and the Syrian Arab Republic have provided several recent cases in which Gulf Cooperation Council States appear to have procured conventional arms and ammunition from South-Eastern Europe with the intention of re-exporting the items to anti-Gaddafi forces in Libya and anti-Assad forces in the Syrian Arab Republic, in the process not abiding by no re-export assurances contained in the EUCs

40 Security Council, *Report of the Panel of Experts on Violations of Security Council Sanctions against UNITA*, UN document S/2000/203, 10 March 2000, paras 32-35.

41 Security Council, *Final report of the Monitoring Mechanism on Angola Sanctions*, UN document S/2000/1225, 21 December 2000, paras 32-33.

42 Security Council, *Final report of the Monitoring Mechanism on Angola Sanctions*, UN document S/2000/1225, 21 December 2000, para. 49.

43 Security Council, *Final report of the Monitoring Mechanism on Angola Sanctions*, UN document S/2000/1225, 21 December 2000, para. 43.

44 Security Council, *Final report of the Monitoring Mechanism on Angola Sanctions*, UN document S/2000/1225, 21 December 2000, para. 56.

45 The Liberian Ambassador-at-large has denied his role in arms acquisitions for Liberia during the arms embargo, but the Ukrainian broker also named him as acting on behalf of President Charles Taylor in arms deals. Security Council, *Report of the Panel of Experts pursuant to Security Council resolution 1343 (2001), paragraph 19, concerning Liberia*, UN document S/2001/1015, 26 October, paras 216-217. The Liberian Ambassador-at-large's activities are discussed in detail in: Security Council, *Report of the Panel of Experts pursuant to paragraph 2 of Security Council resolution 549 (2004) concerning Liberia*, UN document S/2004/955, 6 December 2004, paras 88-91.

that supported the export licence applications.⁴⁶ UN experts documented in detail how an Armenian-based broker used an EUC provided by a company based in the UAE on behalf of the Government of the UAE to acquire two million 12.7 x 108 mm ammunition rounds and 1,000 AK-47 assault rifles from Albanian surplus stocks via a Ukrainian State-owned arms trading enterprise.⁴⁷ In February 2012, the UAE-based company took delivery of 800,000 rounds of 12.7 x 108 mm ammunition on behalf of the UAE and signed a delivery verification certificate (DVC).⁴⁸ The ammunition was authorized to fly from Albania to Abu Dhabi International Airport but was instead delivered to Benghazi. While the UAE was the authorized end user, it did not receive the ammunition, nor has it provided the UN experts with any information regarding the deal. Albania and Ukraine cooperated with the UN experts, with Ukraine providing the EUC from the UAE that states that the items will be for the 'own needs of the United Arab Emirates', with an assurance that:

'The End user of the specific goods hereby confirm that the good, stated in clause 5, will neither be used for any other purposes except stated in clause 7, nor transferred to any other legal or natural person on the territory of the UAE, re-exported or handed over to third countries without prior consent of the empowered authorities of the Ukraine and UAE'.⁴⁹

In addition, Libya and the Syrian Arab Republic have clearly demonstrated cases in which States are re-exporting arms in violation of re-export assurances given to the original exporting State many years after receiving arms and ammunition. For example, UN experts investigated a Swiss media report that showed Swiss-produced M80 7.62 x 51 mm ammunition being used by anti-Gadaffi forces in Libya, which had been exported to the Qatar Armed Forces in 2009 under a non-re-export declaration.⁵⁰ Qatar denied that it had provided the items to anti-Gadaffi forces, but the recipients informed the UN experts that it had received such items from Qatar.⁵¹ Further evidence of potential Qatari supplies to anti-Gadaffi forces emerged after UN experts identified ammunition transferred from Pakistan to Qatar in the early 1980s.⁵² Again it appears that Qatar did not comply with the no re-export assurances made in the EUC it supplied to Pakistan. The lack of cooperation with the UN experts in these cases

46 Paul Holtom, Irene Pavesi and Christelle Rigual, "Trade Update: Transfers, retransfers and the ATT", in *Small Arms Survey 2014: Women and Guns*, Cambridge University Press, 2014, pp. 119 and 126; Paul Holtom and Christelle Rigual, "Trade Update: After the 'Arab Spring'", in *Small Arms Survey 2015: Weapons and the World*, Cambridge University Press, 2015, pp. 92-111.

47 Security Council, *Final report of the Panel of Experts Established pursuant to resolution 1973(2011) concerning Libya*, UN document S/2013/99, 9 March 2013, para. 81. Ukraine informed the UN experts that the remainder of the order was delivered to the UAE in August 2011 and not to Libya. The UAE did not confirm the delivery to the UN experts. Security Council, *Final report of the Panel of Experts Established pursuant to resolution 1973 (2011) concerning Libya*, UN document S/2014/106, 19 February 2014. Annex V. Update on previously reported transfers of ammunition to Libya organized by the United Arab Emirates, pp. 81-82.

48 Security Council, *Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya*, UN document S/2013/99, 9 March 2013, paras 77-97.

49 Security Council, *Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya*, UN document S/2013/99, 9 March 2013, Annex VIII, End-user certificate Ukraine-United Arab Emirates.

50 Security Council, *Final report of the Panel of Experts established pursuant to Security Council resolution 1973(2011) Concerning Libya*, UN document S/2012/163, 20 March 2012, paras 97-102.

51 Security Council, *Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya*, UN document S/2013/99, 9 March 2013, paras 62-66.

52 Security Council, *Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya*, UN document S/2013/99, 9 March 2013, paras 67-70.

is of particular concern. Yet it is not clear in all cases whether the exporting States that have cooperated with the UN experts have undertaken additional measures to address the risk of diversion when exporting SALW and ammunition to the UAE. In the case of Switzerland, however, it is known that several measures were introduced by Swiss authorities in response to the conclusion that the UAE re-transferred grenades that had been supplied from Switzerland in 2003 to Jordan in 2004 without Swiss permission and that were then found in the Syrian Arab Republic in 2012. The Swiss response included a temporary moratorium on arms exports to the UAE, making non-re-export declarations legally binding, requiring all future EUCs to be signed by a high-level government representative and including provisions on the right to conduct on-site inspections in the country after any arms delivery,⁵³ as well as increased capacity to conduct such post-shipment verifications.⁵⁴

Therefore, based upon patterns or particularly egregious incidents, UN experts have recommended measures to strengthen end use/r control systems with regard to particular States, but also for regions and at the international/global level. Table 1 presents some of the recommendations. The table does not include various recommendations regarding notification regimes attached to UN sanctions for arms imports by State end users or recommendations for supporting the strengthening of physical security and stockpile management in such States, although these are also recommended by several UN experts as important measures to address diversion. The recommendations are focused on measures that relate to end use/r documentation and the related control system. The first set of recommendations are those aimed at standards-setting on end use/r controls and documentation for the international community, while the country-specific recommendations relate to particular arms embargoes and measures to address the particular challenges posed by these embargoes. The international recommendations, and the way in which they have influenced discussions in UN forums on end use/r controls and documentation, are discussed in more detail in the following sections.

53 Swiss State Secretariat for Economic Affairs (SECO), "Swiss Hand Grenades in Syria: Conclusion of Investigations and Measures", press release, 21 September 2012, <<http://www.seco.admin.ch/aktuell/00277/01164/01980/index.html?lang=en&msg-id=46075>>; Swiss Federal Council (SFC), *War Material Ordinance of 25 February 1998 (Status as of 1 January 2013)*, document 514.511, 2013, <<https://www.admin.ch/opc/en/classified-compilation/19980112/index.html>>.

54 Swiss State Secretariat for Economic Affairs (SECO), "Exportkontrolltagung 2015 - PSV" <<http://www.seco.admin.ch/themen/00513/00600/05641/index.html?lang=de>>; Swiss Federal Council (SFC), *War Material Ordinance of 25 February 1998 (Status as of 1 January 2013)*, document 514.511, 2013, <<https://www.admin.ch/opc/en/classified-compilation/19980112/index.html>>.

Table 1. UN experts on arms embargoes: Recommendations on end use/r controls and documentation

International		
UN experts	Year	Recommendation
Afghanistan (Taliban)	2001	'Legislation to enforce and strengthen controls on the movement of illicit arms and to respect sanctions regimes should be adopted at the national level. If the necessary political will and institutions are in place, eventual measures could also include the standardization of end-user certificates to make them harder to forge and misuse, and a more effective system of marking and identifying weapons. Such national efforts should then be coordinated with similar measures at regional and international levels'. ⁵⁵
Afghanistan (Taliban)	2001	'One important means of enforcing an arms embargo is to publish information concerning violations of end-user certificate provisions, including names of companies, countries and individuals involved, as well as cases of unauthorized re-transfer of weapons to third parties'. ⁵⁶
Angola (UNITA)	2000	'The Panel noted the problem of the diversion of arms and military equipment from the declared end-user, and observed that the current end-user certificate system that prevails in many countries is wholly inadequate to ensure against such diversions. The Panel therefore recommends that all arms transfers by Government should provide for the mandatory authentication and reconciliation of all end-user certificates, as well as the verification of stated undertakings contained in those certificates. Consideration should be given as to the type of assistance that might be needed by Member States in order to carry out end-user verifications, thereby eliminating the diversion of arms and military equipment in violation of United Nations sanctions'. ⁵⁷
Angola (UNITA)	2000	'Arms exporting countries should strengthen their systems pertaining to arms exports, in particular verifying the authenticity and country of issuance of the relevant documents'. ⁵⁸
Angola (UNITA)	2000	'The importation of arms should be subject to adequate legislation and should be managed through a mechanism that can define clearly the responsibilities of all agencies and officials involved. Such system should include provisions designating in person the officials authorized to sign end-user certificates'. ⁵⁹
Angola (UNITA)	2000	'The format of end-user certificates necessary to legally acquire arms should be provided with a standard system of support and a sufficient level of security to deter and/or prevent the forgery of such documents'. ⁶⁰

⁵⁵ Security Council, *Report of the Committee of Experts appointed pursuant to Security Council resolution 1333 (2000), paragraph 15 (a), regarding the monitoring of the arms embargo against the Taliban and the closure of terrorist training camps in the Taliban-held areas of Afghanistan*, UN document S/2001/511, 22 May 2001, para. 35, pp. 8-9.

⁵⁶ Security Council, *Report of the Committee of Experts appointed pursuant to Security Council resolution 1333 (2000), paragraph 15 (a), regarding the monitoring of the arms embargo against the Taliban and the closure of terrorist training camps in the Taliban-held areas of Afghanistan*, UN document S/2001/511, 22 May 2001, para. 39, p. 9.

⁵⁷ Security Council, *Report of the Panel of Experts on Violations of Security Council Sanctions against UNITA*, UN document S/2000/203, 10 March 2000, para. 55.

⁵⁸ Security Council, *Final report of the Monitoring Mechanism on Angola Sanctions*, UN document S/2000/1225, 21 December 2000, para. 226.

⁵⁹ Security Council, *Final report of the Monitoring Mechanism on Angola Sanctions*, UN document S/2000/1225, 21 December 2000, para. 227.

⁶⁰ Security Council, *Final report of the Monitoring Mechanism on Angola Sanctions*, UN document S/2000/1225, 21 December 2000, para. 228.

International		
UN experts	Year	Recommendation
Angola (UNITA)	2000	'Governments should consider putting in place systems to allow for the speedy exchange of information and verification of the validity of end-user certificates through the designation of a contact authority in the arms exporting and importing side or by any other way deemed appropriate'. ⁶¹
Liberia	2001; 2002	'[U]rgently recommends the establishment of a United Nations working group to develop the modalities for a standardized end-user certificate that would include the name, address and telephone number of the signing authority for the Certificate, and name, address and telephone number and arms trading licence of the broker(s) involved'. ⁶²
Liberia	2002	'Strongly recommends that a requirement to also submit copies of the end-user certificates [issued in support of arms imports] become part of the procedure to obtain waivers for the importation of arms into West Africa [under the ECOWAS moratorium]'. ⁶³
Liberia	2004	'An international mechanism should be set up, in cooperation with ECOWAS member States, to harmonize and verify all end-user certificates submitted for arms imports'. ⁶⁴
Sierra Leone	2000	'A common standard and the management of a database on significant cases of smuggling and sanctions-busting in the region could be developed by Interpol. The IWETS (International Weapons and Explosives Tracking System) programme of Interpol could be used for the purpose of tracking the origin of the weaponry'. ⁶⁵
Sierra Leone	2000	'Responsibility for the flood of weapons into West Africa lies with producing countries as well as those that trans-ship and use them. The Security Council must find ways of restricting the export of weapons, especially from eastern Europe, into conflict areas under regional or United Nations embargoes. "Naming and shaming" is a first step, but consideration could be given to an embargo on weapons exports from specific producer countries, just as diamonds have been embargoed from producer countries until internationally acceptable certification schemes have been developed'. ⁶⁶

⁶¹ Security Council, *Final report of the Monitoring Mechanism on Angola Sanctions*, UN document S/2000/1225, 21 December 2000, para. 229.

⁶² Security Council, *Report of the Panel of Experts pursuant to Security Council resolution 1343 (2001)*, paragraph 19, concerning Liberia, UN document S/2001/1015, 26 October 2001, para. 308; Security Council, *Report of the Panel of Experts appointed pursuant to Security Council resolution 1408 (2002)*, paragraph 16, concerning Liberia, UN document S/2002/1115, 25 October 2002, para. 101.

⁶³ Security Council, *Report of the Panel of Experts appointed pursuant to Security Council resolution 1408 (2002)*, paragraph 16, concerning Liberia, UN document S/2002/1115, 25 October 2002, para. 104.

⁶⁴ Security Council, *Report of the Panel of Experts pursuant to paragraph 22 of Security Council resolution 1521(2003) concerning Liberia*, UN document S/2004/396, 1 June 2004, para. 59.

⁶⁵ Security Council, *Report of the Panel of Experts appointed pursuant to Security Council resolution 1306 (2000)*, paragraph 19, in relation to Sierra Leone, UN document S/2000/1195, 20 December 2000, para. 260.

⁶⁶ Security Council, *Report of the Panel of Experts appointed pursuant to Security Council resolution 1306 (2000)*, paragraph 19, in relation to Sierra Leone, UN document S/2000/1195, 20 December 2000, para. 262.

International		
UN experts	Year	Recommendation
Sierra Leone	2000	'The World Customs Organization should be asked to share with the Security Council its views on creating adequate measures for better monitoring and detection of weapons and related <i>materiel</i> to non-State actors and countries under an arms embargo'. ⁶⁷
Somalia	2003	'National procedures should also be developed to control the issuance and scrutiny of end-user certificates'. ⁶⁸
Country-specific		
UN experts	Year	Recommendation
Côte d'Ivoire	2009	'The Group reiterates the importance of States taking appropriate measures to sensitize their relevant Government institutions to prevent the direct (and, in particular, the indirect) supply, sale or transfer of arms or any related materiel to Côte d'Ivoire, in pursuance of paragraph 7 of resolution 1572 (2004). In this respect, the Group advises all States to remain vigilant to the possibility that weapons, ammunition and related materiel, while transferred legally from one State to another, may be retransferred in violation of the arms embargo. Before transferring weapons, including surplus weapons, to a State in the region, the Group urges exporting States to consider carefully the willingness and ability of the recipient State to take all necessary measures to prevent illicit retransfer, including the authenticity of its end-user certificates'. ⁶⁹
Côte d'Ivoire	2012	'The Group urges the Ivorian authorities to ratify the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials. This should be considered a prerequisite for any lifting of the arms embargo, in order to provide further control of the purchase of small arms and light weapons'. ⁷⁰
Côte d'Ivoire	2012	'The Group recommends that, at the time of arrival of exempted arms and related materiel, as well as vehicles, in Côte d'Ivoire, the Integrated Embargo Monitoring Unit and/or the Group of Experts must proceed with the physical verification of items and related documentation before the recipient takes possession of the materials'. ⁷¹

⁶⁷ Security Council, *Report of the Panel of Experts appointed pursuant to Security Council resolution 1306 (2000)*, paragraph 19, in relation to Sierra Leone, UN document S/2000/1195, 20 December 2000, para. 266.

⁶⁸ Security Council, *Report of the Panel of Experts on Somalia pursuant to Security Council resolution 1425 (2002)*, UN document S/2003/223, 25 March 2003, para. 187, p. 49.

⁶⁹ Security Council, *Report of the Group of Experts on Côte d'Ivoire pursuant to Paragraph 11 of Security Council resolution 1842 (2008)*, UN document S/2009/188, 8 April 2009, para. 130.

⁷⁰ Security Council, *Final report of the Group of Experts on Côte d'Ivoire pursuant to Paragraph 14 of Security Council resolution 1980 (2011)*, UN document S/2012/196, 14 April 2012, para. 224.

⁷¹ Security Council, *Final report of the Group of Experts on Côte d'Ivoire pursuant to Paragraph 14 of Security Council resolution 1980 (2011)*, UN document S/2012/196, 14 April 2012, para. 226.

Country-specific		
UN experts	Year	Recommendation
Côte d'Ivoire	2012	'The Group recommends that Member States take all necessary measures to ensure that any sale, supply, financing, brokering, transit or delivery of vehicles for military use to Côte d'Ivoire be effected with the Committee's prior authorization, and in conformity with paragraph 9 of resolution 1980 (2011).' ⁷²
Côte d'Ivoire	2013; 2014	'The Group recommends that Member States encourage their national companies not to export military materiel subject to the sanctions regime to Côte d'Ivoire without having received confirmation for the notification and/or exemption process'. ⁷³
Liberia	2001	'[E]ach Member State that has procured or supplied arms on the basis of an end-user certificate mentioning the [specifically identified] companies [...] or individuals [...] conduct a thorough investigation on the actual delivery and end-use of the arms. The Panel recommends that the member States involved in any such transactions inform the other State, party to these transactions and inform the Security Council Committees on Sierra Leone and Liberia on the findings of their investigations'. ⁷⁴
Liberia	2008	'The Security Council should decide that States given exemptions to export weapons for purposes outlined in its resolution 1683 (2006) shall notify the Committee in advance of the consignment reaching the port of entry in Liberia so as to allow for such inspection to take place before the consignment is transferred into storage'. ⁷⁵
Libya	2013	'The Panel of Experts addresses the following recommendations to the Government of Libya: (a) Urgently assign a focal point structure through which all security assistance procurement should be channelled; (b) Ensure the use of end-user certificates for security equipment procured. The end user of the firearms categories should assume responsibility for receiving, storing, recording and distributing the equipment'. ⁷⁶

⁷² Security Council, *Final report of the Group of Experts on Côte d'Ivoire pursuant to Paragraph 14 of Security Council resolution 1980 (2011)*, UN document S/2012/196, 14 April 2012, para. 227.

⁷³ Security Council, *Final report of the Group of Experts on Côte d'Ivoire pursuant to Paragraph 16 of Security Council resolution 2045 (2012)*, UN document S/2013/228, 17 April 2013, para. 317. See also: Security Council, *Final report of the Group of Experts on Côte d'Ivoire pursuant to Paragraph 19 of Security Council resolution 2107(2013)*, UN document S/2014/266, 14 April 2014, para. 123.

⁷⁴ Security Council, *Report of the Panel of Experts pursuant to Security Council resolution 1343 (2001), paragraph 19, concerning Liberia*, UN document S/2001/1015, 26 October 2001, para. 307. Names and companies have been redacted from this table.

⁷⁵ Security Council, *Report of the Panel of Experts submitted pursuant to paragraph 1 of Security Council resolution 1819 (2008) concerning Liberia*, UN document S/2008/785, 17 December 2008, para. 216.

⁷⁶ Security Council, *Final report of the Panel of Experts Established pursuant to resolution 1973(2011) concerning Libya*, UN document S/2013/99, 9 March 2013, para. 282.

Country-specific		
UN experts	Year	Recommendation
Libya	2014	<p>'The Panel of Experts addresses the following recommendations to the Government of Libya to:</p> <p>(a) Identify as a matter of urgency the procurement procedures of ministries or agencies other than the Ministry of Defence that are currently in a position to procure lethal military materiel, and communicate to the Committee in a timely manner the relevant focal points in those institutions;</p> <p>(b) Keep the Committee up-to-date on the names and titles of the officials authorized to sign on behalf of the Military Procurement Department of the Ministry of Defence;</p> <p>(c) Include the end user in the arms procurement process and make its signature a requirement, in addition to the signature of the relevant arms procurement focal point from the respective institution:</p> <p>(i) For the Ministry of Defence, one signature from the Military Procurement Department and one from the Chief of Staff (or equivalent) of the precise end user entity (navy, air defence, air force, border control or ground forces);</p> <p>(ii) For other ministries or agencies that may procure lethal military materiel, one signature from the designated focal point for arms procurement (see above) and one from the head of the precise end user entity'.⁷⁷</p>
Libya	2014	<p>'The Panel of Experts addresses the following recommendations to Member States:</p> <p>(a) Those Member States intending to transfer lethal military materiel to Libya should give due consideration to the requirements laid out in implementation assistance notice No. 2 of the Committee and provide the Committee with all required documentation at the time of the initial notification of their intended transfer;</p> <p>(b) Remind private actors selling arms and related materiel, including sports shooting equipment, that the export to Libya of such items falls under the arms embargo, even if no export license is required under national laws;</p> <p>(c) Support the activities related to securing and managing Libyan stockpiles and ammunition storage areas, particularly the programmes and projects led by the Mine Action Service and its partners in Libya'.⁷⁸</p>
Libya	2015	<p>'To require prior approval by the Committee not only for the supply, sale or transfer of arms and related materiel, including related ammunition and spare parts, but also for the supply of non-lethal military equipment, and the provision of security-related training to Libya'.⁷⁹</p>

⁷⁷ Security Council, *Final report of the Panel of Experts Established pursuant to resolution 1973 (2011) concerning Libya*, UN document S/2014/106, 19 February 2014, para. 283.

⁷⁸ Security Council, *Final report of the Panel of Experts Established pursuant to resolution 1973 (2011) concerning Libya*, UN document S/2014/106, 19 February 2014, para. 285.

⁷⁹ Security Council, *Final report of the Panel of Experts Established pursuant to resolution 1973 (2011)*, UN document S/2015/128, 23 February 2015, para. 252, recommendation 8.

Country-specific		
UN experts	Year	Recommendation
Sierra Leone	2000	'Burkina Faso has recently recommended that the Security Council supervise a proposed mechanism that would monitor all arms imports into its territory, and their use, for a period of three years. The Panel endorses this proposal. The Panel also recommended that under such a mechanism, all imports of weapons and related <i>matériel</i> into Burkina Faso over the past five years be investigated. The Panel further recommends that any State having exported weapons during this period to Burkina Faso should investigate the actual end-use of these weapons, and report their findings to the Security Council and to the Programme for Coordination and Assistance for Security and Development (PCASED) established under the ECOWAS Moratorium'. ⁸⁰
Sudan	2006; 2007	'In its interim report to the Committee, the Panel recommended the development of an arms inventory as a way to assist in monitoring the implementation of the arms embargo. Under the Ceasefire Commission, there is a verification component which seeks to verify the positions and locations of the parties to the conflict. A verification component for the arms embargo could be added to this process. It is recommended that this measure, if accepted, should be undertaken as expeditiously as possible'. ⁸¹
Sudan	2006; 2007	'In the context of the present arms embargo, it is recommended that countries, which conduct trade in military goods and services with the Sudan implement a self-imposed requirement for end-use certification. The supplying State would request the Government of the Sudan to provide an end-use certificate, which would state the destination of the respective military goods and services. The Panel notes the potential risk that military goods and services exported to the Sudan may be diverted to the embargoed States of the Darfur. By insisting on end-use certification, the Sudan's trading partners could play a more active role in ensuring that military goods which originate from their ports are not diverted to Darfur. End-use certification could be more effective if these countries follow up with their own verification checks, to trace goods that are at risk of being diverted into Darfur'. ⁸²

⁸⁰ Security Council, *Report of the Panel of Experts appointed pursuant to Security Council resolution 1306 (2000), paragraph 19, in relation to Sierra Leone*, UN document S/2000/1195, 20 December 2000, para. 258.

⁸¹ Security Council, *Report of the Panel of Experts established pursuant to paragraph 3 of resolution 1591(2005) concerning the Sudan*, UN document S/2006/65, 30 January 2006, para. 135. See also: Security Council, *Second Report of the Panel of Experts established pursuant to paragraph 3 of resolution 1591(2005) concerning the Sudan*, UN document S/2006/250, 19 April 2006, para. 57; Security Council, *Report of the Panel of Experts established pursuant to resolution 1591(2005) concerning the Sudan prepared in accordance with paragraph 2 of resolution 1665 (2006)*, UN document S/2006/795, 3 October 2006, para. 90; Security Council, *Report of the Panel of Experts established pursuant to resolution 1591(2005) concerning the Sudan prepared in accordance with paragraph 2 of resolution 1713 (2006)*, UN document S/2007/584, 3 October 2007, para. 120.

⁸² Security Council, *Second Report of the Panel of Experts established pursuant to paragraph 3 of resolution 1591(2005) concerning the Sudan*, UN document S/2006/250, 19 April 2006, para. 61. See also: Security Council, *Report of the Panel of Experts established pursuant to resolution 1591(2005) concerning the Sudan prepared in accordance with paragraph 2 of resolution 1665 (2006)*, UN document S/2006/795, 3 October 2006, para. 91; Security Council, *Report of the Panel of Experts established pursuant to resolution 1591(2005) concerning the Sudan prepared in accordance with paragraph 2 of resolution 1713 (2006)*, UN document S/2007/584, 3 October 2007, para. 120.

Country-specific		
UN experts	Year	Recommendation
Sudan	2006; 2007	'The Panel also recommends that the Committee request Member States that trade with the Sudan to submit a prior notification to the Committee. This information would also assist the Panel to better monitor and notify Member States of goods that are reportedly diverted to Darfur'. ⁸³
Sudan	2006; 2007	'In its third report (S/2006/795, para. 91), the Panel recommended that countries which conduct trade in military goods and services with the Sudan implement a self-imposed requirement for end-use certification. The Panel reiterates this recommendation and recommends an enhancement to the proposed verification system for the end use of weapons exported to the Sudan in the form of: (a) The immediate voluntary cessation of sales of arms and related materiel to the Sudan by export countries where it can be proven that the end use of previous deliveries to the Government of the Sudan has violated the arms embargo; (b) The imposition of targeted sanctions on leaders within SAF [Sudanese Armed Forces] and the Ministry of Defence when arms and military equipment supplied with end-user certification have proven to have been subsequently used in Darfur'. ⁸⁴
Sudan	2011	'The Security Council should impose an obligation on any State selling or supplying military materiel to the Government of the Sudan or the Government of Chad, after the eventual lifting of the respective embargoes, to make the sale or supply of the materiel conditional on verifiable end-user and end-use documentation. Any such sale or supply should also be conditional on the exporting State notifying the Committee and providing it with full details of the export or transfer of materiel to either Government. The Security Council should impose these measures irrespective of whether or not it imposes an embargo in relation to the Government of the Sudan and/or the Government of Chad, as recommended in the two preceding paragraphs'. ⁸⁵
Sudan	2013	'Require that States exporting military aircraft to the Government of the Sudan incorporate an electronic tracking system in the platforms to ensure that they are not used in violation of resolution 1591 (2005). Furthermore, such exporting States must report any such violations to the Committee. They should also cease, after violation, to provide any technical support for those platforms and to provide new platforms to the Government of the Sudan'. ⁸⁶

⁸³ Security Council, *Second Report of the Panel of Experts established pursuant to paragraph 3 of resolution 1591(2005) concerning the Sudan*, UN document S/2006/250, 19 April 2006, para. 62. See also: Security Council, *Report of the Panel of Experts established pursuant to resolution 1591(2005) concerning the Sudan prepared in accordance with paragraph 2 of resolution 1665 (2006)*, UN document S/2006/795, 3 October 2006, para. 91; Security Council, *Report of the Panel of Experts established pursuant to resolution 1591(2005) concerning the Sudan prepared in accordance with paragraph 2 of resolution 1713 (2006)*, UN document S/2007/584, 3 October 2007, para. 120.

⁸⁴ Security Council, *Report of the Panel of Experts established pursuant to resolution 1591 (2005) concerning the Sudan*, UN document S/2008/647, 11 November 2008, para. 351.

⁸⁵ Security Council, *Report of the Panel of Experts on the Sudan Established pursuant to resolution 1591(2005)*, UN document S/2011/111, 8 March 2011, para. 206.

⁸⁶ Security Council, *Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)*, UN document S/2013/79, 12 February 2013, para. 195(b).

Country-specific		
UN experts	Year	Recommendation
Sudan	2013	'Consider whether there is a need for an additional layer of verification to be imposed upon exporting States, given that the arms embargo is limited to the five states of Darfur and that there are numerous examples of cases in which the Government of the Sudan has assured arms-exporting States that the equipment in question would not be used subsequently in Darfur. The Panel is of the view that there is such a need. Accordingly, the Panel further recommends that exporting States also be required to undertake physical verification of the presence of those assets on random dates thereafter; [and] Consider whether it might be appropriate for a United Nations body to offer to undertake the above-mentioned verification procedure'. ⁸⁷
Sudan	2014	'The Panel recommends that the Committee: Issue an implementation assistance notice that urges and encourages States not to sell or supply arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts, whether or not originating in their territories, to the Government of the Sudan unless: (i) The end-user certificate contains all the specific text [...] "We, the Ministry of Defence of the Government of the Sudan, hereby officially certify that the goods supplied or purchased under the auspices of this end-user certificate will not be physically transferred to Darfur or used on aircraft operating over the Darfur region in accordance with the provisions of paragraphs 7 and 8 of Security Council resolution 1556 (2005), paragraph 7 of Security Council resolution 1591 (2005) and paragraph 10 of Security Council resolution 1945 (2010), as updated in subsequent resolutions, unless approved in advance by the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan"; (ii) The end-user certificate contains a full description by model/make/type of materials being supplied, together with the appropriate serial, lot or batch number; (iii) The signature, full name, appointment and full contact details of the authorizing individual are clearly visible on the end-user certificate'. ⁸⁸
Sudan	2014	'The Panel recommends that the Committee: [...] Issue an implementation assistance notice that urges and encourages States not to sell or supply spare parts for the Antonov An-26, An-30 and An-32 types of aircraft, whether or not originating in their territories, to the Government of the Sudan unless an end-user certificate is supplied in accordance with the recommendations made in the implementation assistance notice concerning end-user certificates recommended above'. ⁸⁹

⁸⁷ Security Council, *Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)*, UN document S/2013/79, 12 February 2013, para. 195(c-d).

⁸⁸ Security Council, *Report of the Panel of Experts on the Sudan Established pursuant to resolution 1591 (2005)*, UN document S/2014/87, 11 February 2014, paras 68 and 242(a).

⁸⁹ Security Council, *Report of the Panel of Experts on the Sudan Established pursuant to resolution 1591 (2005)*, UN document S/2014/87, 11 February 2014, paras 68 and 242(b).

Country-specific		
UN experts	Year	Recommendation
Sudan	2014	'The Panel recommends to the Security Council that: [...] It specifically task the Panel with inspecting cargo prior to the unloading of Government aircraft at the point of delivery in Darfur and, consequently, it urge the Government to provide the Panel with unhindered access to undertake spot inspections, without prior notice'. ⁹⁰
Sudan	2014	'The Panel recommends to the Committee that: [...] It remind the Government of the Sudan of its responsibility under paragraph 3 (a) (v) of resolution 1591 (2005) to request approval from the Committee for the movement of military supplies and equipment into Darfur for internal security operations and strongly urge its full compliance in the future'. ⁹¹

⁹⁰ Security Council, *Report of the Panel of Experts on the Sudan Established pursuant to resolution 1591 (2005)*, UN document S/2015/31, 19 January 2015, para. 272(b).

⁹¹ Security Council, *Report of the Panel of Experts on the Sudan Established pursuant to resolution 1591 (2005)*, UN document S/2015/31, 19 January 2015, para. 273(b).

1.2. International calls to strengthen end use/r control systems

The findings and recommendations of the UN experts appointed to monitor UN arms embargoes provided a number of important discussion points for the Security Council and UNGA meetings convened to discuss UN sanctions, countries in conflict, small arms, and international peace and security issues more generally. This section traces the evolution of international calls to strengthen end use/r control systems since the end of the cold war using the following open source materials:

- Official records of Security Council meetings;
- Security Council presidential statements;
- Security Council resolutions;
- Official records of meetings of the First Committee of the UNGA;
- UNGA resolutions;
- Relevant reports of UN groups and panels of governmental experts (GGEs and PGEs);
- Reports of the United Nations Secretary-General on small arms;
- Meetings of the UN PoA;
- Preparatory materials and meetings of the ATT process.

An early example of calls in the UNGA to undertake measures to strengthen transfer controls to prevent diversion is contained in UN General Assembly resolution 46/36H on international arms transfers of 6 December 1991, which:

‘Urges Member States to ensure that they have in place an adequate body of laws and administrative machinery for regulating and monitoring effectively their transfer of arms, to strengthen or adopt strict measures for their enforcement, and to cooperate at the international, regional and subregional levels to harmonize, where appropriate, relevant laws, regulations and administrative procedures as well as their enforcement measures, with the goal of eradicating the illicit arms trade’.⁹²

The UNGA resolution also requested the convening of national, regional and international meetings and seminars to consider a range of issues relating to international arms transfers, including ‘the development of internationally harmonized laws and administrative procedures relating to official arms procurement and arms transfer policies’ and for the Disarmament Commission to consider including the issue of international arms transfers on its agenda.⁹³ The latter request led to deliberations in the Disarmament Commission on a set of guidelines for international arms transfers, which were presented in 1996.⁹⁴ The guidelines echoed the call in UNGA resolution 46/36H for States to ‘develop and enhance the application of compatible standards in their legislative and administrative procedures for regulating the export and import of arms’.⁹⁵ The guidelines provided recommendations for the establishment and

92 General Assembly, *General and complete disarmament: International arms transfer*, UN document A/RES/46/36H, 6 December 1991, para. 4.

93 General Assembly, *General and complete disarmament: International arms transfer*, UN document A/RES/46/36H, 6 December 1991, paras 8(c) and 10.

94 General Assembly, *Guidelines for international arms transfers in the context of general assembly resolution 46/36 H of 6 December 1991. Report of the Disarmament Commission*, UN document A/51/42, Annex 1, 22 May 1996, Annex 1, para. 26.

95 General Assembly, *Guidelines for international arms transfers in the context of general assembly resolution 46/36 H of 6 December 1991. Report of the Disarmament Commission*, UN document A/51/42, Annex 1, 22 May 1996, Annex 1, para. 36.

maintenance of national export and import licensing systems.⁹⁶ Of particular interest for this study was the recommendation that ‘a requirement by the exporter for import licences or verifiable end use/end user certificates for international arms transfers is an important measure to prevent unauthorized diversion’.⁹⁷ For the next decade, references to the use of authenticated and verifiable EUCs featured prominently in UN reports on small arms.

The report of the 1997 PGE on small arms endorsed the application of the UN guidelines and echoed the recommendations in those guidelines on effective transfer controls, but it did not explicitly recommend the utilization of verifiable EUCs.⁹⁸ A recommendation for the use of authenticated EUCs as a measure to ‘prevent unauthorized manufacture of and illicit trafficking in small arms and light weapons, or their diversion to unauthorized recipients’ was included in the 1999 GGE report on small arms.⁹⁹ Further, in 2007, the GGE on illicit brokering of SALW encouraged States to put in place measures to prevent the forgery and misuse of EUCs and to validate the authenticity of EUCs as well as international cooperation and information sharing to authenticate EUCs used to procure SALW.¹⁰⁰

The 2001 UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (9–20 July 2001) addressed the issue of utilizing transfer controls to prevent diversion. The Conference adopted the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA), which contained provisions that echoed the recommendations of UN guidelines on transfer controls.¹⁰¹ In particular, the PoA recommended that States at the national level:

‘Put in place and implement adequate laws, regulations and administrative procedures to ensure the effective control over the export and transit of small arms and light weapons, including the use of authenticated end user certificates and effective legal and enforcement measures’.¹⁰²

As will be noted below, the PoA provides a framework that has not only established provisions for establishing and maintaining national end use/r control systems, but also facilitated the exchange of information on end use/r control systems, in particular end use/r control documentation (see Chapter 3).

96 General Assembly, *Guidelines for international arms transfers in the context of general assembly resolution 46/36 H of 6 December 1991. Report of the Disarmament Commission*, UN document A/51/42, Annex 1, 22 May 1996, Annex 1, para. 26.

97 General Assembly, *Guidelines for international arms transfers in the context of general assembly resolution 46/36 H of 6 December 1991. Report of the Disarmament Commission*, UN document A/51/42, Annex 1, 22 May 1996, Annex 1, para. 33.

98 General Assembly, 1997. *Report of the Panel of Governmental Experts on Small Arms*, UN document A/52/298, 27 August 1997, paras 79–80.

99 General Assembly, *Report of the Group of Governmental Experts on Small Arms*, UN document A/54/258, 19 August 1999, para. 113

100 General Assembly, *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, 30 August 2007, paras 63(v–vi) and 55.

101 General Assembly, *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, 20 July 2001.

102 General Assembly, *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, 20 July 2001, Section II, para. 12.

Shortly before the adoption of the PoA, the UNGA adopted by resolution 55/255 of 31 May 2001 the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (Firearms Protocol), which entered into force on 3 July 2005. Unlike the PoA, the Firearms Protocol does not apply to state-to-state transfers.¹⁰³ The Firearms Protocol obliges States Parties to 'establish and maintain an effective system of export and import licensing or authorization, as well as of measures on international transit, for the transfer of firearms, their parts and components and ammunition'.¹⁰⁴ Therefore, the Firearms Protocol contains similar language to that contained in the UN guidelines and the PoA. The Firearms Protocol does not explicitly refer to end use/r documentation, but does contain minimum requirements for the information to be contained in licences or authorizations and 'accompanying documentation', as well as for measures to be taken to authenticate, verify and validate 'licensing or authorization documents'.¹⁰⁵ In addition, the Firearms Protocol contains a provision for the importing State to confirm receipt of firearms, their parts and components or ammunition to the exporting State, upon request.¹⁰⁶ Therefore, two UN instruments adopted in 2001 recommended end use/r controls for SALW/firearms transfers.

The Secretary-General has issued eight reports on small arms over the last 16 years. The first report, issued in September 1999, which was prepared with input from States and consultations held in advance of the 2001 UN conference, noted that 'traffickers successfully use fraudulent documentation to move weapons'.¹⁰⁷ The second report, issued in 2002, contained a recommendation addressed to the Security Council which used similar language to that contained in the 1999 GGE report on small arms:

'Recommendation 9: The Council should encourage States that have not already done so to establish the necessary legislative or other measures, including the use of authenticated end user certificates, to ensure effective control over the export and transit of small arms and light weapons'.¹⁰⁸

This recommendation was repeated in the Secretary-General's reports on small arms of 2003 and 2006.¹⁰⁹ The issue of end use/r controls was a major focus of the 2008 Secretary-General's report on small arms, in which it was recommended that:

103 General Assembly, *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition*, adopted 31 May 2001, UN document A/RES/55/255, 8 June 2001, Article 4(2).

104 General Assembly, *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition*, adopted 31 May 2001, UN document A/RES/55/255, 8 June 2001, Article 10(1).

105 General Assembly, *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition*, adopted 31 May 2001, UN document A/RES/55/255, 8 June 2001, Articles 10(3) and 10(5).

106 General Assembly, *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition*, adopted 31 May 2001, UN document A/RES/55/255, 8 June 2001, Article 10(4).

107 General Assembly, *Report of the Secretary-General. Small arms*, UN document A/54/404, 24 September 1999, para. 36, p. 9.

108 Security Council, *Report of the Secretary-General. Small Arms*, UN document S/2002/1053, 20 September 2002, p. 9. The 2003 report contained the same recommendation. Security Council, *Report of the Secretary-General. Small Arms*, UN document S/2003/1217, 31 December 2003, para. 26, p. 6.

109 Security Council, *Report of the Secretary-General. Small Arms*, UN document S/2003/1217, 31 December 2003, para. 26, p. 6; Security Council, *Report of the Secretary-General. Small Arms*, UN document S/2006/109, 17 February 2006, p. 13.

'The Security Council may wish to consider encouraging States to significantly enhance their efforts to verify end user certificates. They should develop an international framework for the authentication, reconciliation and standardization of end user certificates'.¹¹⁰

The Secretary-General's reports on small arms of 2011, 2013 and 2015 lack a specific recommendation relating to EUCs, which may be due to expectations that the ATT negotiations will address 'the recommended improvement of end use verification by States'.¹¹¹

The Security Council considered end use/r controls, and documentation in particular, in meetings relating to the findings and recommendations of experts appointed by the Secretary-General to monitor implementation of UN sanctions. The Security Council also discussed end use/r controls and documentation in the context of meetings on small arms, in particular discussions of the findings and recommendations of the Secretary-General's reports on small arms. For example, the Presidential Statement issued after the October 2002 Security Council meeting on small arms reflected recommendation 9 of the Secretary-General's report, urging States to establish effective national EUC systems.¹¹² The language contained in the 2005 Security Council Presidential Statement on small arms echoed recommendation 9 of the Secretary-General's reports on small arms of 2002 and 2003:

'The Security Council further encourages Member States that have not already done so to establish the necessary legislative or other measures, including the use of authenticated end user certificates, to ensure effective control over the export and transit of small arms and light weapons'.¹¹³

The issue has not featured prominently in subsequent Presidential Statements and is not explicitly contained in either Security Council resolution 2117 of 26 September 2013 or resolution 2220 of 22 May 2015 on small arms.¹¹⁴ However, the issue of standardized EUCs, and their authentication and verification, has been frequently referenced by States in Security Council debates on small arms. During the 13 meetings on small arms that have taken place between 2001 and 2015, 37 States have called for more work to be undertaken to implement the Security Council recommendation on EUC of 2002 and 2005 or other EUC-related measures.¹¹⁵ In addition, States speaking on behalf of the

110 Security Council, *Report of the Secretary-General. Small Arms*, UN document S/2008/258, 17 April 2008, recommendation 11, p. 19.

111 Security Council, *Report of the Secretary-General. Small Arms*, UN document S/2011/255, 5 April 2011, para. 76, p. 16.

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

113 Security Council, *Statement by the President of the Security Council*, UN document S/PRST/2005/7, 17 February 2005, p. 2.

114 Security Council, UN document S/RES/2117 (2013), 26 September 2013; Security Council, UN document S/RES/2220 (2015), 22 May 2015.

115 The following States have been recorded as intervening in a Security Council meeting on 'small arms' to call for attention to be paid towards the use of EUCs: Algeria (2004), Angola (2004), Argentina (2002; 2005), Australia (2005), Austria (2006), Belgium (2015), Benin (2004), Brazil (2008), Burkina Faso (2008), China (2015), Colombia (2004; 2006), Congo (2006), Costa Rica (2004), Denmark (2005), France (2004), Ghana (2006), Greece (2005; 2006), Guyana (2006), India (2002; 2004; 2005), Ireland (2002), Italy (2008), Iraq (2015), Liechtenstein (2008), Luxembourg (2005), Mauritius (2002), Mexico (2005; 2008), Nigeria (2003; 2010), Peru (2008), Republic of Korea (2005; 2006), Romania (2015), Russian Federation (2002; 2003), Serbia (2015), South Africa (2004), Spain (2004; 2015), United Kingdom (2002), United Republic of Tanzania (2005), United States of America (2004; 2005; 2008; 2015). In addition, several of

African Group, Caribbean Community (CARICOM), the EU and States of the Common Market of the South (MERCOSUR) in the UNGA First Committee between 2003 and 2013 have echoed the recommendations contained in the UN guidelines, reports of GGEs and the Secretary-General, and the Security Council Presidential Statements on the use of authenticated end use/r documentation subject to authentication and verification as part of an effective transfer control system to address diversion.¹¹⁶ Côte d'Ivoire and Indonesia have indicated in the UNGA First Committee that the PoA includes provisions on strengthening end use/r controls,¹¹⁷ while the Russian Federation has called for the PoA framework to be better utilized to address issues relating to end use/r documentation.¹¹⁸ In its statement in the UNGA First Committee in October 2013, Brazil welcomed the adoption of the ATT but stated that it believed that the ATT would have been:

'stronger and more effective if it had established a clear prohibition on arms transfers to unauthorized non-State actors and required end use/end user certificates for all transfers, and if ammunition had been unequivocally included in the Treaty's scope. We look forward to filling those gaps in due time, within the review framework provided by the ATT itself'.¹¹⁹

Therefore, UN instruments have promoted the issue of utilizing end use/r control systems and documentation to address the diversion of SALW into the illicit arms

these States spoke on behalf of groups of States such as the EU and the Rio Group. Security Council, *Small arms. 4623rd meeting of the Security Council*, UN document S.PV.4623, 11 October 2002; Security Council, *Small arms. 4623rd meeting of the Security Council*, UN document S.PV.4623 (Resumption 1), 11 October 2002; Security Council, *Small arms. 4720th meeting of the Security Council*, UN document S.PV.4720, 18 March 2003; Security Council, *Small arms. 4896th meeting of the Security Council*, UN document S.PV.4896, 19 January 2004; Security Council, *Small arms. 4896th meeting of the Security Council*, UN document S.PV.4896 (Resumption 1), 19 January 2004; Security Council, *Small arms. 5127th meeting of the Security Council*, UN document S.PV.5127, 17 February 2005; Security Council, *Small arms. 5127th meeting of the Security Council*, UN document S.PV.5127 (Resumption 1), 17 February 2005; Security Council, *Small arms. 5390th meeting of the Security Council*, UN document S.PV.5390, 20 March 2006; Security Council, *Small arms. 5390th meeting of the Security Council*, UN document S.PV.5390 (Resumption 1), 20 March 2006; Security Council, *Small arms. 5881st meeting of the Security Council*, UN document S.PV.5881, 30 April 2008; Security Council, *Small arms. 5881st meeting of the Security Council*, UN document S.PV.5881 (Resumption 1), 30 April 2008; Security Council, *Small arms. 6288th meeting of the Security Council*, UN document S.PV.6288, 19 March 2010; Security Council, *Small arms. 7442nd meeting of the Security Council*, UN document S.PV.7442, 13 May 2015.

116 For examples of the statements regarding end use/r control systems and documentation on behalf of regional groupings and organizations, see: Africa Group (General Assembly 58th session, First Committee 13th meeting, UN document A/C.1/58/PV.13, 22 October 2003, p. 8); CARICOM (General Assembly 58th session, First Committee 5th meeting, UN document A/C.1/58/PV.5, 9 October 2003, p. 3; General Assembly 59th session, First Committee 4th meeting, UN document A/C.1/59/PV.4, 7 October 2004, p. 3); EU (General Assembly 58th session, First Committee 6th meeting, UN document A/C.1/58/PV.2, 6 October 2003, p. 10; General Assembly 58th session, First Committee 23rd meeting, UN document A/C.1/58/PV.23, 6 November 2003, p. 2; General Assembly 59th session, First Committee 12th meeting, UN document A/C.1/59/PV.12, 20 October 2004, p. 9; General Assembly 60th session, First Committee 11th meeting, UN document A/C.1/60/PV.11, 13 October 2005, p. 3); and MERCOSUR (General Assembly 63rd session, First Committee 12th meeting, UN document A/C.1/63/PV.12, 20 October 2008, p. 18; General Assembly 65th session, First Committee 13th meeting, UN document A/C.1/65/PV.13, 18 October 2010, p. 6; General Assembly 66th session, First Committee 16th meeting, UN document A/C.1/66/PV.16, 19 October 2011, p. 7).

117 General Assembly 66th session, First Committee 16th meeting, UN document A/C.1/66/PV.16, 19 October 2011, p. 16; General Assembly 65th session, First Committee 23rd meeting, UN document A/C.1/65/PV.23, 29 October 2010, p. 14.

118 General Assembly 63rd session, First Committee 14th meeting, UN document A/C.1/63/PV.14, 21 October 2008, p. 3.

119 General Assembly 68th session, First Committee 5th meeting, UN document A/C.1/68/PV.59, October 2013, p. 23.

trade during the late 1990s and early 2000s. More recently, emphasis has increasingly been placed on the ATT as a mechanism for further addressing the issue. This is perhaps not unsurprising given that in response to the request for States' views on the feasibility, scope and parameters of the ATT, 20 of the 101 States that provided views to the Secretary-General during 2007–2008 made explicit reference to the importance of EUCs, end use controls and/or end use verification for effective export controls as part of an ATT framework.¹²⁰ China, Egypt, Norway and Germany also made reference to the importance of EUC and mechanisms for exchanging and verifying information on end use/rs in their national positions on the ATT, submitted in 2011.¹²¹ Norway explicitly stated that the ATT should contain provisions on end use/r documentation.¹²² Therefore, in the preparations for the development of the ATT, and in line with the expectations of the 2008 Secretary-General's report on small arms, it was expected that the ATT would address end use/r controls and documentation.

The ATT contains one explicit reference to end use/r documentation. Article 8(1) obliges an ATT State Party to take measures to:

‘ensure that appropriate and relevant information is provided, upon request, pursuant to its national laws, to the exporting State Party, to assist the exporting State Party in conducting its national export assessment under Article 7. Such measures may include end use or end user documentation’.¹²³

The information contained in such end use/r documentation is referenced in Article 7(1) regarding the export assessment to be undertaken by exporting State authorities.¹²⁴ In addition, the ATT's provisions on diversion in Article 11 include consideration being given to measures to prevent diversions, including ‘examining parties involved in the export, requiring additional documentation, certificates, assurances, not authorizing the export or other appropriate measures’ and the exchange of information between importing, transit, trans-shipment and exporting States Parties to mitigate the risk of diversion.¹²⁵ Such information could include not only that contained within end use/r documentation, but also information on measures to address diversion, such as information on illicit actors, trafficking routes and corrupt practices.¹²⁶ Therefore, the ATT potentially represents another framework within which recommendations on the use of authenticated and verifiable end use/r documentation as part of end use/r

120 Argentina, Australia, Croatia, Denmark, El Salvador, Germany, Greece, India, Italy, Jamaica, Mali, Republic of Korea, Romania, Senegal, Serbia, Seychelles, South Africa, Sweden, Togo and Turkey. General Assembly, *Report of the Secretary-General. Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms*, UN document A/62/278 (Part I), 17 August 2007; General Assembly, *Report of the Secretary-General. Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms*, UN document A/62/278 (Part II), 17 August 2007.

121 General Assembly, *Report of the Secretary-General. The arms trade treaty*, UN document A/66/166, 20 July 2011; General Assembly, *Report of the Secretary-General. The arms trade treaty*, UN document A/66/166/Add.1, 19 September 2011.

122 General Assembly, *Report of the Secretary-General. The arms trade treaty*, UN document A/66/166, 20 July 2011, p. 17.

123 General Assembly, *Arms Trade Treaty Annex to the Draft Decision Submitted by the President of the Final Conference*, UN document A/CONF.217/2013/L.3, 27 March 2013, Article 8(1).

124 General Assembly, *Arms Trade Treaty Annex to the Draft Decision Submitted by the President of the Final Conference*, UN document A/CONF.217/2013/L.3, 27 March 2013, Article 7(1).

125 General Assembly, *Arms Trade Treaty Annex to the Draft Decision Submitted by the President of the Final Conference*, UN document A/CONF.217/2013/L.3, 27 March 2013, Articles 11(1), 11(2) and 11(3).

126 General Assembly, *Arms Trade Treaty Annex to the Draft Decision Submitted by the President of the Final Conference*, UN document A/CONF.217/2013/L.3, 27 March 2013, Articles 11(5), 13(2), 15(4) and 15(6).

control in an effective national transfer control system to address diversion are likely to be discussed.

1.3. Calls for international processes to strengthen end use/r control systems

In addition to international calls for consistency in the form, content and scrutiny of end use/r documentation issued and requested at the national level, there has been significant consideration of steps that could be taken internationally to increase the effectiveness of end use/r control systems. This study highlights three recommendations that have been made between 1999 and 2015 by UN Member States, the UN Secretary-General and/or national experts appointed by the Secretary-General to convene an international process to explore:

- An international standardized end user certificate;
- An international framework for exchanging information to assist in the authentication and verification of end user certificates; and
- An international database of entities that violate end use/r assurances.

In addition, this section will examine some of the calls to consider at least one of these measures at a regional or subregional level.

Overall, this section notes that the focus on end use/r control systems was strongly influenced by the findings and recommendations of UN experts mandated by the Secretary-General to monitor implementation of UN sanctions, in particular arms embargoes imposed on UNITA, Liberia, Sierra Leone and the Taliban. UN Member State calls arguably reached their peak in the first half of the first decade of the twenty-first century, while the focus on end use/r controls has since faded from UN meetings and documents on small arms. This could be linked to an expectation that the issue of end use/r control systems would be addressed in the context of the ATT.¹²⁷

1.3.1. Calls for an international standardized end user certificate

Analysis of some of the cases above highlighted the potential benefits of an international standardized EUC in addressing forgeries and minimum required information.¹²⁸ While recognizing that this measure alone will not prevent diversion, it has been promoted as one measure that could contribute to such efforts. In reviewing records of meetings of the Security Council and UNGA on small arms and UN arms embargoes, it has been difficult to discern strong opposition to the proposal to establish a process to develop an international standardized EUC. Yet, as will be demonstrated in this section, the proposal has been repeated in UN forums since 1999 with little sign to date of such a process being established.

127 Security Council, *Report of the Secretary-General. Small Arms*, UN document S/2011/255, 5 April 2011, para. 76.

128 Amnesty International, *Dead on Time—Arms Transportation, Brokering and the Threat to Human Rights*, London, 10 May 2006, p. 71; Hugh Griffiths and Adrian Wilkinson, *Guns, Planes and Ships: Identification and Disruption of Clandestine Arms Transfers*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, August 2007, p. 27.

The first clear recommendation for an international standardization of the form and content of EUCs in a UN document can be found in the report of the Group of Experts on Small Arms, which was published in August 1999.¹²⁹ In the same year, South Africa recommended to the UN Secretary-General the development of an 'international standard for end user certificates', in connection with discussions on the role of the UN in collecting and disseminating information on the illicit small arms trade.¹³⁰ The September 1999 report of the Secretary-General on small arms also noted that the issue of the UN playing a role in 'developing practices and procedures to deter counterfeiting and forgery of end user certificates' had been raised during regional consultations held in Peru and Togo in 1999.¹³¹

The panels, groups and committees of experts appointed to monitor UN sanctions, in particular arms embargoes, were strong proponents of the international standardization of EUCs at the turn of the millennium. For example, in its report of May 2001, the Committee of Experts monitoring the arms embargo against the Taliban recommended that the standardization of EUCs at the national level should be coordinated with 'similar measures at regional and international levels'.¹³² A strong and clear recommendation for the international standardization of EUCs appeared in the October 2001 report of the Panel of Experts appointed to monitor sanctions imposed on Liberia. The Panel recommended the urgent:

'establishment of a United Nations working group to develop the modalities for a standardized End User Certificate that would include the name, address and telephone number of the signing authority for the Certificate, and name, address, telephone number and arms trading licence of the broker(s) involved'.¹³³

The recommendation for a working group was explicitly supported in the Security Council meeting on Liberian sanctions in November 2001 by representatives from Bangladesh, Belgium on behalf of the EU, Ireland, Jamaica and Ukraine.¹³⁴

Several days after the publication of the UN experts' report on Liberia of October 2002, which repeated its recommendation to examine possibilities for the development of a standardized EUC,¹³⁵ the Presidential Statement of the Security Council on small arms recommended 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'.¹³⁶ The issue of a standardized EUC was not an explicit

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

130 'South Africa'. General Assembly, *Report of the Secretary-General. Small arms*, UN document A/54/404, 24 September 1999, p. 30.

131 General Assembly, *Report of the Secretary-General. Small arms*, UN document A/54/404, 24 September 1999, para. 54.

132 Security Council, *Report of the Committee of Experts appointed pursuant to Security Council resolution 1333 (2000), paragraph 15 (a), regarding the monitoring of the arms embargo against the Taliban and the closure of terrorist training camps in the Taliban-held areas of Afghanistan*, UN document S/2001/511, 22 May 2001, para. 35.

133 Security Council, *Report of the Panel of Experts pursuant to Security Council resolution 1343 (2001), Paragraph 19, concerning Liberia*, UN document S/2001/1015, 26 October 2001, para. 27.

134 Security Council, *The situation in Liberia. 4405th meeting of the Security Council*, UN document S.PV.4405, 5 November 2001.

135 Security Council, *Report of the Panel of Experts appointed pursuant to Security Council resolution 1408 (2002), paragraph 16, concerning Liberia*, UN document S/2002/1115, 25 October 2002, para 101.

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

focus of the Security Council meetings of October 2002 on small arms, although the representative of the United Kingdom (UK) was 'sympathetic to the call for some standardization of end user certificates'.¹³⁷ Nevertheless, the recommendation of the October 2002 Presidential Statement on small arms to develop standardized EUCs at the regional and global levels continued to be promoted by UN Member States in meetings of the Security Council and UNGA in relation to small arms controls. For example, four States from Africa (Benin,¹³⁸ Ghana,¹³⁹ Nigeria¹⁴⁰ and South Africa¹⁴¹), one from the Americas (Peru¹⁴²) and one from Europe (Liechtenstein¹⁴³) followed up on the recommendation of the Security Council Presidential Statement of 2002 to examine the standardization of EUC in the Security Council meetings on small arms during 2004–2010. Similar calls were also made in UNGA First Committee meetings during the period 2003–2011 by the Africa group,¹⁴⁴ EU¹⁴⁵ and MERCOSUR.¹⁴⁶

One potential UN forum to examine the feasibility of standardization of EUCs, or the modalities of end use/r control systems more broadly, is the PoA. The president of the 2006 UN Conference to Review Progress Made in 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 (RevCon) made a proposal 'to request the Secretary-General of the United Nations to undertake a United Nations study aimed at developing common understandings on basic issues and options related to the establishment of common standards and reliable systems for end user certification'.¹⁴⁷ The Small Arms Survey noted that although the issue of end user certification was uncontroversial and broadly accepted, the RevCon did not conclude and adopt a final report and therefore a proposal for a study on EUC was not forwarded to the UN Secretary-General.¹⁴⁸

137 Security Council, *Small arms. 4623rd meeting of the Security Council*, UN document S.PV.4623, 11 October 2002, p. 20.

138 Security Council, *Small arms. 4896th meeting of the Security Council*, UN document S.PV.4896, 19 January 2004, p. 3.

139 Security Council, *Small arms. 5390th meeting of the Security Council*, UN document S.PV.5390, 20 March 2006, p. 21.

140 Security Council, *Small arms. 6288th meeting of the Security Council*, UN document S.PV.6288, 19 March 2010, p. 9.

141 Security Council, *Small arms. 4896th meeting of the Security Council*, UN document S.PV.4896, 19 January 2004, pp. 28–29.

142 Security Council, *Small arms. 5881st meeting of the Security Council*, UN document S.PV.5881 (Resumption 1), 30 April 2008, p. 10.

143 Security Council, *Small arms. 5881st meeting of the Security Council*, UN document S.PV.5881 (Resumption 1), 30 April 2008, p. 18.

144 General Assembly 58th session, First Committee 13th meeting, UN document A/C.1/58/PV.13, 22 October 2003, p. 8.

145 General Assembly 58th session, First Committee 6th meeting, UN document A/C.1/58/PV.2, 6 October 2003, p. 10; General Assembly 59th session, First Committee 12th meeting, UN document A/C.1/59/PV.12, 20 October, 2004, p. 9; General Assembly 60th session, First Committee 11th meeting, UN document A/C.1/60/PV.11, 13 October 2005, p. 3.

146 General Assembly 63rd session, First Committee 12th meeting, UN document A/C.1/63/PV.12, 20 October 2008, p. 18; General Assembly 66th session, First Committee 16th meeting, UN document A/C.1/66/PV.16, 19 October 2011, p. 7.

147 General Assembly. *Working paper submitted by the President. Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects: A strategy for further implementation*, United Nations Conference to Review Progress Made in 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, New York, 26 June–7 July 2006, UN document A/CONF.192/2006/RC/WP.4, 29 June 2006, Section II, para. 31, p. 6.

148 Glenn McDonald, Sahar Hasan and Chris Stevenson, "Back to Basics. Transfer Controls in Global Perspective", in *Small Arms Survey 2007: Guns and the City*, Cambridge University Press, 2007, p. 123.

Nevertheless, the 2008 UN Secretary-General report on small arms devoted considerable attention to the issue of international harmonization in relation to EUC, drawing heavily upon the 2008 Small Arms Survey Yearbook.¹⁴⁹ In particular, the report noted that there had been progress on end user certification and verification in regional instruments, and also in various forums that focused on increased end user verification and monitoring of international transfers of MANPADS.¹⁵⁰ The Secretary-General therefore recommended the development 'of an international framework for authentication, reconciliation and standardization of end user certificates'.¹⁵¹ The recommendation has not been reproduced in subsequent UN Secretary-General's reports on small arms, although as noted above, UN Member States have continued to note that this could be an area for further consideration at the international level via the ATT.

Seven of 101 States that provided views on the feasibility, scope and parameters of the ATT called for standardized formats or common minimum standards for information to be contained in EUCs to be developed within the ATT framework.¹⁵² Several States provided specific recommendations on how the ATT could contribute to the development of standardized end use/r documentation. Serbia, for example recommended that:

'To the extent possible, the arms trade treaty should address concerns related to end use misuse by paying due attention to the introduction of a binding standardized form to be printed out on special paper containing a hologram for all kinds of important documents required for the import, export or transfer of conventional arms, such as end user certificates, international import certificates, delivery verification certificates and other relevant certificates. Uniformity and compatibility of these documents should ensure the necessary level of credibility of the governmental authorities responsible for action in this field, even in States not having a sufficiently developed legislation and institutional capacity'.¹⁵³

Mali and Togo provided a list of the elements that both States regarded as representing the minimum necessary information to be contained in an EUC.¹⁵⁴ Therefore, deliberations and negotiations leading towards the adoption of the ATT provided an outlet for several proposals for standardized end use/r documentation. Recommendations for international cooperation, and an international framework for exchanging information for authenticating end use/r documentation, were also promoted within deliberations

149 Security Council, *Report of the Secretary-General. Small Arms*, UN document S/2008/258, 17 April 2008, pp. 5-6.

150 Security Council, *Report of the Secretary-General. Small Arms*, UN document S/2008/258, 17 April 2008, para. 35, p. 10, and para. 74, p. 19.

151 Security Council, *Report of the Secretary-General. Small Arms*, UN document S/2008/258, 17 April 2008, recommendation 11, p. 19.

152 Australia, Croatia, Italy, Mali, Serbia, Seychelles, and Togo. General Assembly, *Report of the Secretary-General. Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms*, UN document A/62/278 (Part I), 17 August 2007; General Assembly, *Report of the Secretary-General. Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms*, UN document A/62/278 (Part II), 17 August 2007.

153 General Assembly, *Report of the Secretary-General. Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms*, UN document A/62/278 (Part II), 17 August 2007, p. 188.

154 General Assembly, *Report of the Secretary-General. Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms*, UN document A/62/278 (Part II), 17 August 2007, pp. 127 and 214.

on the ATT. It is still too early to assess whether such proposals will be examined in the context of the ATT, but many of the States that proposed such initiatives are States Parties to the ATT and therefore have an opportunity to make such proposals in future Conferences of States Parties to the ATT.

1.3.2. Calls for an international framework for exchanging information to assist in the authentication and verification of end user certificates

The calls for examining the possibility of developing standardized end use/r documentation are not made in isolation but usually as part of a call for strengthening national end use/r control systems. The recommendation for a standardized EUC is often accompanied by a recommendation for an international framework or mechanism for exchanging information to assist in the authentication and verification of EUCs; most notably in the Security Council Presidential Statement of October 2002.¹⁵⁵ This subsection focuses only on proposals for a framework for exchanging information to assist in the authentication and verification of EUCs, and instances when States have expressed support for such proposals. It is possible to consider general calls for international cooperation and information exchange to prevent diversion, including EUC-related cooperation and exchanges even if not expressly stated. However, such generic calls are not included in this section.

In the context of a recommendation on addressing challenges faced by some States in authenticating, reconciling and verifying end use/r documentation, the Panel of Experts on violations of the Security Council sanctions against UNITA called for consideration to be given to international cooperation and assistance to enable States to carry out end user verifications.¹⁵⁶ One can infer from the Panel and the Monitoring Mechanism that if certain export control agencies in Central and Eastern Europe had checked with counterparts in the States named as end users in fraudulent end use documentation, then the forgeries would have been detected and arms would not have been diverted to UNITA. The final report of the Monitoring Mechanism on Angola Sanctions recommended that:

‘Governments should consider putting in place systems to allow for the speedy exchange of information and verification of the validity of end user certificates through the designation of a contact authority in the arms exporting and importing side or by any other way deemed appropriate’.¹⁵⁷

This proposal was supported by several of the Security Council members when discussed in February 2001, with representatives of Mali, Norway, Togo and Ukraine explicitly expressing support for a mechanism to facilitate international cooperation to authenticate and verify EUCs.¹⁵⁸ A month earlier, in the Security Council meeting on Sierra Leone in early January 2001, the UK also encouraged exporting States to

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

156 Security Council, *Report of the Panel of Experts on Violations of Security Council Sanctions against UNITA*, UN document S/2000/203, 10 March 2000, para. 55, p. 21.

157 Security Council, *Final report of the Monitoring Mechanism on Angola Sanctions*, UN document S/2000/1225, 21 December 2000, para. 229, p. 52.

158 Security Council, *The situation in Angola. 4283rd meeting of the Security Council*, UN document S.PV.4283, 22 February 2001.

query ‘suspect end user certificates with the countries concerned’.¹⁵⁹ In the October 2002 meeting on small arms the UK stated that it ‘would be prepared to consider exchanging information on a more systematic, case-by-case, bilateral basis with others’ on EUCs.¹⁶⁰ It therefore fell short of the presidential call for the development of ‘an information exchange and verification mechanism’.

Two sanctions panels reporting in 2003 proposed that States should eschew bilateral and ad hoc approaches to cooperation and information sharing and consider establishing international mechanisms to support the authentication of EUCs. First, the April 2003 report of the Liberian Panel followed up its proposals for standardizing EUCs with a recommendation for States to establish ‘an international mechanism for harmonizing and verifying all end user certificates for weapons’.¹⁶¹

Second, the March 2003 report of the Panel of Experts on Somalia proposed that ‘the United Nations create an Internet-based register of government officials—including examples of their certified signatures—who are authorized to sign end user certificates’.¹⁶² These recommendations were not discussed in detail in the Security Council during 2003, but representatives of Algeria and Colombia raised the issue of creating mechanisms for information exchange and verification in relation to EUCs during the January 2004 Security Council meeting on small arms.¹⁶³ It was also reported that some States had shared copies of the EUC with the UN Department for Disarmament Affairs (UNDDA) during this time in connection with reporting on implementation of the PoA.¹⁶⁴ The copies were not made publicly available, in contrast to legislation that States provided to the UNDDA. However, as will be shown in Chapter 3, States have provided information on their end use/r control systems when reporting on implementation of the PoA, and also in response to UNGA resolutions on national legislation on the transfer of arms, military equipment and dual-use goods and technology.¹⁶⁵

The 2006 PoA RevCon president also encouraged States to:

‘increase cooperation and the exchange of information to prevent the use of unauthenticated end use documentation, including assistance upon request, in monitoring, developing and strengthening effective end user certification processes

159 Security Council, *The situation in Sierra Leone. 4264th meeting of the Security Council*, UN document S.PV.4264, 25 January 2001, p. 5.

160 Security Council, *Small arms. 4623rd meeting of the Security Council*, UN document S.PV.4623, 11 October 2002.

161 Security Council, *Report of the Panel of Experts appointed pursuant to paragraph 4 of Security Council resolution 1458 (2003) concerning Liberia*, UN document S/2003/498, 24 April 2003, para. 10, p. 8.

162 Security Council, *Report of the Panel of Experts on Somalia appointed pursuant to Security Council resolution 1425 (2002)*, UN document S/2003/223, 25 March 2003, para. 187, p. 49.

163 Security Council, *Small arms. 4896th meeting of the Security Council*, UN document S.PV.4896, 19 January 2004, p. 30; Security Council, *Small arms. 4896th meeting of the Security Council*, UN document S.PV.4896 (Resumption 1), 19 January 2004, p. 18.

164 Security Council, *Report of the Secretary-General. Small Arms*, UN document S/2003/1217, 31 December 2003, paras 26 and 44, pp. 7 and 11. UNDDA today is the United Nations Office for Disarmament Affairs (UNODA).

165 General Assembly resolutions 57/66 of 22 November 2002, 58/42 of 8 December 2003, 59/66 of 3 December 2004, 60/69 of 8 December 2005, 62/26 of 5 December 2007, 64/40 of 2 December 2009, 66/41 of 2 December 2011, and 68/44 of 5 December 2013.

and investigations and prosecutions of import and export control violations in accordance with their respective national constitutional and legal systems'.¹⁶⁶

The 2007 GGE on illicit brokering also encouraged information sharing and cooperation to authenticate EUCs supplied by brokers in order to identify forgeries and falsifications, thus preventing diversion.¹⁶⁷ As noted above, the 2008 Secretary-General's report on small arms followed up on such thinking with a recommendation for the development of 'an international framework for authentication, reconciliation and standardization of end user certificates'.¹⁶⁸ Brazil, Liechtenstein and Mexico explicitly supported this recommendation when discussing the report in the Security Council meeting on small arms in 2008.¹⁶⁹ However, as with the proposal for standardizing EUCs, with which this recommendation was often linked, it is at this time that an explicit call for EUC information exchanges in UNGA and Security Council meetings that addressed small arms stopped.

As noted above, the issue of end use/r controls and documentation became less of a focus in UN discussions on small arms with the start of work on the ATT. And, just as consideration of proposals for standardized end use/r documentation shifted from small arms discussions to those on the ATT, so too did consideration of an intergovernmental information exchange for authenticating and verifying end use/r documentation to be developed over time in the ATT framework. Croatia declared, in regard to the feasibility, scope and parameters of an ATT, that '[i]t is necessary to set up a universal end user confirmation and secure the necessary database on the authority of the Member State in charge of issuing permits, as a security measure against undesired re-export and control of the flow of arms, to prevent them from falling into the hands of terrorists'.¹⁷⁰ As noted in Section 1.1, UN experts have made similar recommendations for States emerging from conflict with limited capacity and infrastructure, which are not able to exercise full control over their entire territory.

1.3.3. Calls for an international database of entities that violate end use/r assurances

During 2000–2001, the reports of experts monitoring three UN sanctions regimes recommended the sharing of information on entities that violate arms embargoes, including EUC provisions in particular. First, in its report of December 2000, the Panel of Experts on Sierra Leone recommended that the development of 'a common standard and the management of a database on significant cases of smuggling and

¹⁶⁶ General Assembly, *Working Paper submitted by the President. Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects: A Strategy for Further Implementation*, United Nations Conference to Review Progress Made in 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, New York, 26 June–7 July 2006, UN document A/CONF.192/2006/RC/WP.4, 29 June 2006, Section III, para. 5, pp. 7–8.

¹⁶⁷ General Assembly, *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, 30 August 2007, para. 55, p. 16.

¹⁶⁸ Security Council, *Report of the Secretary-General. Small arms*, UN document S/2008/258, 17 April 2008, recommendation 11, p. 19.

¹⁶⁹ Security Council, *Small arms. 5881st meeting of the Security Council*, UN document S.PV.5881, 30 April 2008, pp. 18, 21 and 29.

¹⁷⁰ General Assembly, *Report of the Secretary General. Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms*, UN document A/62/278 (Part I), 17 August 2007, p. 10.

sanctions busting in the region could be developed by Interpol'.¹⁷¹ It also called for the 'naming and shaming' of entities that violate UN arms embargoes, with consideration also for the option of 'placing an embargo on weapons exports from specific producer countries, just as diamonds have been embargoed from producer countries, until internationally acceptable certification schemes have been developed'.¹⁷² During the Security Council meeting of January 2001 that discussed the Panel's report, these recommendations were not taken up.

Second, the May 2001 report of the Committee of Experts on the Taliban recommended that an 'important means of enforcing an arms embargo is to publish information concerning violations of end user certificate provisions, including names of companies, countries and individuals involved, as well as cases of unauthorized re-transfer of weapons to third parties'.¹⁷³ In the June 2001 Security Council meeting on Afghanistan, many States considered that the Committee's recommendations on arms should be discussed in the context of the upcoming July 2001 UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, although the representative of Mauritius took specific note of the recommendation for publishing information on EUC violations.¹⁷⁴

Third, the October 2001 report of the Panel of Experts on Liberia followed up on the two recommendations made above and 'named and shamed' several individuals that were suspected of using fraudulent and forged EUCs to arrange the transfer of arms to embargoed Liberia. In addition, the Panel requested that each State that had been involved in an arms transfer involving EUCs naming these entities to 'conduct a thorough investigation on the actual delivery and end use of the arms' and to share their findings with other States involved in the transaction as well as the Security Council Committees on Sierra Leone and Liberia.¹⁷⁵ The establishment of a database was not recommended explicitly.

These proposals perhaps resonate with the ATT's provisions on information exchanges on illicit activities and actors involved in diversion, as contained in articles 11(5), 11(6), 13(2), 15(4), 15(5) and 15(6). Again, this is an issue that could be pursued within the ATT framework, should interest exist among States Parties to the Treaty.

171 Security Council, *Report of the Panel of Experts appointed pursuant to Security Council resolution 1306 (2000), paragraph 19, in relation to Sierra Leone*, UN document S/2000/1195, 20 December 2000, para. 37, p. 12.

172 Security Council, *Report of the Panel of Experts appointed pursuant to Security Council resolution 1306 (2000), paragraph 19, in relation to Sierra Leone*, UN document S/2000/1195, 20 December 2000, para. 39.

173 Security Council, *Report of the Committee of Experts appointed pursuant to Security Council resolution 1333 (2000), paragraph 15 (a), regarding the monitoring of the arms embargo against the Taliban and the closure of terrorist training camps in the Taliban-held areas of Afghanistan*, UN document S/2001/511, 22 May 2001, para. 39.

174 Security Council, *The situation in Afghanistan. 4325th meeting of the Security Council*, UN document S.PV.4325, 5 June 2001, p. 12.

175 Security Council, *Report of the Panel of Experts pursuant to Security Council resolution 1343 (2001), paragraph 19, concerning Liberia*, UN document S/2001/1015, 26 October 2001, para. 26.

1.4. Regional and multilateral processes to strengthen end use/r control systems

Some 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, several Euro-Atlantic organizations and export control regimes that include major arms exporters as members or participating States have been particularly active in this regard. 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.

Table 2. 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 (2015)
Organization for Security and Cooperation in Europe (OSCE)	Best practice guide on export control of small arms and light weapons (2003)
	Standard elements of end-user certificates and verification procedures for SALW exports (2004)
	Information Exchange with Regard to Sample Formats of End-User Certificates and Relevant Verification Procedures (2008)
	End User Certificate for Small Arms and Light Weapons (2010)
Regional Center on Small Arms (RECSA)	Best Practice Guidelines for the Implementation of the Nairobi Declaration and Nairobi Protocol on Small Arms and Light Weapons (2010)
United Nations Coordinating Action on Small Arms (UN CASA)	National controls over the international transfer of small arms and light weapons (Module 03.20, International Small Arms Control Standards, 2014)
	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)	Elements for Objective Analysis and Advice Concerning Potentially Destabilising Accumulations of Conventional Weapons (1998/2004/2011)
	End-User Assurances Commonly Used: Consolidated Indicative List (1999/2005)
	Best Practices for Effective Enforcement (2000)
	Best Practice Guidelines for Exports of SALW (2002/2007)
	Elements for Export Controls of MANPADS (2003/2007)
	Best Practices to Prevent Destabilising Transfers of SALW through Air Transport (2007)
	Best Practice Guidelines on Subsequent Transfer (Re-export) Controls for Conventional Weapons Systems contained in Appendix 3 to the WA Initial Elements (2011)
	Elements for Controlling Transportation of Conventional Arms between Third Countries (2011)
	Introduction to End User/End Use Controls for Export of Military-List Equipment (2014)

Chapter 2 reviews the recommendations contained in these instruments and best practice guidelines for establishing an effective end use/r control system, in particular the key elements for end use/r documentation. It is worth noting here, however, that most of the initiatives have been undertaken by organizations in which European and North American States are the main members or participating States. The impetus has therefore primarily been from an exporting State perspective in terms of identifying essential elements. Therefore, the guidance contained in these instruments and best practice guidelines is directed towards States that have an arms industry and export control system.

In particular, the initial attention paid to the need to strengthen end use/r control systems and work carried out in this regard, have been in the Wassenaar Arrangement, with a focus on the technical elements of such systems. For example, the Wassenaar Arrangement's *End User Assurances Commonly Used: Consolidated Indicative List* represents the first attempt by a multilateral organization to present an indicative list of elements to be included in end use/r documentation. The OSCE *Best Practice Guide on Export Controls* and *Standard Elements of End User Certificates and Verification Procedures for SALW Exports* both borrow heavily from the Wassenaar Arrangement's *End User Assurances Commonly Used: Consolidated Indicative List*. Guidance on best practices in EUC contained in the EU's User's Guide similarly draws upon the work of the Wassenaar Arrangement. Therefore, the diffusion of practices identified by the Wassenaar Arrangement as 'best practices' in the field of end use/r control systems at first glance appears limited to the Euro-Atlantic region in which the majority of its participating States are located. However, the ISACS module on *National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons* and the Regional Centre on Small Arms (RECSA) *Best Practice Guidelines for the Implementation of the Nairobi Declaration and Nairobi Protocol on Small Arms and Light Weapons* both also draw upon the Wassenaar Arrangement's *End User Assurances Commonly Used: Consolidated Indicative List*, indicating the potential for wider application beyond the Euro-Atlantic and major exporters. Chapter 3 of this report also provides an opportunity to review the end use/r control system elements of States outside the Euro-Atlantic area and compare their practices to those of the Wassenaar Arrangement's recommended best practices. Chapter 5 examines in more detail some of the lessons learned from developing best practices and guidelines for effective end use/r controls and documentation.

Overall, States that do not host significant arms production facilities, and are therefore not considered to represent arms exporting States, have not been at the forefront of developing guidance on strengthening and harmonizing end use/r controls. However, as noted in the previous section, States from the Americas and sub-Saharan Africa have called for greater harmonization of end use/r documentation. Coupled with these calls, the Security Council in 2003 unanimously adopted resolution 1467 calling upon ECOWAS States to introduce a standardized end user certificate'.¹⁷⁶ To the best knowledge of this report's author, this recommendation has not led to the development of a standardized EUC in West Africa. Work has been carried out by the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC) to develop a model EUC to serve as a reference point for Latin

¹⁷⁶ Security Council, UN document S/RES/1467 (2003), 18 March 2003.

American States in strengthening their arms transfer controls and mitigate the risk of conventional arms diversion. UNLIREC has also developed an end user statement (EUS) template for private end users. The regional level represents an important level at which work to strengthen and harmonize end use/r control systems should be undertaken, with more attention warranted in regions outside the major exporting States of Europe and North America.

2. Key elements of an end use/r control system

‘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’.¹⁷⁷

National end use/r control systems and related documentation differ from State to State, but the presentation of some form of end use/r documentation to support an application for an export licence is established practice in most major arms exporters. Certain national export licensing authorities produce their own EUCs and require that exporters present them to the end user and consignee for signing and completion. Other States rely upon documentation produced by the end user or consignee but require that such documentation contain a required amount of information. In all cases there are responsibilities for the competent authorities of both the exporting State and the State in which the end user or consignee is located. Best practice guidelines, expert analyses and the responses to the UNIDIR Survey on end use/r control systems all stress the importance of end use/r documentation for informing export licence application decision-making processes. However, the use of such documentation forms only one part of a comprehensive assessment of the suitability of the end use and end user of conventional arms, including SALW, against national transfer control criteria that include the risk of diversion.

This chapter draws upon the best practice guidelines contained in Table 2 to provide an overview of an effective end use/r control system. Based upon a review of these materials, and related expert analysis, this chapter introduces recommended elements and practices for:

- End use/r documentation;
- Importing State responsibilities;
- Exporting State responsibilities;
- Post-delivery cooperation.

Each section draws upon good practice guidelines that have been developed via regional organizations, multilateral export control regimes and United Nations Coordinating Action on Small Arms (UNCASA), where relevant, to introduce the issue. Chapter 3 examines in more detail the extent to which the recommendations of best practice guidelines examined in this chapter are utilized by UN Member States.

¹⁷⁷ Wassenaar Arrangement, *Introduction to End User/End Use Controls for Export of Military-List Equipment*, adopted in July 2014.

2.1. End use/r documentation

End use/r documentation ‘comprises documents whose purpose is to identify, authorize, commit to certain undertakings and verify delivery’.¹⁷⁸ There is no single name for end use/r documentation, with one study identifying the following names: “end user certificate”, “end use certificate”, “end use statement”, “end use assurance” and “end user undertaking”.¹⁷⁹ A distinction is usually made between end use/r documentation covering arms transfers to State end users and for transfers to non-State end users (e.g. commercial entities).

In cases where the recipient is a State entity (e.g. armed forces, police), the relevant State authorities are generally expected to issue an end use/r document that is provided to the exporter or relevant authorities in the exporting State. While there are different names for this document, it is generally referred to as an ‘an end user certificate’—sometimes ‘official end user certificate’.¹⁸⁰ This study therefore refers to State-issued end use/r documentation as EUCs. The majority of international and regional efforts to harmonize end use/r documentation have concentrated on State-issued EUCs. Several best practice guidelines recommend that measures should be taken to prevent fraud, forgery or modifications, such as using ‘an official form printed on banknote paper’ or ‘the official letterhead of the competent national authority’.¹⁸¹

For transfers to non-State entities, there are a variety of documents that can be provided to an exporter or relevant authorities in the exporting State to support an export licence application:

- an import licence: issued by the relevant import control authorities in the State in which the non-State consignee/end user is located, authorizing the transfer of controlled items to a named non-State entity. The ISACS Module 03.20, *National Controls over the International Transfer of Small Arms and Light Weapons*, recommends that an import authorization or licence should contain ‘at a minimum’:
 - o ‘a unique import authorization number;

178 ‘6 End-user and end-use documentation’, United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.20: National Controls over the International Transfer of Small Arms and Light Weapons*, 17 June 2014, p. 3.

179 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 Occasional Papers No. 21, December 2011, pp. 5–6.

180 ‘6.2 End-user certificate’, United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014, pp. 3–5. See also: Mark Bromley and Hugh Griffiths, *End User Certificates: Improving Standards to Prevent Diversion*, Stockholm International Peace Research Institute (SIPRI), SIPRI Insights on Peace and Security 2010/3, pp. 2–5; 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 Occasional Papers No. 21, December 2011, pp. 8–9.

181 Organization for Security and Co-operation in Europe (OSCE), “Best practice guide on export control of small arms and light weapons”, in *Handbook on Best Practices on Small Arms and Light Weapons*, OSCE, 2003, p. 9; ‘6.2.4 Form an end-user certificate’, United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National controls over the end-user and end-use of internationally transferred small arms and light weapons*, 17 June 2014, p. 4. Regional Centre on Small Arms and Light Weapons (RECSA), *Best Practice Guidelines for the Implementation of the Nairobi Declaration and Nairobi Protocol on Small Arms and Light Weapons*, RECSA, 2005, p. 23.

- o the identity of the competent national authority issuing the authorization, which can include the official stamp;
 - o the signature, printed name and position of the designated official of the competent national authority issuing the authorization;
 - o the name and contact details of the recipient of the authorization;
 - o the date of issuance;
 - o the date of expiration;
 - o the name and contact details of the authorized end user;
 - o the authorized end use of the consignment; and
 - o a description of the consignment'.¹⁸²
- an international import certificate (IIC): 'a standardized certificate accepted by some States through bilateral or multilateral agreements, such as through the North Atlantic Treaty Organization and the European Union, which is signed and stamped by the importing Government's authorities to confirm that the importing Government is aware of, and does not object to, the proposed transfer of arms or dual-use items to the commercial entity or individual'.¹⁸³ An IIC represents an assurance by the importer not to divert, trans-ship or re-export the items without an export licence or authorization from the relevant authority in the importing State; or
 - an end use/r statement (EUS): an end use/r document that is comparable to a State-issued EUC in terms of content and assurances on end use and re-export, but which is issued by the non-State entity that is importing the arms or for which the arms are being imported. As noted above, there are a variety of names for such documents, but this report follows the practice of using the term EUS to refer to privately-issued end use/r documentation.¹⁸⁴ Best practice guidelines also recommend that the EUS should either be printed on an official form provided by the relevant national authority in the importing State or an official letterhead of the entity that provides the EUS.¹⁸⁵

In general, it is recommended that the end use/r documentation should apply only to the particular consignment identified in the documentation and should therefore not be used for other deals. It should also be borne in mind that the details contained in end use/r documentation can also be contained in other documents, such as contracts

182 '7.6 Form and content of import authorizations', United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.20: National controls over the international transfer of small arms and light weapons*, 17 June 2014, pp. 18-19.

183 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 Occasional Papers No. 21, December 2011, p. 10.

184 '6.3 End-user statement', United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014, pp. 6-8. See also: Mark Bromley and Hugh Griffiths, *End User Certificates: Improving Standards to Prevent Diversion*, Stockholm International Peace Research Institute (SIPRI), SIPRI Insights on Peace and Security 2010/3, , p. 5; 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 Occasional Papers No. 21, December 2011, p. 9.

185 '6.3.2 Form of an end-user statement', United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National controls over the end-user and end-use of internationally transferred small arms and light weapons*, 17 June 2014, p. 6.

between the exporter and end user, which have a legal status as opposed to the political status of an EUC.

2.1.1. Information contained in end use/r documentation

Several of the best practice guidelines agreed and adopted by regional organizations and multilateral export control regimes to support harmonization of end use/r control systems have a particular focus on the details/contents of State-issued EUCs. The Wassenaar Arrangement *Introduction to End User/End Use Controls for Export of Military-List Equipment* identified three types of information to be contained in end use/r documentation:

- 'A clear description of the materiel covered by the assurance, both quantity and type (sometimes including a reference to a commercial contract number or order number where sufficient detail is provided to definitively identify the materiel);
- A clear identification of the end user, end use, or both, whichever is relevant;
- Date of signature and a clear description of the entity providing the assurance'.¹⁸⁶

These types of information are recommended in the best practice guidelines developed by the EU, ISACS, OSCE, RECSA and the Wassenaar Arrangement, as well as by non-governmental experts. In most of these best practice guidelines, a distinction is made between essential and optional details to be contained in EUCs. Table 3 summarizes the recommended details/contents of State-issued EUCs.

As Table 3 shows, the elements identified in the Wassenaar Arrangement's *Introduction to End User/End Use Controls for Export of Military-List Equipment* are common 'essential elements' for almost all of the relevant best practice guidelines. In addition, it is worth noting that OSCE and ISACS guidelines relating to SALW transfers recommend the inclusion of a reference to the contract or purchase order and the date of issue for the document, as well as the name, address and contact details of the government agency that certifies the document. Information on any intermediaries involved in the transfer is recommended as an optional element. The UNIDIR Expert Group concurred with the recommendations outlined in these best practice guidelines, also noting that it can be useful to include information not only on intermediaries but also the routes to be used for shipping the controlled items.¹⁸⁷ However, consultations with industry revealed that providing such information well in advance of the shipment can be a considerable challenge due to contemporary transportation practices.

¹⁸⁶ Wassenaar Arrangement, *Introduction to End User/End Use Controls for Export of Military-List Equipment*, adopted in July 2014, p.2.

¹⁸⁷ UNIDIR, *Meeting Summary: Examining Options and Model for Harmonization of End Use/r Control Systems. Informal Expert Group Meeting, Vienna, 22-23 April 2015*, UNIDIR, June 2015, p. 6.

Table 3. Recommended details/contents of EUCs

Details/contents	Recommendations contained in guidelines produced by:				
	European Union (EU)	Wassenaar Arrangement (WA)	Organization for Co-operation and Security in Europe (OSCE)	International Small Arms Control Standards (ISACS)	Regional Centre on Small Arms (RECSA)
Essential elements					
The details of the exporter (at least name, address and business name)	X	X	X	X ^a	X
The details of the end use/r (at least name and address)	X	X	X	X	X
Contract number or order reference and date	-	-	X	X ^a	-
Country of final destination	X	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	X
Quantity and/or value of the exported goods	X	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	-
Description of the end use of the goods	X	X	X	X	X
Additional or optional elements					
Full details, where appropriate, of any intermediaries involved in the transfer	X	X	X	-	X ^b
The name, address and contact details of the government agency issuing the certificate	-	X	X ^c	X ^c	-
The date of expiration of the end user certificate	-	-	X	X ^d	-
Register number for the end user certificate	-	-	X	X ^d	-

^a This is regarded as an optional element in the ISACS module and should be included if known.

^b This is regarded as an essential element in the ISACS module and RECSA guidelines.

^c This is regarded as an essential element in the ISACS module and OSCE best practices guidelines.

^d This is regarded as an essential element in the ISACS module.

Sources: Adapted from Mark Bromley and Hugh Griffiths, *End User Certificates: Improving Standards to Prevent Diversion*, Stockholm International Peace Research Institute (SIPRI). SIPRI Insights on Peace and Security 2010/3, p. 4.

See also:

Council of the European Union, *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; United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.20: National Controls over the International Transfer of Small Arms and Light Weapons*, 17 June 2014; United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014; Organization for Security and Co-operation in Europe (OSCE), "Best practice guide on export control of small arms and light weapons", in *Handbook on Best Practices on Small Arms and Light Weapons*, OSCE, 2003, pp. 53-54; Organization for Security and Co-operation in Europe (OSCE), *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 2004; Regional Centre on Small Arms and Light Weapons (RECSA), *Best Practice Guidelines for the Implementation of the Nairobi Declaration and Nairobi Protocol on Small Arms and Light Weapons*, RECSA, 2005; Wassenaar Arrangement, *End user assurances commonly used: consolidated indicative list*, adopted in 1999, revised in 2005; Wassenaar Arrangement, *Introduction to End User/End Use Controls for Export of Military-List Equipment*, adopted in July 2014.

Although not all of the best practice guidelines recommend ‘unique identifiers’ for an EUC, research has highlighted that the lack of ministerial logos, address for correspondence, or unique certification number should serve as a warning for export licensing authorities when reviewing such end use/r documentation supplied in support of an export licence application.¹⁸⁸ The ISACS module on end use/r controls therefore recommends the inclusion of such identifiers in government-issued EUCs and privately-issued EUSs (see Table 4 below).

It is notable that although the best practice guidelines contained in Table 3 focus on State-issued EUCs, and there are recommendations for distinctions to be made between EUCs and EUSs, ISACS recommends that the main contents of EUCs and EUSs should be largely the same (see Table 4). The main differences relate to government identifiers in an EUC which are understandably not to be found in an EUS produced by a commercial entity. However, as will be shown in the section on the responsibilities for importing States, ISACS recommends that the State that hosts the non-State importer/consignee/end user should still certify the EUS.

Table 4. A comparison of the recommended details/contents of EUCs and EUSs in ISACS

An EUC shall contain	An EUS shall contain
a) identifiers of the certificate, including 1) a reference number unique to the issuing government agency 2) its date of issuance 3) its date of expiration, which should not exceed 2 years following the date of issuance	a) identifiers of the statement, including 1) a reference number unique to the issuer of the statement 2) its date of issuance -
b) identifiers of the issuing government agency, including 1) the name, address and contact details (telephone, fax and email) of the government agency issuing the certificate 2) the signature, printed name and position of the authorized representative of the government agency issuing the certificate	-
c) identifiers of the end user and end use, including 1) the name, address and contact details (telephone, fax and email) of the end user 2) the signature, printed name and position of the authorized representative of the end user (if different from the government agency issuing the certificate) 3) a description of the end use	b) identifiers of the end user and end use, including 1) the name, address and contact details (telephone, fax and email) of the end user 2) the signature, printed name and position of the authorized representative of the end user 3) a description of the end use (which may include commercial sale on the domestic market)

¹⁸⁸ Hugh Griffiths and Adrian Wilkinson, *Guns, Planes and Ships: Identification and Disruption of Clandestine Arms Transfers*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, August 2007, p. 29.

An EUC shall contain	An EUS shall contain
d) identifiers of the weapons, including 1) quantities, 2) makes, 3) models, 4) calibres, 5) types (e.g. revolver, pistol, rifle, sub-machine gun, light machine gun, heavy machine gun, grenade launcher, mortar, anti-aircraft gun, anti-tank gun, anti-tank rocket system, anti-tank missile system, anti-aircraft missile system (e.g. MANPADS), etc.), and 6) actions (e.g. manual, semi-automatic or automatic. If a weapon has a selective fire capability, the highest capability, automatic being the highest, should be indicated)	c) identifiers of the weapons, including 1) quantities, 2) makes, 3) models, 4) calibres, 5) types (e.g. revolver, pistol, rifle, sub-machine gun, light machine gun, heavy machine gun, grenade launcher, mortar, anti-aircraft gun, anti-tank gun, anti-tank rocket system, anti-tank missile system, anti-aircraft missile system (e.g. MANPADS), etc.), and 6) actions (e.g. manual, semi-automatic or automatic. If a weapon has a selective fire capability, the highest capability, automatic being the highest, should be indicated)
If known at the time of issuance, an end user certificate should contain	If known at the time of issuance, an end user statement should contain
f) identifiers of the exporter, including 1) the country of export 2) the name, address and contact details (telephone, fax and email) of the exporter	e) identifiers of the exporter, including 1) the country of export 2) the name, address and contact details (telephone, fax and email) of the exporter
g) the contract or purchase order number	f) the contract or purchase order number
h) the value of the consignment	g) the value of the consignment

Source: United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014, pp. 4-8.

2.1.2. Assurances on end use, end user and re-export

In addition to details on the items being transferred, end user and end use, best practice guidelines also provide recommendations on assurances relating to end use and re-export. The Wassenaar Arrangement *Introduction to End User/End Use Controls for Export of Military-List Equipment* frames EUC assurances as negative or positive:

- ‘The exporting country government’s limitation on end user and/or end use, expressed as a negative assurance (for example no transfer or re-export without the exporting country government’s prior consent), or alternatively
- The exporting country government’s limitation on end use and/or end user, expressed as a positive assurance (for example “for national military use”, or “for integration” into a specified larger product. For production technology, a positive end user requirement could be linked to a location or legal entity)¹⁸⁹.

¹⁸⁹ Wassenaar Arrangement, *Introduction to End User/End Use Controls for Export of Military-List Equipment*, adopted in July 2014, p.2.

The Wassenaar Arrangement *Introduction* further notes that the assurances contained in an EUC are of a political nature: an agreement between the exporting and importing governments. Such assurances can also be contained in ‘commercial contracts enforceable under national law’.¹⁹⁰ Therefore, commercial contracts can also play a role in end use/r control systems. Table 5 shows the range of options presented in best practice guidelines on assurances relating to end use, end user and re-export to be included in an EUC.

The only common essential element for all of the best practice guidelines relates to an undertaking or assurance that the items will only be used by the declared end user for the declared end use. Although all guidelines recommend an optional provision prohibiting re-export, there are different options on the conditions that States should include in end use/r documentation on re-export. For example, the EU user’s guide, OSCE best practice guidelines on export controls for SALW and the Wassenaar Arrangement’s *End User Assurances Commonly Used Consolidated Indicative List* note three types of re-export clause:

- Prohibition of re-export;
- Prohibition of re-export unless approval has been received from the original exporting State that re-export is permitted under certain conditions, such as authorization from the export licensing authorities of the State in which the end user/importer is located; or
- An assurance that re-export will only take place after authorization has been received from the export licensing authorities of the original exporting State.

There are several other recommendations for optional assurance elements in the best practice guidelines. For example, all but the RECSA guidelines note that States can seek a commitment from the importer to provide the export licensing authority with confirmation of delivery of the items, most commonly in the form of a DVC, which will be discussed further below. Commitment could also be sought for the exporting State to carry out on-site inspections to ensure that the items are still held by the declared end user and used in accordance with provisions on end use and location of end use. As will be noted below, and as has been highlighted in various analyses, there are questions regarding the extent to which exporting States conduct monitoring of compliance with assurances on end use and re-export.¹⁹¹

190 Wassenaar Arrangement, *Introduction to End User/End Use Controls for Export of Military-List Equipment*, adopted in July 2014, p.2.

191 See for example: Hugh Griffiths and Adrian Wilkinson, *Guns, Planes and Ships: Identification and Disruption of Clandestine Arms Transfers*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, August 2007; Paul Holtom, Irene Pavesi and Christelle Rigual, “Trade Update: Transfers, retransfers and the ATT”, in *Small Arms Survey 2014: Women and Guns*, Cambridge University Press, 2014, pp. 108-143; Glenn McDonald, “Who’s buying? End User Certification”, in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, pp. 154-181.

Table 5. Recommended assurances to be contained in an EUC

Assurance	Recommendations contained in guidelines produced by:				
	European Union (EU)	Wassenaar Arrangement (WA)	Organization for Co-operation and Security in Europe (OSCE)	International Small Arms Control Standards (ISACS)	Regional Centre on Small Arms (RECSA)
Essential elements					
An undertaking, where appropriate, that the goods being exported will not be used for purposes other than the declared use	X	X	X	X	X
An undertaking that the declared end user will be the ultimate recipient of the goods being exported	-	-	X	X	X
Additional or optional elements					
A clause prohibiting re-export of the goods covered in the certificate	X	X	X	X ^a	X
A commitment by the importer to provide the exporting state with a delivery verification on 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 ^a	-
An undertaking from the importer/end user not to divert or relocate the goods covered by the end use certificate/statement to another destination or location in the importing country	-	X	-	X ^a	-

^a This is regarded as an essential element in the ISACS module and RECSA guidelines.

Sources: Adapted from Mark Bromley and Hugh Griffiths, *End User Certificates: Improving Standards to Prevent Diversion*, Stockholm International Peace Research Institute (SIPRI), SIPRI Insights on Peace and Security 2010/3, p. 4. See also: Council of the European Union, *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; United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.20: National Controls over the International Transfer of Small Arms and Light Weapons*, 17 June 2014; United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014; Organization for Security and Co-operation in Europe (OSCE), "Best practice guide on export control of small arms and light weapons"; in *Handbook on Best Practices on Small Arms and Light Weapons*, OSCE, 2003, pp. 53-54; Organization for Security and Co-operation in Europe (OSCE), *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 2004; Regional Centre on Small Arms and Light Weapons (RECSA), *Best Practice Guidelines for the Implementation of the Nairobi Declaration and Nairobi Protocol on Small Arms and Light Weapons*, RECSA, 2005; Wassenaar Arrangement, *End user assurances commonly used: consolidated indicative list*, adopted in 1999, revised in 2005; Wassenaar Arrangement, *Introduction to End User/End Use Controls for Export of Military-List Equipment*, adopted in July 2014.

ISACS recommends that an EUS should contain similar assurances to those contained in an EUC, while recognizing that in the case of an EUS the items could be re-sold in the country of destination in the case of firearms being delivered to an authorized gun dealer, as shown in Table 6.

Table 6. A comparison of the recommended assurances for EUCs and EUSs in ISACS

An EUC shall contain	An EUS shall contain
e) explicit undertakings that	d) explicit undertakings that
1) the declared end user will be the ultimate recipient of the weapons 2) the declared end use will be the ultimate use of the weapons 3) the weapons will not be re-exported <ul style="list-style-type: none"> • under any circumstances, • without prior, written authorization from the original exporting State, • without prior, written notification to the original exporting State, or • if the weapons are intended for commercial sale in the importing State, without due export authorization 	1) the declared end user will be the ultimate recipient of the weapons (notwithstanding the fact that they may be commercially sold on the domestic market); 2) the declared end use will be the final use of the weapons
An EUC should contain undertakings	An EUS should contain
i) to provide the exporting State with a delivery verification certificate upon receipt of the small arms or light weapons by the authorized end user	h) an undertaking to provide the exporter with a delivery verification certificate upon receipt by the authorized end user of the imported small arms or light weapons
An EUC may contain undertakings	
j) to allow the exporting State to check on the end use of the small arms or light weapons as a confidence-building measure	-
k) that end use will be limited to, or will exclude, a specific geographic location (or specific locations) within the importing State	

Source: United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014, p. 5.

2.2. Importer State responsibilities before export authorization

Most of the focus in best practice guidelines is on the content of the documentation and practices to be undertaken in the exporting State. There are some recommendations in research and in the OSCE best practice guidelines for States when importing SALW. The most detailed information is contained in the ISACS module, which deals with end use/r controls for SALW destined for either State or non-State end users. Therefore,

this section draws heavily upon these sources when discussing the certification of documents, assisting exporting States in determining the authenticity of EUCs, and international cooperation more broadly.

2.2.1. Importer responsibilities for State end users

Irrespective of whether end use/r documentation is based on a template produced by the exporting State or issued by the importing State, the government of the importing State has a key role to play in the end use/r control process. This is because it is expected that the EUC will be signed and stamped by a government entity in the importing State.¹⁹² ISACS recommends that the EUC should be issued by a 'competent authority of the importing State', with the number of government agencies permitted to issue an EUC kept to a minimum.¹⁹³ Furthermore, the number of officials authorized to sign and stamp—a form of certification of authenticity of the document—should be kept to a minimum and should ideally be limited to senior government officials at the minister or deputy minister level. Further, the OSCE best practice guidelines and the ISACS module recommend that importing States consider taking measures to prevent forgery, copying and fraudulent use by issuing the EUC on an official government form or with a letterhead on banknote paper, which is difficult to forge.¹⁹⁴

The UNODA study on EUCs has recommended another method for assuring export licensing authorities that an EUC is authentic, which is to utilize the Apostille Certificate process. Under this process, if the importing State is a party to the Hague Convention, 'the legally appointed State authority in the buyer's or importer's country may authenticate or legalize the EUC with the prescribed Apostille Stamp of the Convention'.¹⁹⁵ In addition to the Apostille Stamp, an Apostille Certificate will be attached to the EUC containing information on:

- country of issue;
- who has signed the document;
- the capacity in which the person signed the document;
- details of any seal on the document;
- place of issue;
- date of issue;
- issuing authority;
- Apostille Certificate number;

192 Hugh Griffiths and Adrian Wilkinson, *Guns, Planes and Ships: Identification and Disruption of Clandestine Arms Transfers*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, August 2007, pp. 28–29.

193 '6.2.3 Issuing Agencies', United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014, p. 4.

194 '6.2.4 Form of an end-user certificate', United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June, p. 4; OSCE. 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, p. 9

195 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 Occasional Papers No. 21, December 2011, p. 27.

- stamp of issuing authority; and
- signature of representative of issuing authority.¹⁹⁶

In the main, importing States should seek to provide the information requested by the export licensing authorities in the exporting State and take appropriate measures to reassure these authorities of the legitimacy of the transfer. It is also worth considering the maintenance of a register of issued EUCs, to help facilitate international cooperation and institutionalize processes. In addition, providing information to other States on national points of contact regarding EUC, and in particular a regularly updated list of individuals authorized to sign EUCs, could also be considered.

2.2.2. Importer responsibilities for non-State end users

As noted above, an EUS differs from an EUC in that it is not issued by the State but by a non-State end user/importer. As noted in the ISACS module, it is expected to contain the same type of information as contained in a State-issued EUC with regard to details of items, end use and end user, as well as assurances on end use and re-export. The OSCE best practice guidelines recommend that an EUS should be 'validated' by the importing State authorities or that an additional document, such as an import licence, should be provided to show that the non-State importer/end user has received permission from the relevant government authorities in the importing State to import the controlled items.¹⁹⁷

ISACS also recommends that the importing State should be involved in providing assurances or guarantees regarding non-State imports. Where the OSCE best practice guidelines recommend that an EUS should be 'validated' by the importing State authorities, ISACS recommends that the EUS should be 'certified' by the importing State authorities. For ISACS, this means that the EUS is 'stamped and signed (or otherwise certified) by a competent authority of the importing State'.¹⁹⁸ As with the EUC, it is recommended that the number of State authorities authorized to certify an EUS should be limited in number and that the number of officials authorized to sign an EUS should also be limited. ISACS outlines an ideal certification process that is comparable in some respects to the process for authentication and verification of EUCs and EUSs by exporting State licensing authorities, which will be outlined below. First, the government officials authorized to certify an EUS will check the authenticity of the EUS, ensuring it is on the letterhead paper of the importing non-State entity or end user. For example, the EUS could be compared with previous EUS received from the importing non-State entity or end user to ensure consistency. Second, the accuracy of the information contained in the EUS will be checked. Third, the *bona fide* (i.e. the trustworthiness, acting in good faith) of the importer/end user will be checked to ensure that the importer/end user:

196 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 Occasional Papers No. 21, December 2011, p. 27.

197 Organization for Security and Co-operation in Europe (OSCE), "Best practice guide on export control of small arms and light weapons", in *Handbook on Best Practices on Small Arms and Light Weapons*, OSCE, 2003, p. 9.

198 '6.3 End-user statement', United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014, p. 6.

- exists, and is therefore a 'legal person';
- does not have a criminal record;
- has not been involved in illegal activities, in particular not in relation to arms;
- is legally entitled to import and/or receive the items, e.g. has a permit to import and/or receive conventional arms.¹⁹⁹

If the relevant authorities in the importing State are satisfied that the EUS is authentic, that the information contained in the EUS is accurate, and that the importer/end user is a legitimate entity that is permitted to import and/or receive the conventional arms described in the EUS, then the EUS is certified with the following information:

- an official stamp or seal and the name, address and contact details (telephone, fax and e-mail) of the competent national authority;
- an unique certification number;
- the date of certification; and
- the date of expiration of the EUS, which should not exceed two years from the date of certification.²⁰⁰

These measures are intended to reassure the export licensing authority in the exporting State that the relevant authorities in the importing State are aware of the proposed import and do not oppose it. The information provided by the certification can also be used by the exporting State to carry out its own checks, not only on the end user but also with the certifying authority. Although this process is recommended in ISACS, as will be shown in Chapter 3, it is not universally adhered to.

2.3. Exporter State responsibilities before export authorization

Best practice guidelines provide more information on the processes to be undertaken by export licensing authorities regarding end use/r controls than for importing State authorities. As noted above, end use/r documentation is an important component of an export licence application. The end use/r documentation form and contents provide information for the risk assessment conducted by export licensing authorities when considering an export licence application. First, the end use/r documentation is authenticated. This consists of the exporting State authorities checking 'the authenticity of the signature, the capacity in which the person certifying the document has acted and, where appropriate, the identity of the seal or stamp which it bears'.²⁰¹ To assist in this process, the exporting State's diplomatic mission in the prospective importing State could carry out or play a role in the assessment. For example, it may act as liaison with the relevant authorities in the importing State to confirm that the end

199 '6.3.3 Certification procedure (for an EUS)', United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014, p. 6.

200 '6.3.5 Content of a certified end-user statement', United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014, pp. 7-8.

201 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 Occasional Papers No. 21, December 2011, p. 10.

use/r documentation was issued by the State in the case of an EUC or certified by the State in the case of an EUS.²⁰² Authentication of the end use/r documentation is undertaken to ensure that the document is not a forgery. The OSCE best practice guidelines recommend that exporting States should provide sufficient resources and training to relevant staff to enable the identification of false documentation.²⁰³ As shown in Chapter 1, there are cases in which arms and ammunition shipments were diverted to entities subject to UN sanctions which export licensing authorities may have been able to prevent by conducting authentication of end use/r documentation.

Some analysts have expressed concern that for some end use/r control systems the authentication of end use/r documentation appears to be regarded as the only check to be carried out before proceeding to issue an export licence.²⁰⁴ While the document may pass the test of being authentic, this is not the only type of check that exporting State's licensing authorities are expected to undertake of end use/r documentation. As shown in Chapter 1, even when presented with authentic end use/r documentation, 'the provider of that end use/user certificate may be acting as an undeclared agent in acquiring arms to then divert them to a proscribed and/or unauthorized end user'.²⁰⁵ Therefore, if the end use/r control system is to take measures to effectively prevent diversion and misuse, it is necessary to subject the information contained in the end use/r documentation to scrutiny. The process of checking the accuracy of information contained in end use/r documentation is referred to as *verification*. Non-governmental experts have argued that 'a lack of sufficient end user verification is the greatest expediting factor for illicit delivery', while thorough verification processes are the 'most effective method' of identifying diversion attempts.²⁰⁶ In general, a thorough risk assessment will subject information contained in the end use/r documentation to a verification process that includes a cross-check with intelligence and databases held in the exporting State, lists of sanctioned entities, as well as with open source information. In addition, requesting information from the importing State and sharing information with transit and transshipment States and other stakeholders (e.g. arms exporting companies and shipping companies) can also help to reduce the risk of diversion.²⁰⁷

A first check is to ensure that the end use/r documentation contains all of the information that the export licensing authorities request to be presented in end use/r documentation that accompanies an export licence application. The UNIDIR Expert

202 Glenn McDonald, "Who's buying? End User Certification", in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, p. 162; 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 Occasional Papers No. 21, December 2011, p. 26.

203 Organization for Security and Co-operation in Europe (OSCE), "Best practice guide on export control of small arms and light weapons", in *Handbook on Best Practices on Small Arms and Light Weapons*, OSCE, 2003, p. 9.

204 Matt Schroeder, Helen Close and Chris Stevenson, "Deadly Deception: Arms Transfer Diversion", in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, p. 129.

205 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 Occasional Papers No. 21, December 2011, p. 28.

206 Hugh Griffiths and Adrian Wilkinson, *Guns, Planes and Ships: Identification and Disruption of Clandestine Arms Transfers*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, August 2007, p. 27

207 Council of the European Union, *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 COARM 172, CFSP/PESC 393, endorsed by the Council (Foreign Affairs) on 20 July 2015, p. 9.

Group on end use/r control systems noted that a warning sign in such cases is the absence of required information in the end use/r documentation.²⁰⁸ The second step is to check that the information provided in the end use/r documentation is reliable and can be verified. Each of the details identified in Section 2.1.1 can be checked or verified to give the export licensing authority confidence that the proposed transfer is legitimate and will not be subject to diversion or arms misuse after delivery.²⁰⁹ A useful starting point for this is usually to check the *bona fide* of the prospective end user/consignee to ensure that it is a legitimate entity and a reliable recipient of the items to be transferred.²¹⁰ Checks can be undertaken on whether the entity has been involved in illicit activities or corrupt practices in the past:

- Is there a good record of abiding by assurances on use and re-export?
- Are the items a good fit for the end user?
- Does the end user already utilize such items or have such items in its inventory?
- Is the quantity of an appropriate level for the relevant security forces?

A warning sign might be that the proposed transfer involves 7.62 mm ammunition but it is known that the end user's inventory consists of SALW that fire 5.56 mm ammunition. Further investigation in such cases could be warranted.²¹¹ Are the items appropriate for the end user? Related to this issue is whether the declared end use is appropriate for the items. Is a submarine appropriate for the national defence of a landlocked State? In addition, does the end user and/or importing State have a good record with regard to non-proliferation and have in place the necessary infrastructure and procedures for limiting the risk of unauthorized re-transfer, theft or diversion? Are there entities involved in the transfer chain that pose a risk with regard to corruption and/or diversion? Several best practice guidelines can provide assistance with regard to the types of questions to pose when examining information contained in an end use/r document. The questions contained in the EU user's guide and the Wassenaar Arrangement's *Elements for Objective Analysis and Advice concerning Potentially Destabilising Accumulations of Conventional Weapons* are both particularly useful resources in this regard.²¹²

International instruments and agreements, including the PoA, the Firearms Protocol and the ATT, recommend international cooperation and information exchanges as mechanisms for supporting verification processes. While most best practice guidelines recommend utilizing the resources of relevant agencies in the exporting State (e.g. customs, law enforcement, justice, intelligence and defence), States can also use

208 UNIDIR, *Meeting Summary: Examining Options and Model for Harmonization of End Use/r Control Systems. Informal Expert Group Meeting, Vienna, 22-23 April 2015*, UNIDIR, June 2015.

209 '6.4.3 Verification', United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014, p. 8.

210 Wassenaar Arrangement, *Introduction to End User/End Use Controls for Export of Military-List Equipment*, adopted in July 2014, p.2.

211 Hugh Griffiths and Adrian Wilkinson, *Guns, Planes and Ships: Identification and Disruption of Clandestine Arms Transfers*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, August 2007, p. 37.

212 Council of the European Union, *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 COARM 172, CFSP/PESC 393, endorsed by the Council (Foreign Affairs) on 20 July 2015, p. 9; Wassenaar Arrangement, *Elements for Objective Analysis and Advice Concerning Potentially Destabilising Accumulations of Conventional Weapons*, approved at the Wassenaar Arrangement Plenary, 3 December 1998.

intergovernmental information exchange mechanisms at the international level (such as INTERPOL's EU-funded online Illicit Arms Records and Tracing Management System (iARMS)), the regional level, and also bilateral consultations.²¹³

In addition, the ATT, PoA and Firearms Protocol encourage exporting States to share information with transit and transshipment States on transfers that will pass through their territory. However, providing such information when transportation routes can change presents a significant challenge for exporting States. Nevertheless, it should also be borne in mind that States seeking to exercise transit and transshipment controls rely on advance information to expedite legitimate shipments, as well as assistance in identifying suspicious shipments.

The UNIDIR Expert Group on end use/r control systems and the informal consultations with key arms industry stakeholders in July 2015 also stressed the importance of cooperation with trusted partners in arms industry.²¹⁴ Significant arms producers and exporters in many countries are now expected to have internal compliance programmes in place that can conduct preliminary risk assessments and work towards ensuring that the requirements of the export licensing authority are fulfilled when making an export licence application. Therefore, industry plays an important role in seeking to ensure that all of the required information is contained in the end use/r documentation and other requested documents. It is also assumed that industry knows the recipient and will also have undertaken due diligence checks to ensure that its *bona fide* is in order, as demonstrated by the case of an exporter bringing to the attention of export control authorities a forged EUC used by the Islamic Republic of Iran.²¹⁵

2.4. Post-delivery cooperation

In Table 5, reference is made to the inclusion of optional provisions on confirmation of delivery or on-site inspections. Such measures fall under the broad heading of 'post-delivery controls' or 'post-delivery monitoring'. For the purposes of this study, the term 'post-delivery cooperation' is utilized, drawing upon recommendations from the UNIDIR Expert Group, which considered that 'cooperation' is the most appropriate description for post-delivery processes because they require the active participation of importing and exporting States and non-State actors where involved.²¹⁶

While best practice guidelines request provisions in end use/r documentation relating to assurances on use and re-export, such guidelines include the possibility of engaging in post-delivery cooperation within a fixed time period in end use/r control systems. For example, the EU user's guide notes that '[w]hereas the emphasis of export controls

213 Council of the European Union, *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 COARM 172, CFSP/PESC 393, endorsed by the Council (Foreign Affairs) on 20 July 2015, pp. 123-125; '6.4.4 Sources of information and timeframe', United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014, p. 9.

214 UNIDIR, *Meeting Summary: Examining Options and Model for Harmonization of End Use/r Control Systems. Informal Expert Group Meeting, Vienna, 22-23 April 2015*, UNIDIR, June 2015.

215 Security Council, *Final report of the Panel of Experts established pursuant to resolution 1929 (2010)*, UN document S/2013/331, 5 June 2013, para. 153.

216 UNIDIR, *Meeting Summary: Examining Options and Model for Harmonization of End Use/r Control Systems. Informal Expert Group Meeting, Vienna, 22-23 April 2015*, UNIDIR, June 2015.

remains on the pre-licensing phase, post-shipment control can be an important supplementary tool to strengthen the effectiveness of national arms export control'.²¹⁷ As Chapter 3 will show, few States currently utilize post-delivery cooperation practices to ensure that end users abide by assurances contained in end use/r documentation or contracts. Therefore, 'there is a strong chance that any diversion that does occur will go undetected. Unless the diversion is revealed by other means, nothing prevents the State from approving further exports to the same end user'.²¹⁸ Assurances on end use and re-export are under a 'declaration of honour', which may ultimately result in action taken against those involved in diversion. In addition, information regarding diversion may be shared among major exporting States through information exchange mechanisms.

Post-delivery cooperation measures are sometimes adopted in cases involving the transfer of particularly sensitive items (e.g. MANPADS) or for State end users that are subject to provisions in Security Council resolutions regarding post-conflict arms supplies.²¹⁹ This section considers three of the main forms of post-delivery cooperation discussed in best practice guidelines:

- Delivery confirmation or verification;
- Routine and ad hoc post-delivery checks; and
- Investigation into reports of diversion/unauthorized re-transfer.

2.4.1. Delivery confirmation and verification

End use/r documentation can contain an obligation for the importer/consignee/end user to provide the exporter, who in turn provides it to the export licensing authority with documentation confirming delivery and/or receipt of the conventional arms by the authorized end user or representative. The most common form of documentation for confirming delivery is a DVC.²²⁰ The DVC is written proof, certified by a competent authority in the importing State and most often customs, that the authorized end user has received the items covered by the export licence and end use/r documentation. This document therefore reassures the export licensing authorities that the items have not been diverted since leaving the exporting State. It is therefore a measure for addressing diversion en route to the end user from the exporting State.

ISACS provides guidance on the process for issuing a DVC for SALW transfers and also recommended contents.²²¹ With regard to the process, ISACS recommends that only a limited number of competent authorities should be authorized to issue a DVC,

217 Council of the European Union, *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 COARM 172, CFSP/PESC 393, endorsed by the Council (Foreign Affairs) on 20 July 2015, p. 9.

218 Glenn McDonald, "Who's buying? End User Certification", in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, p. 174.

219 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 Occasional Papers No. 21, December 2011, p. 11.

220 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 Occasional Papers No. 21, December 2011, p. 11.

221 '7.2 Delivery verification', United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014 pp. 11-13.

ideally the customs administration. ISACS places the responsibility for arranging the issuing of a DVC in the first instance with the end user, which should request the customs administration or other relevant authority to issue a DVC after taking receipt of the conventional arms delivery. It is then for the customs administration to verify the relevant documentation on the import and if satisfied issue a DVC to the authorized end user. The end user then provides the exporter with the DVC, and the exporter in turn provides the DVC to the export licensing authorities. As for SALW, ISACS recommends that this process should take no more than 30 days following the end user's receipt of the arms. The informal consultations with industry in July 2015 and the UNIDIR Expert Group indicated that in practice this process can take months, and there are occasions when a DVC is not issued, despite repeated requests.

Best practice guidelines for end use/r documentation make reference to the possibility of issuing a DVC for SALW, but do not provide information on the recommended contents of such documents. ISACS indicates that the following elements should be contained in a DVC issued by the competent authorities of the importing State:

- 'a unique identifying number;
- the name, address and contact details (phone, fax and e-mail) of the exporter;
- the name, address and contact details (phone, fax and e-mail) of the authorized end user;
- the import authorization number;
- the bill of lading/air waybill number;
- the consignment's: place of arrival (name of port), date of arrival, and means of arrival (including descriptors of the ship, aircraft or other carrier as they appear in the bill of lading/air waybill);
- a description of the consignment, including:
 - o the contract or purchase order number;
 - o quantities;
 - o makes;
 - o models;
 - o calibres;
 - o types (e.g. revolver, pistol, rifle, sub-machine gun, light machine gun, heavy machine gun, grenade launcher, mortar, anti-aircraft gun, anti-tank gun, anti-tank rocket system, anti-tank missile system, anti-aircraft missile system (e.g. MANPADS), etc.); and
 - o actions (e.g. manual, semi-automatic or automatic. If a weapon has a selective fire capability, the highest capability, automatic being the highest, should be indicated);
- the stamp/seal of the customs administration or other competent authority of the importing State;
- a certification by the customs administration or other competent authority of the importing State that the authorized end user has taken possession of the consignment;

- the date of certification; and
- the signature, printed name and position of the authorized representative of the customs administration or other competent national authority making the certification'.²²²

The DVC is also subject to authentication and verification by the export licensing authorities in the original exporting State to ensure that the document is not a forgery or does not contain false information. The DVC is a limited means of post-delivery cooperation because it does not help to limit unauthorized re-transfers or a change in end use/r.

2.4.2. Routine or ad hoc post-delivery checks

Routine or ad hoc post-delivery checks to address misuse after delivery or post-delivery diversion can take various forms. In cases where an on-site inspection is used as a post-delivery measure, it tends to be for particularly sensitive items or in cases where the export licensing authorities consider it necessary to monitor the end use and end user due to a heightened risk of diversion perhaps because of limited physical security and stockpile management capacities.²²³

As noted in Table 3, best practice guidelines contain recommendations for optional provisions for post-shipment inspections for inclusion in end use/r documentation or contractual documentation.²²⁴ The inspection could consist of a physical inspection and inventory check in the location at which the items are kept and maintained or by reviewing records of holdings.²²⁵ It has been noted that States rarely undertake routine on-site inspections and therefore the provisions contained in end use/r documentation relating to on-site inspections tend to be utilized on an ad hoc basis, in particular following an allegation or report of misuse, diversion or an unauthorized re-transfer (see below).²²⁶

The UNIDIR Expert Group noted the challenges relating to costs and capacity for exporting States to conduct post-shipment on-site inspections. It was also noted that it can be a challenge to secure the permission of importing States to include provisions for on-site inspections in contractual agreements or end use/r documentation.²²⁷ ISACS notes that inspections could be undertaken by officials of the exporting State (e.g. a dedicated unit or the defence attaché of the exporting State's diplomatic mission in the importing State) or contractors hired by the exporting State from an independent

²²² '7.2.4 Content of a delivery verification certificate', United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014, pp. 12-13.

²²³ 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 Occasional Papers No. 21, December 2011, p. 11.

²²⁴ Wassenaar Arrangement, *Introduction to End User/End Use Controls for Export of Military-List Equipment*, adopted in July 2014, p. 2.

²²⁵ United Nations Development Programme (UNDP), *How to Guide: Small Arms and Light Weapons Legislation*, UNDP Bureau for Crisis Prevention and Recovery (Geneva), July 2008, p. 79.

²²⁶ Glenn McDonald, "Who's buying? End User Certification", in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, p. 163.

²²⁷ UNIDIR, *Meeting Summary: Examining Options and Model for Harmonization of End Use/r Control Systems. Informal Expert Group Meeting, Vienna, 22-23 April 2015*, UNIDIR, June 2015.

entity that both exporting and importing States are willing to accept.²²⁸ The UNIDIR Expert Group concurred with the ISACS guidance that other entities can support end use monitoring after delivery, noting that the importing State could perform post-delivery checks. It was recognized that this could be a confidence-building measure that would not incur the challenges of extraterritorial application of national transfer control legislation. Another option discussed by the UNIDIR Expert Group is to liaise with a company that has exported conventional arms. In many cases the company will be involved in providing technical assistance, maintenance and repairs for several years after delivering a complete system. The absence of such post-delivery maintenance arrangements could be regarded in some cases as cause for concern if the importing State does not possess the facilities or experience to undertake overhauls or maintenance in-country. However, during the informal consultations with industry, several participants noted that while they can bring to the attention of the export licensing authorities discrepancies between the number of conventional arms delivered and those serviced in subsequent years, there was an insistence that post-delivery cooperation and monitoring should not be added to the responsibilities of producers and exporters but should remain with States.

2.4.3. Investigation into reports or allegations of diversion or unauthorized re-transfer

Regional instruments and best practice guidelines do not provide guidance on possible responses to reports or allegations of misuse, diversion or an unauthorized re-transfer, but there has been increased attention towards measures that can be undertaken in such circumstances following the “Arab Spring”.²²⁹ The Small Arms Survey identified three approaches that an exporting State can undertake for such investigations:

- The exporting State could undertake a unilateral investigation;
- The exporting State and importing State could undertake a joint investigation;
- An independent team could be appointed, acceptable to both the exporting and importing States.²³⁰

The South East and Eastern Europe Clearinghouse for the Control of Small Arms (SEESAC) has provided a toolkit for addressing unauthorized re-export or re-transfer of arms and ammunition that includes a section on responding to violations of re-export or re-transfer restrictions.²³¹ The toolkit recommends the following steps to be undertaken when a report or allegation of a diversion is presented to the original exporting State:

228 ‘7.3.2 Inspectors’, United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 03.21: National Controls over the End User and End Use of Internationally Transferred Small Arms and Light Weapons*, 17 June 2014, pp. 12-13.

229 Paul Holtom, Irene Pavesi and Christelle Rigual, “Trade Update: Transfers, retransfers and the ATT”, in *Small Arms Survey 2014: Women and Guns*, Cambridge University Press, 2014, pp. 108-143.

230 Paul Holtom, Irene Pavesi and Christelle Rigual, “Trade Update: Transfers, retransfers and the ATT”, in *Small Arms Survey 2014: Women and Guns*, Cambridge University Press, 2014, pp. 126-127.

231 South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), *Toolkit for Addressing Unauthorized Re-Export or Re-Transfer of Arms and Ammunition*, SEESAC, June 2014, pp. 25-27. See also the research report: South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), *Addressing Unauthorized Re-Export or Re-Transfer of Arms and Ammunition*, SEESAC, June 2014.

- Establish clear lines of responsibility for coordinating and managing the investigation and responding to the report or allegation;
- Communicate information to relevant stakeholders in the exporting State (e.g. parliament and media) and partner States;
- Request information from the end user regarding the items reported or alleged to have been diverted, re-exported or re-transferred;
- Suspend or annul export licences concerning the end user and/or importing State;
- Place restrictions on future exports to the end user and/or importing State;
- Share information on the investigation and its results with other States.²³²

Therefore, tentative steps are being taken to codify the different responses that States have undertaken to allegations of diversion. While such responses usually entail investigations by the relevant law enforcement agencies in the exporting State, international cooperation is also often a critical element for resolving the allegation. Furthermore, sharing information on the investigation and its results with other exporters via regional organizations or export control regimes is an important outcome.

²³² South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), *Toolkit for Addressing Unauthorized Re-Export or Re-Transfer of Arms and Ammunition*, SEESAC, June 2014, pp. 24–26.

3. National end use/r control practices

This chapter draws upon several sources of information to provide an overview of national end use/r control practices, in particular those relating to the form, content and practices for utilizing end use/r documentation. The primary source of information for this chapter is the UNIDIR Survey on harmonization of end use/r control systems. The Survey consists of 29 questions that seek information on end use/r documentation, checks and post-delivery cooperation, and international cooperation and information exchange possibilities. The Survey was distributed to UN Member States via the Permanent Missions to the United Nations in Geneva and New York starting in June 2015. States were requested to return their completed Surveys by 1 September although Surveys were received and accepted until the end of October 2015. As of 30 October 2015, 41 completed Surveys had been received. Table 7 contains a list of the respondent States, organized by region: Africa (5 respondents); Americas (6), Asia (10), Europe (18) and Oceania (2).²³³ Twenty-two of these States are participating States of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. This chapter presents the aggregated data from these Surveys and some anonymized examples of national practice contained in completed UNIDIR Surveys. The chapter therefore relies on information provided by States. It does not draw conclusions on the effectiveness of the implementation of these measures.

Table 7. UNIDIR Survey respondents: Regional breakdown

Africa (5)	Americas (6)	Asia (10)	Europe (18)	Oceania (2)
Burkina Faso Mali Three participating States requested to withhold name of country	Dominican Republic Five participating States requested to withhold name of country	India Japan Malaysia Philippines Qatar Republic of Korea Turkey Three participating States requested to withhold name of country	Austria Croatia Czech Republic France Germany Hungary Montenegro Romania Russian Federation Serbia Spain Sweden Switzerland The former Yugoslav Republic of Macedonia Ukraine United Kingdom Two participating States requested to withhold name of country	Australia New Zealand

²³³ For the purpose of this study, the regional classification of UN Member States according to the United Nations Statistics Division is used.

In addition, UNIDIR has analysed information contained in national reports on PoA implementation concerning EUC and post-delivery cooperation, information provided by States in response to the UNGA resolutions on UN exchange of national legislation on the transfer of arms, military equipment and dual-use goods and technology and completed ATT-BAP Surveys.²³⁴ Where relevant, aggregated data from 85 PoA national reports for 2012–2015 and examples of practices in the 24 submissions to the UNGA resolutions on UN exchange of national legislation on the transfer of arms, military equipment and dual-use goods and technology between 2012 and 2015 and 63 completed ATT-BAP Surveys are used. Samples of end use/r documentation have also been utilized, along with information contained in expert analyses, to inform this chapter of the study.²³⁵

3.1. End use/r documentation requested by export licensing authorities

Of the 41 respondents to the UNIDIR Survey, five did not complete responses for questions regarding the information sought in end use/r documentation and the processes for authentication, verification and risk assessment before authorizing an export of conventional arms. These respondents, three of which are located in Africa, one from the Americas and one from Asia, explained that their State did not export conventional arms and therefore did not consider questions on the role of end use/r documentation in export authorization processes to be relevant.

The first question in the Survey asked: ‘When your State considers authorizing the export of conventional arms, including small arms and light weapons, do you require the applicant to submit end use/end user documentation to the relevant national authorities as part of the application process?’ Thirty-two States (78 per cent) responded that they require end use/r documentation to be submitted as part of an export licence process, with an additional three States reporting that there are exceptions. Of this total of 35 respondents, 18 are from Europe, nine from Asia, four from the Americas, two from Africa and two from Oceania. With regard to the exceptions, one EU Member State noted that an EUC is not required for exports to other EU Member States and ‘like-minded States and/or member States of multilateral export control regimes’. This corresponds with the results of UNIDIR’s analysis of national reports on implementation of the PoA during 2012-2015, which found that 66 (78 per cent) of the 85 reporting States require an EUC from an importing State prior to authorizing an SALW export.²³⁶ More than half of these States are European (35), followed by 10 African States, 10 Asian States, eight States from the Americas and two States from Oceania. All 22

²³⁴ General Assembly resolutions 57/66 of 22 November 2002, 58/42 of 8 December 2003, 59/66 of 3 December 2004, 60/69 of 8 December 2005, 62/26 of 5 December 2007, 64/40 of 2 December 2009, 66/41 of 2 December 2011, and 68/44 of 5 December 2013. ATT-BAP surveys can be found online at: <<http://www.armstrade.info>>.

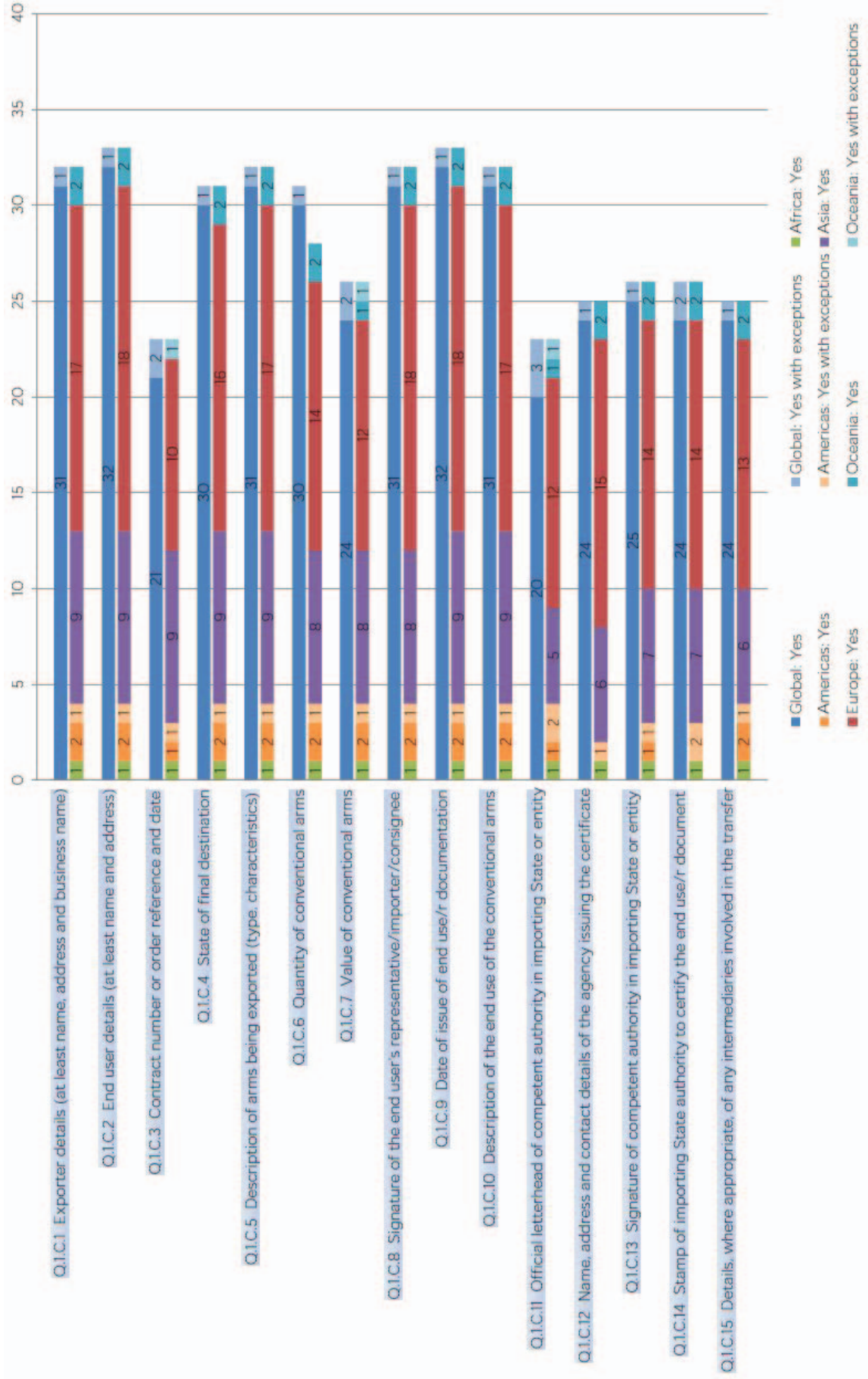
²³⁵ Mark Bromley and Hugh Griffiths, *End User Certificates: Improving Standards to Prevent Diversion*, Stockholm International Peace Research Institute (SIPRI), SIPRI Insights on Peace and Security 2010/3; Hugh Griffiths and Adrian Wilkinson, *Guns, Planes and Ships: Identification and Disruption of Clandestine Arms Transfers*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, August 2007; Glenn McDonald, “Who’s buying? End User Certification”, in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, pp. 154–181; 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 Occasional Papers No. 21, December 2011.

²³⁶ Analysis of responses to Question 6.5a in the UN PoA reporting tool, <<http://www.poa-iss.org/NationalReport/NationalReports.aspx>>.

participating States of the Wassenaar Arrangement that responded to the Survey require end use/r documentation before issuing an export licence.

The second question in the Survey asked if a State provided a template or checklist of elements that must be included in end use/r documentation to the applicant. Thirty-four respondents (83 per cent) stated that they provide a template or checklist containing the required details on end use/r, items, entities involved in the transfer, unique identifiers and assurances on use/r and re-export. The regional breakdown is the same as for question 1, but with only 16 European respondents providing a checklist or template, and two European States responded that they would do so with exceptions. Graph 1 provides an overview of the responses by States that request particular details to be included in end use/r documentation.

Graph 1. UNIDIR Survey results:
Requested details to be contained in end use/r documentation



Source: UNIDIR Survey, 2015.

The results of the UNIDIR Survey on details to be contained in end use/r documentation are therefore largely comparable with UNIDIR's PoA national report analysis, and earlier analysis of major exporting States' end use/r documentation.²³⁷ Graph 2 provides information from the 64 national reports published during 2012–2015 on the contents of end use/r documentation. In both the UNIDIR Survey and analysis of PoA national reports, it is clear that details on the items, end user, exporter and date of issue are required by almost all States. There are no significant differences between regions regarding the details requested.

The data also indicate that details regarding the contract or order reference number, intermediaries involved in the transfer and identifiers for the certifying importing State authority are not uniformly requested. Several respondents to the UNIDIR Survey highlighted that while certain details are not required in end use/r documentation, this information is supplied in support of an export licence application but not in end use/r documentation. For example, two of the respondents that do not require the details of the contract number or order reference and date in the end use/r documentation, require copies of the contract to be provided as part of the application. Just over half of the respondents (23 States responding yes or with exceptions) require an official letterhead of the competent authority to be included in the end use/r documentation, 12 of which are from Europe, five from Asia, three from the Americas, two from Oceania and one from Africa. A slightly higher number (25 States responding yes or with exceptions) require the name and contact details, signature or stamp of the competent authority in the importing State. However, even in cases where a respondent has indicated that such details are required, comments have been provided to indicate that this is not mandatory and that such end use/r documentation will still be accepted in support of an export licence application. Therefore, there is a gap between recommended details and what is accepted in practice. This reflects the assumption of the Small Arms Survey that:

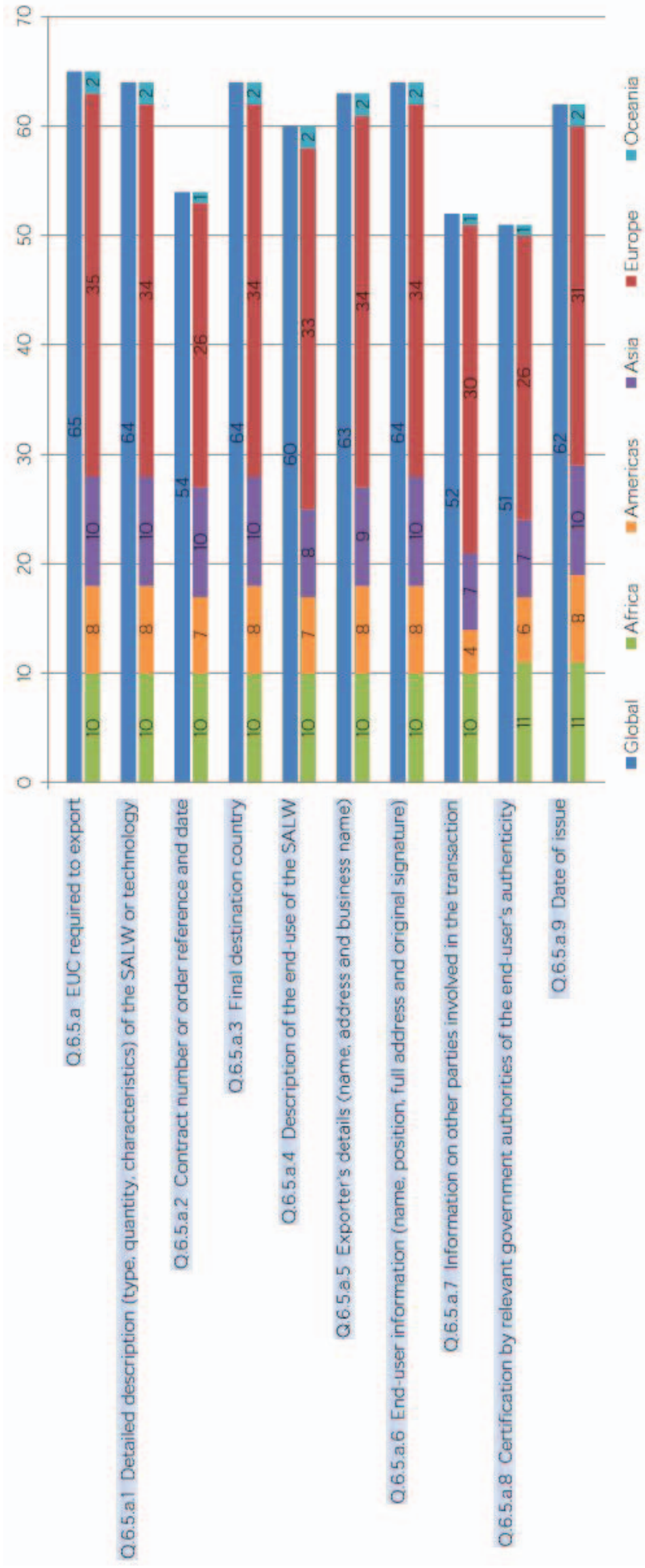
‘On paper, it appears the norms, instruments and systems needed to combat diversion are in place among the world's leading exporting States. Yet whether and how this framework translates into effective action remains unclear in the vast majority of cases’.²³⁸

The other main types of information to be contained in end use/r documentation are positive or negative assurances provided by the end user/importer regarding the end use, end user and re-export of the items to be transferred. Thirty-two respondents (78 per cent) require a statement that the declared end user will be the ultimate end user of the conventional arms being exported, with 28 (68 per cent) requiring a statement that the conventional arms will not be used for purposes other than the declared use. Two of the respondents that provided a negative answer to this question address the issue in a different manner, seeking a commitment to use the conventional arms only as indicated in the end use/r documentation.

²³⁷ 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 Occasional Papers No. 21, December 2011, pp. 34–35.

²³⁸ Glenn McDonald, “Who’s buying? End User Certification”, in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, p. 174.

Graph 2. UNIDIR analysis of PoA national reports, 2012–2015:
Elements in an end user certificate



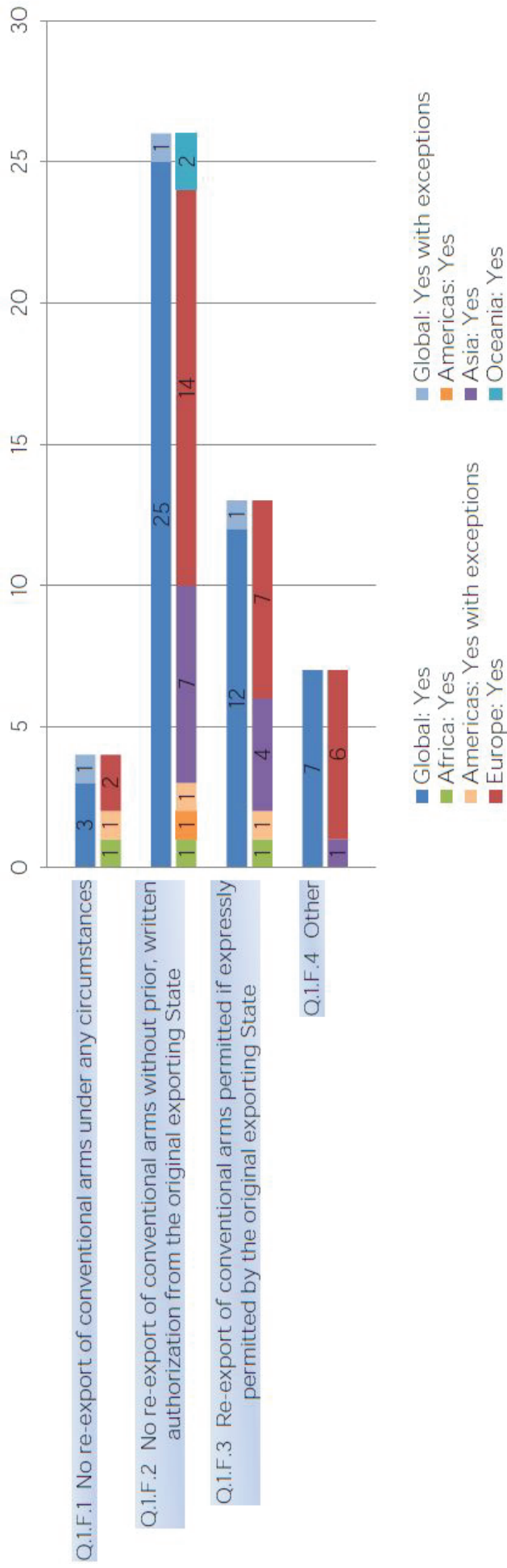
Source: UNIDIR analysis of UN PoA national reports, 2012–2015.

A high number of respondents require a statement on re-export to be included in end use/r documentation. Graph 3 shows the options most commonly utilized by States seeking assurances on re-export. There is a clear preference for re-export to only be undertaken following authorization by the original exporting State, with only three respondents indicating that they seek assurances that an end user will not re-export under any circumstances. One respondent indicated that it generally applies the 'no re-export under any circumstances' clause to 'exports of manufacturing technology for conventional arms, including SALW and ammunition'. Respondents indicated several other clauses on re-export or re-transfer that are sometimes included in end use/r documentation:

- 'If exports are destined to resellers, additional limitations could be imposed, such as an obligation to sell the goods exclusively in the internal market of the country of destination to end users that accept in writing the commitments of the EUCs signed by the reseller';
- 'The end user undertakes/commits to integrate the materials in its proper productions and not to sell or transfer to a third entity in the recipient State without the agreement of the [exporting State] Government (in this case, the signature of the Certificate does not pose an obstacle to re-export of productions in which the materials have been integrated)';
- 'A statement is required that the goods will not be re-exported or otherwise re-sold or transferred if it is known or suspected that they are intended or likely to be used for weapon of mass destruction purposes; and that the goods will not be re-exported or otherwise re-sold or transferred to a destination subject to UN, EU or OSCE embargo where that act would be in breach of the terms of that embargo'.

Fourteen respondents indicated that they utilize additional assurances in end use/r documentation for exports of MANPADS, with a further 21 respondents noting that exceptions can be made in some cases. Six respondents indicated that they produce or could export MANPADS, and that they would apply provisions contained in the Wassenaar Arrangement *Elements for Export Controls of MANPADS* when exporting MANPADS. Additional assurances on secure storage, handling, transportation and use would not have to be included in the end use/r documentation, but would be assessed by the export authorities. Two respondents indicated that on-site verification could be requested, in line with the provisions contained in the Wassenaar Arrangement *Elements for Export Controls of MANPADS*. Special provisions are also foreseen by three States in relation to exports of SALW. One State requires in its end use/r documentation for transfers of SALW, ammunition and hand grenades 'the formulation that these goods will not be used in an offensive manner against the civilian population'.

Graph 3. UNIDIR Survey results: Requested assurances on re-export to be contained in end use/r documentation



Source: UNIDIR Survey, 2015.

UNIDIR's analysis of information on re-export assurances contained in PoA national reports indicates that 57 out of 85 (68 per cent) reporting States will only permit a re-export of SALW with prior approval, with 20 States permitting re-export only with prior notification to the original exporting State from the re-exporting State.²³⁹ Eight of the 21 States that require only prior notification before re-export are African group States, six from Europe, three from the Americas and three from Asia.

The UNIDIR Survey also sought information on the role that end use/r documentation plays in an effective end use/r control system and any challenges faced in using end use/r documentation in an export licensing risk assessment. As noted in Chapters 1 and 2, it is recommended that export licensing authorities scrutinize end use/r documentation, authenticating the document and verifying its contents to prevent diversion. Sixteen respondents explicitly indicated that the provision of end use/r documentation is a necessary requirement for receiving an export licence. One respondent echoed the best practice guidelines discussed in Chapter 2 and stressed that 'the thorough examination of end use/end user is considered crucial for prevention of diversion'. Ten respondents indicated that diplomatic channels are utilized for the authentication of the document and verifying its contents as part of a comprehensive risk assessment, with embassies cited in several cases as playing a key role in this process. Six States mentioned national intelligence services also supporting this process. Four States referred to open source information available online as a method for checking the details contained in end use/r documentation. Another respondent indicated that it maintains a watch list of entities that are not considered reliable arms trading entities or recipients, and would check the information contained in end use/r documentation against the watch list. Other indicators of concern could include:

- unfamiliar end user;
- incomplete or suspect supporting documentation;
- scanty or derogatory background information or end use description;
- reticence or evasiveness by applicant or purchasing agent;
- payment in cash or at above-market rates;
- unfamiliarity of end users with the product or its use;
- end user declines customary associated services (e.g. installation, warranty, spares, repair);
- commodity indicators: excessive or inconsistent with needs or inventory, in demand by embargoed countries, especially sensitive (e.g. night vision, unmanned aerial vehicles, missile-related, high calibre);
- and geographic/shipment indicators: unfamiliar intermediary, unusual routing, trans-shipment through multiple countries or companies, countries, cities, or ports of concern, free trade zones, vague or suspicious delivery locations (e.g. P.O. box), shipping /packaging instructions, designation of freight forwarders as foreign consignees or end users, foreign intermediate consignees (e.g. trading companies, freight forwarders, export companies) with no apparent connection to the end user.

²³⁹ Analysis of responses to Question 6.6 in the UN PoA reporting tool, <<http://www.poa-iss.org/NationalReport/NationalReports.aspx>>.

At the same time, several respondents echoed the sentiments below that end use/r documentation and scrutiny represents only one aspect of effective export controls:

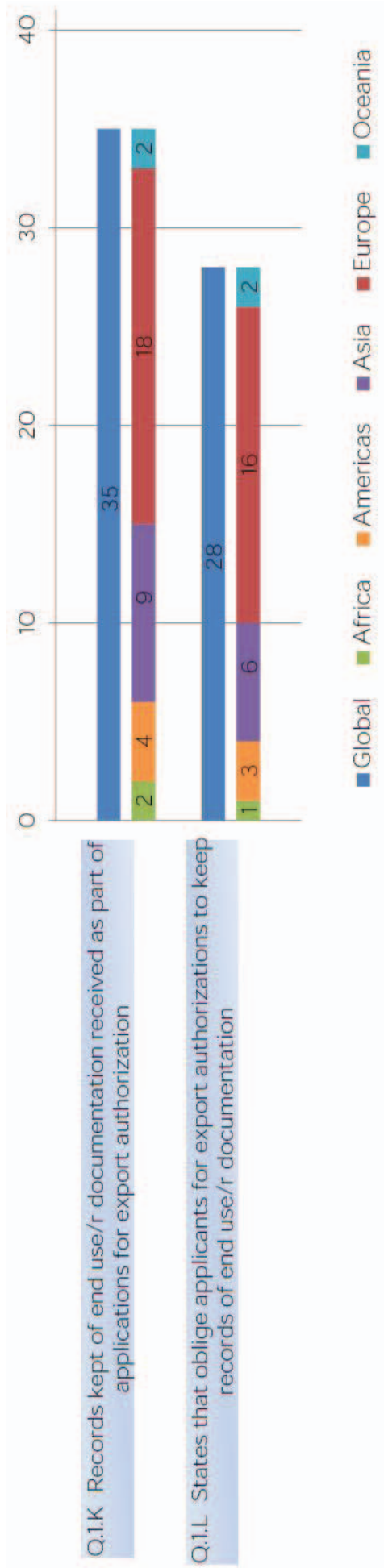
‘End user documentation plays an important role as part of the risk assessment process when deciding on export licence applications. Such documentation may give valuable information about the entities and persons involved in the transaction, as well as being a confirmation of their willingness to abide by export control rules and procedures. However, it must be emphasized that it is just one aspect of the risk assessment; no form or amount of documentation can prevent illicit activity’.

Eighteen respondents (44 per cent) to the UNIDIR Survey reported that they face challenges in verifying information contained in end use/r documentation, including:

- 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;
- The lack of cooperation with the relevant authorities in the country of import;
- Cooperation with entities involved in the transfer;
- Difficulties in identifying the competent authorities and authorized signatories (e.g. in both recipient countries and third party/transit States);
- Lack of resources (e.g. diplomatic representations in recipient countries);
- Lack of familiarity with end use/r control procedures and requirements, misperceptions with regard to checks and compliance inquiries.

One option that can help with authentication and verification is to keep records of end use/r documentation received as part of export licence applications and check subsequent licence applications to the same end user or importing State against previous documents. Graph 4 shows the results of the UNIDIR Survey regarding record-keeping practices. All 35 of the respondents that require end use/r documentation to be submitted as part of an export licence application keep records of end use/r documentation received. Twenty-eight of these respondents require export licence applicants to keep records. Five respondents stated that they keep such records for 10 years, with one respondent keeping the records for up to 10 years, another for five years and one for at least 15 years for conventional arms and 20 years for SALW. Most respondents that provided such additional information noted that end use/r documentation is kept with all documents submitted in relation to an export licence application, with hard and electronic copies maintained. The time period that exporters are required to maintain records varies from five years to indefinitely, with some respondents noting that they undertake checks on exporter records.

Graph 4. UNIDIR Survey results: End use/r documentation record-keeping



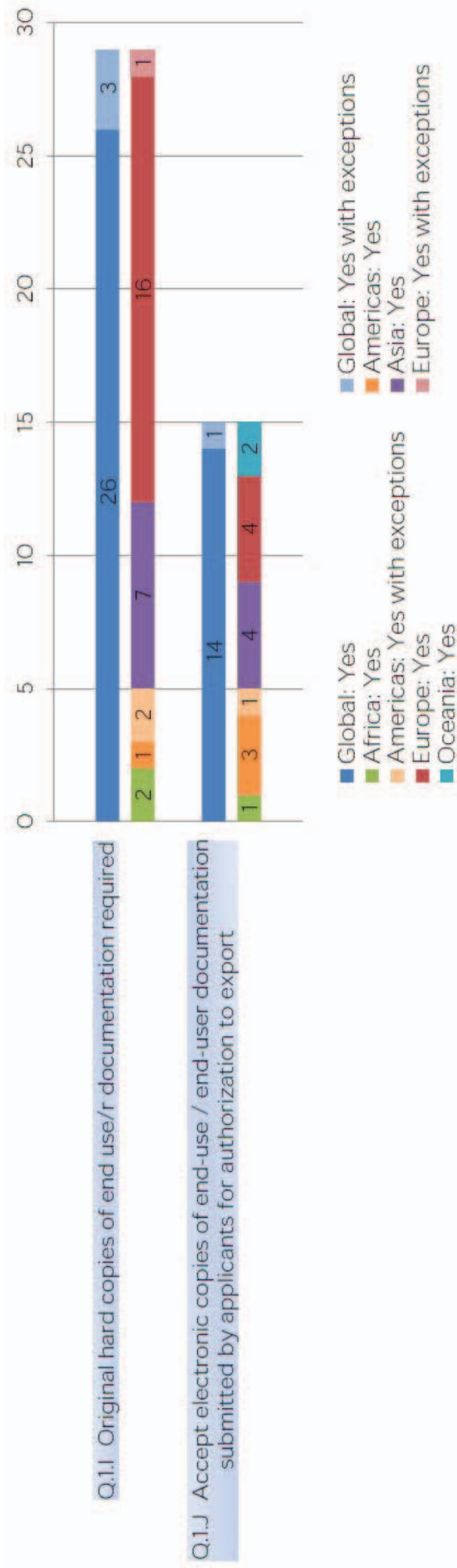
Source: UNIDIR Survey, 2015.

Twenty-five respondents (61 per cent) stated that they carry out measures to prevent the forgery or misuse of end use/r documentation. In comparison, 54 States (64 per cent) declared in their PoA national reports that they do so. Examples of measures to prevent forgery provided in the UNIDIR Survey include:

- Authentication by embassies located in the importing State;
- Original end use/r documentation, certified/legalized by a public notary;
- Anti-forgery elements included in the document, such as printing on 'special paper and numbered individually';
- Authentication or legalization using the Apostille of the Hague Convention, if the [importing] country belongs to the same.

While best practice documents have long recommended that end use/r documentation submitted in support of an export licence application should be an original document, several States utilize electronic means for export licence applications and therefore the UNIDIR Survey asked if States continue to require original documents or accept electronic copies. Graph 5 shows that 29 States (70 per cent) continue to require original copies with 15 States (36 per cent) willing to accept electronic copies. Two States noted that while they are willing to accept electronic copies for the export licence application, original end use/r documentation can be requested.

Graph 5. UNIDIR Survey results:
Hard copy or electronic copy of end use/r documentation?

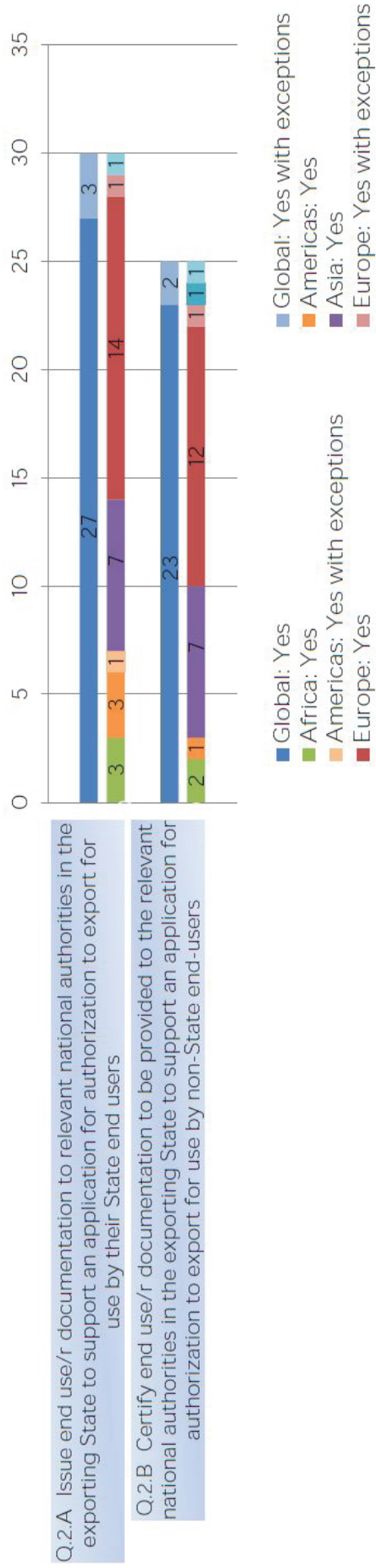


Source: UNIDIR Survey, 2015.

3.2. End use/r documentation provided by importer and end users

The first questions in the UNIDIR Survey's section on import authorization asked if the importing State issues end use/r documentation for State end users and certifies end use/r documentation for non-State end users. Graph 6 shows that 30 respondents (73 per cent) issue end use/r documentation for State end users with different Ministries often responsible depending on the end user. Five respondents stated that they issue an IIC in such cases. Twenty-five respondents (61 per cent) certify end use/r documentation for non-State end users (e.g. arms producing companies, private security companies), with five respondents indicating that IICs are utilized in such cases. While four of the respondents from the Americas issue end use/r documentation for State end users, only one respondent in the region certifies end use/r documentation for non-State end users. The available data do not allow for such a comparison to be made on this issue in other regions.

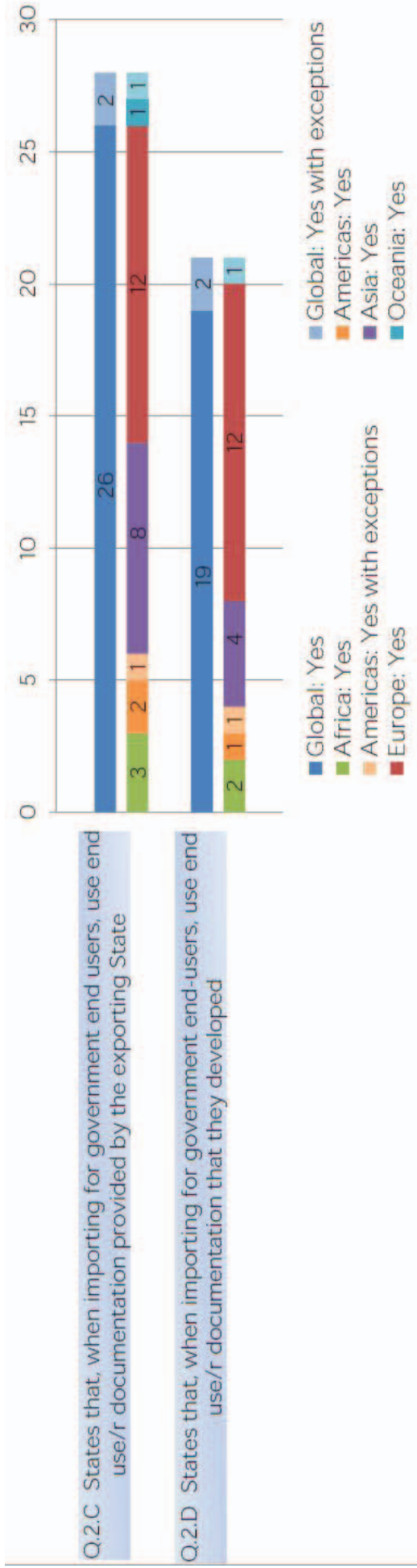
Graph 6. UNIDIR Survey results: Importing State issuing and certifying end use/r documentation



Source: UNIDIR Survey, 2015.

Section 3.1 demonstrated that many exporting States have templates and checklists that outline the expected contents of end use/r documentation. The UNIDIR Survey therefore sought to examine to what extent templates and checklists are utilized by importing States, and to what extent States provide end use/r documentation based on their own national checklist or template. Graph 7 shows that 28 responding States (68 per cent) utilize a checklist or template provided by exporting States when importing conventional arms and 21 responding States (51 per cent) utilize their own checklist or template. One respondent noted that in its experience ‘the end user certificates supplied by exporting States may differ from one-another in details, but the information contained is almost identical’. Several respondents noted that exporting States can insist on the use of an end use/r document format they provide. In general, it appears to be a case-by-case decision on whether to use a template provided by the exporting State or end use/r documentation prepared in the importing State.

Graph 7. UNIDIR Survey results:
Use of exporting or importing State checklist or template



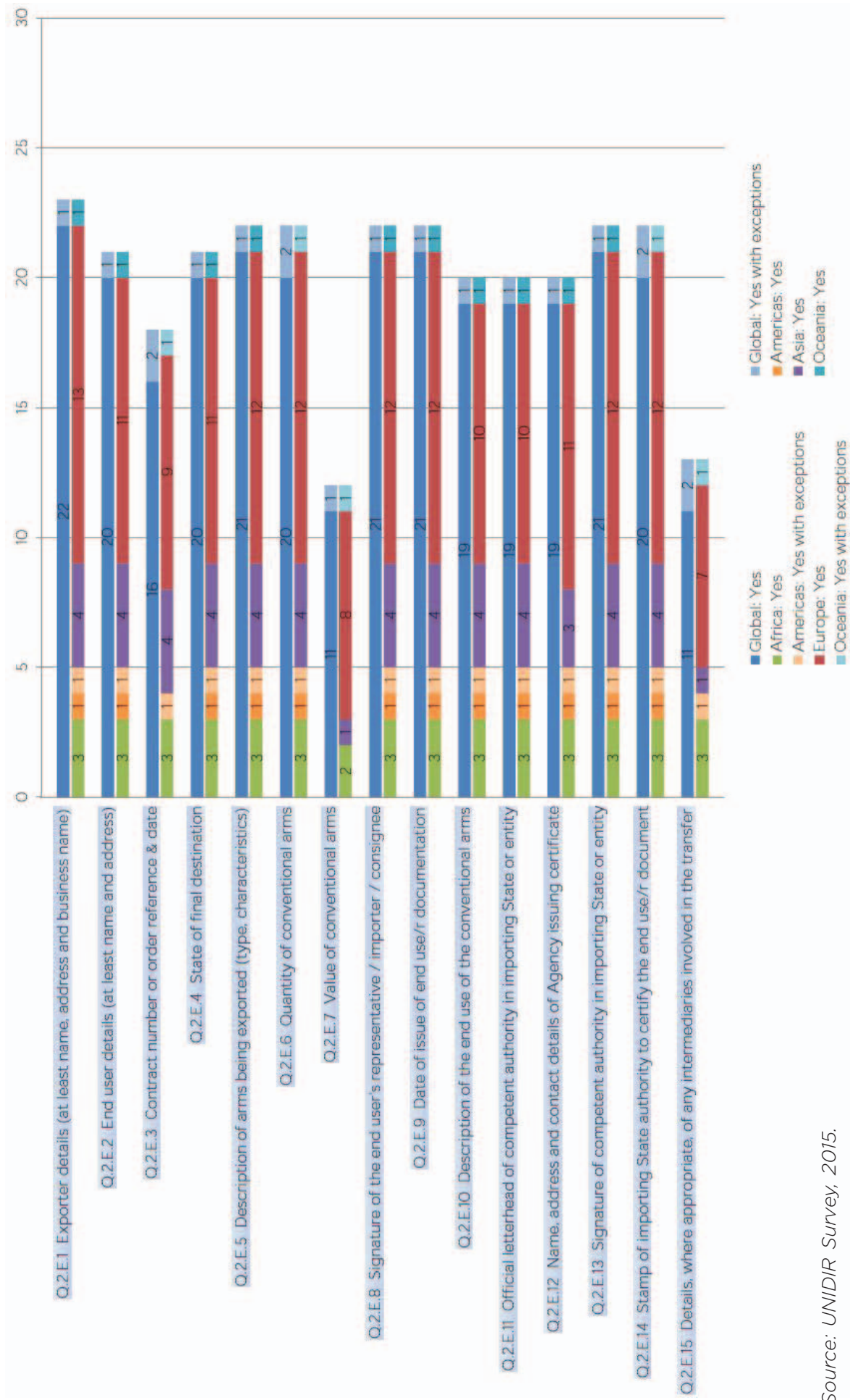
Source: UNIDIR Survey, 2015.

Graph 8 shows that the pattern for details and assurances contained in end use/r documentation issued by importing States overlaps with the required details outlined in Section 3.1. Several respondents referred to the fact that most of the items contained in Graph 8 are included in the IIC. Two respondents noted standards developed at the subregional level regarding the content of end use/r documentation. One African respondent indicated that the following additional assurances are contained in its end use/r documentation:

- Taking into account the international humanitarian and international human rights law record/engagement of the recipient country;
- As part of the combat against illicit traffic in arms.

The record-keeping practices for States importing conventional arms are comparable to the practices utilized when exporting, with a similar range of years for record-keeping.

Graph 8. UNIDIR Survey results: Details and assurances contained in end use/r documentation issued by importing States



Source: UNIDIR Survey, 2015.

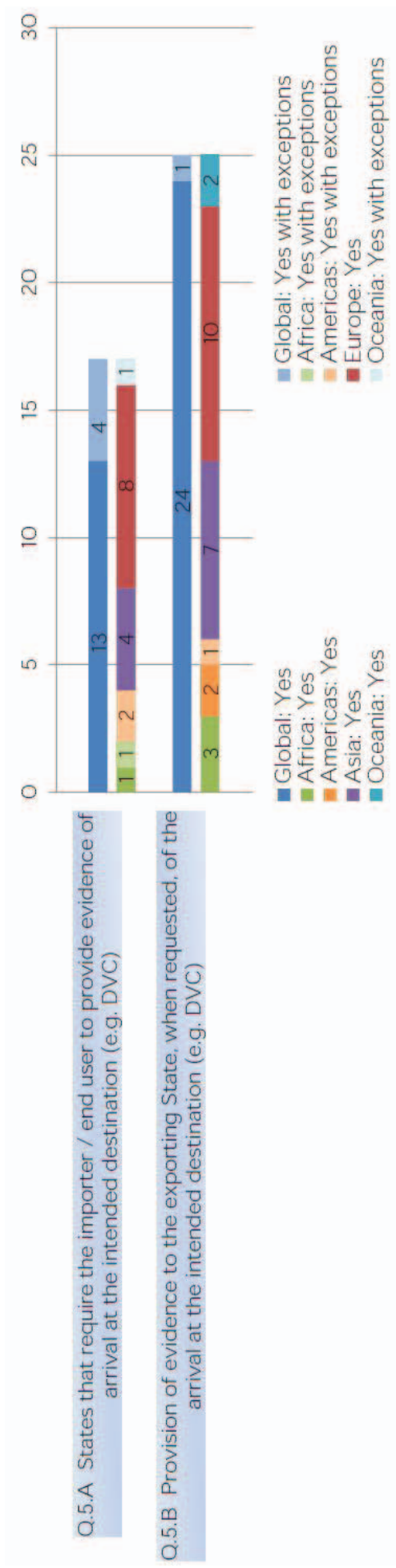
3.3. Post-delivery cooperation

Chapter 2 noted that best practice guidelines include post-delivery cooperation practices for end use/r control systems as an optional element, or a practice to be pursued only for particularly sensitive items, destinations and/or end users. The UNIDIR Survey reflects the assumption that post-delivery cooperation is not a standard practice. Graph 9 shows that 17 UNIDIR Survey respondents (42 per cent) require the importer/end user to provide evidence that conventional arms have been delivered to the authorized end user, with 16 respondents requiring such a commitment to be included in their end use/r documentation. However, three respondents indicated that other mechanisms are utilized for requesting confirmation of delivery. For example, one respondent indicated that a requirement for a DVC can be included in the export licence.

Twenty-five survey respondents (61 per cent) provide evidence of delivery to the relevant authorities in the exporting State when requested. Seven respondents explicitly stated that they provide a DVC upon request. This indicates that 25 respondents are willing to provide confirmation of delivery to the 17 respondents that request such confirmation. Again, the UNIDIR Survey did not reveal major differences between the regions regarding willingness to provide such information, with roughly half of respondents from Africa, the Americas and Europe willing to provide confirmation of delivery. The share of respondents from Asia and Oceania willing to provide such confirmation is higher.

Only six respondents require the inclusion of a commitment by the end user to agree to on-site verification by the exporting State, with a further three States sometimes utilizing this option for 'sensitive cases'. States were not asked if they would consider undertaking post-delivery cooperation, but one respondent noted that it lacked the 'capacity to undertake such verification'. There remains an opportunity to explore the range of post-delivery cooperation measures further.

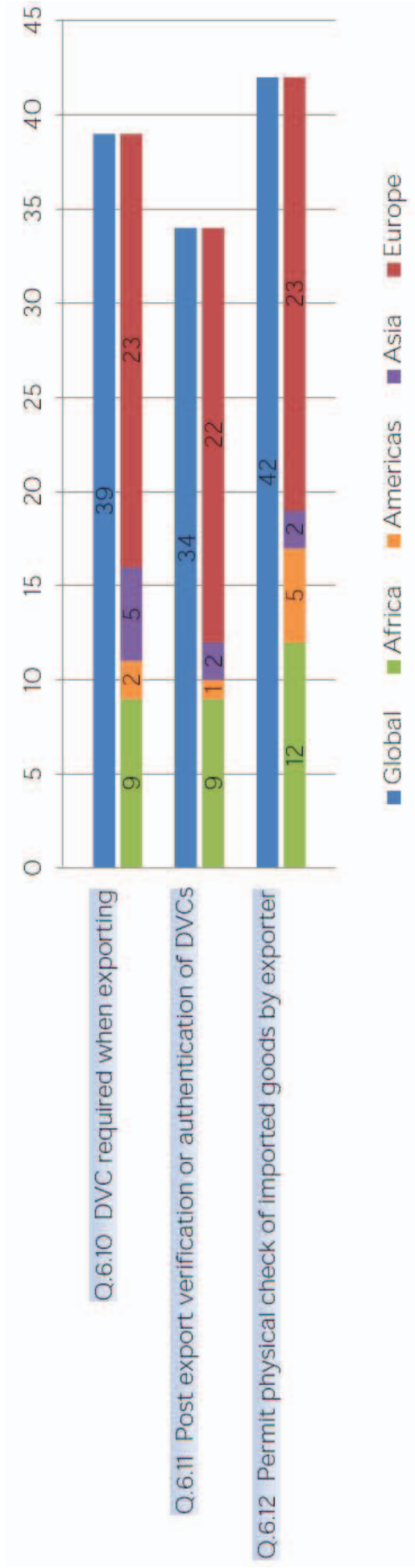
Graph 9. UNIDIR Survey results: Seeking and providing confirmation of delivery



Source: UNIDIR Survey, 2015.

The UNIDIR analysis of PoA national reports indicates that States would be more open to pursuing post-delivery cooperation with regard to SALW compared to conventional arms more generally. Graph 10 shows that 39 States (46 per cent) reporting under the PoA require a DVC when exporting SALW, with 34 States (40 per cent) verifying or seeking to authenticate DVCs. Forty-two (49 per cent) States are willing to grant the right to the exporting State to conduct a physical check at the point of delivery. Around two-thirds of these States are European, although nine African States request and check DVCs when exporting SALW. The PoA national report template does not seek additional information on physical checks at a later date.

Graph 10. UNIDIR analysis of PoA national reports, 2012-2015:
Post-delivery cooperation



Source: UNIDIR analysis of UN PoA national reports, 2012-2015.

3.4. International cooperation and information exchange

The question in the UNIDIR Survey which received the highest number of positive responses was 'Would your State be willing to share template(s) of national end use/r documentation with other States?' Thirty-nine States (95 per cent) responded positively to this question. This is therefore a positive signal for actors interested in examining the possibility of exploring recommendations to pursue a mechanism to facilitate the exchange of templates to support authentication of end use/r documentation, as recommended by the Monitoring Mechanism on Angola Sanctions and the Panel of Experts on Liberia.²⁴⁰ Twelve respondents already make their end use/r documentation templates publicly available online, with one respondent declaring that it has made this document publicly available via the Wassenaar Arrangement website.²⁴¹ Two more respondents are willing to provide templates and signatures on request. In addition, as noted in Chapter 5, OSCE participating States have shown that such an exchange can be undertaken as a first step towards developing an EUC template.

All but three States provided information on the ministry or government agency that certifies, authenticates and issues end use/r documentation, where applicable, in their UNIDIR Survey responses. However, the number of respondents willing to provide other States with information on entities authorized to certify and authenticate end use/r documentation, in line with the recommendation of the Panel of Experts on Somalia, to facilitate the process of authenticating end use/r documentation, was lower with 29 States (70 per cent) willing to participate in such an exchange and eight States unwilling to participate.²⁴² One State did recommend 'a publicly available list of competent authorities empowered to sign the end use/r documentation'.

Nevertheless, the UNIDIR Survey results point towards a willingness among a number of States to examine the potential for intergovernmental information exchanges between States in relation to strengthening end use/r control systems.

240 Security Council, *Final report of the Monitoring Mechanism on Angola Sanctions*, UN document S/2000/1225, 21 December 2000, para. 229; Security Council, *Report of the Panel of Experts appointed pursuant to paragraph 4 of Security Council resolution 1458 (2003) concerning Liberia*, UN document S/2003/498, 24 April 2003, para. 10, p. 8.

241 Twelve States have made sample EUCs, or links to sample EUCs, available on the Wassenaar Arrangement website: Australia, Bulgaria, Czech Republic, Denmark (for dual-use items), Hungary, Republic of Korea, Romania, Sweden, Switzerland, Turkey, Ukraine, and the United Kingdom. Wassenaar Arrangement, Participating States, <<http://www.wassenaar.org/participating-States>>.

242 Security Council, *Report of the Panel of Experts on Somalia pursuant to Security Council resolution 1425 (2002)*, UN document S/2003/223, 25 March 2003, para. 187, p. 49.

4. Areas for harmonization/the development of common understandings

This chapter presents six areas for harmonization that reflect proposals discussed with the UNIDIR Expert Group, and which reflect the main findings of the UNIDIR Survey and the research conducted for this study. The UNIDIR Expert Group considered a range of areas in which the development of common understandings, alignment and cooperation in end use/r control systems could contribute to addressing the diversion of conventional arms.²⁴³ The group reviewed the various initiatives and instruments that seek to establish common basic standards for effective end use/r control systems, as outlined in Table 2 in Chapter 1. These initiatives and instruments include good practice guidelines for end use/r control systems, checklists or templates for end user documentation (e.g. an EUC or EUS) and related practices and information exchange mechanisms. The UNIDIR Expert Group considered the experience of seeking to harmonize end use/r control systems via international and regional organizations and export control regimes and identified four key areas in which opportunities for harmonization at the regional and/or global level is desirable and could be feasible. A further two optional areas were identified as desirable but which merited further study before being considered by States in an international process. Nevertheless, further consideration of these areas would be welcome. The four areas in which a process for developing common understandings, alignment and cooperation could be feasible are:

- Definition of key terms;
- Details of items, end use and end use/r to be provided to export control authorities;
- Types of assurances to be provided by the end user/importer; and
- Role and functions of end use/r documentation.

The two areas where challenges exist but that merit further consideration because of their potentially significant contribution to efforts to address diversion are:

- Exchange of information and indicators for risk assessment; and
- Post-delivery cooperation.

This chapter reviews each of the key potential areas for harmonization of end use/r control systems. The rationale for the harmonization of the particular area is provided, alongside an analysis of relevant best practice guidelines discussed in Chapter 2 and national practices identified in Chapter 3. Each section therefore presents available evidence that could be used as the basis for consideration of harmonization as part of a multilateral process.

²⁴³ UNIDIR, *Meeting Summary: Examining Options and Model for Harmonization of End Use/r Control Systems. Informal Expert Group Meeting, Vienna, 22-23 April 2015*, UNIDIR, June 2015.

4.1. Key areas for harmonization

As demonstrated by Chapters 1 and 2, Euro-Atlantic organizations and export control regimes provide considerable guidance for each of the four key areas identified in this chapter. However, UNIDIR's research has shown that not all participating States in these organizations and regimes adhere to the recommended practices, and more importantly, such practices are not diffused beyond these States. This section outlines the basis for future work in this area.

4.1.1. Definition of key terms

The UNIDIR Expert Group on end use/r control systems recommended that a good starting point for considering aspects of national end use/r control systems to harmonize is to identify key concepts and terminology and present commonly understood meanings. The next step would be for States to share and compare national understandings of these different key concepts and terminologies and work towards achieving shared understanding. The UNODA study on end use/r control systems also called for an international process to be undertaken to harmonize definitions of key terms.²⁴⁴ The study provided several definitions which could be used for such purposes. Subsequently, the ISACS glossary and the Wassenaar Arrangement's *Introduction to End User/End Use Controls for Exports of Military-List Equipment* also provide definitions of some of the key terms and the way in which some terms are used interchangeably reflecting the plurality of options currently used in some cases.

This study presents several key terms and concepts that could be considered in an international process and presents definitions offered by multilateral best practice guidelines and research on end use/r control systems. Table 8 presents a comparison of definitions for key terms contained in end use/r documentation or relating to end use/r control systems. It highlights commonalities and some of the processes for which more than one name is utilized. The purpose of Table 8 is to identify areas where consensus could be achieved and where there is a need for greater clarity. It is expected that agreement on a number of key terms can be reached with relative ease due to work that has already been undertaken in this area. For example, the definitions for various forms of end use/r documentation appear to be clear—EUC, EUS and IIC—and there is agreement on the authentication and verification processes in the ISACS module and the UNODA study on EUCs. Yet, several key terms are not defined in all of the best practice guidelines and other guidance referenced in this study.

²⁴⁴ 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 Occasional Papers No. 21, December 2011.

Table 8. Comparison of the definitions of key terms

Key term	ISACS	Wassenaar Arrangement	UNODA study	Small Arms Survey
Documentation				
End user and end use documentation	[...] documents whose purpose is to identify, authorize, commit to certain undertakings and verify delivery to end-users of internationally transferred small arms or light weapons. NOTE Includes end-user certificates, end-user statements and delivery verification certificates; and, under certain conditions, import authorizations and International Import Certificates [...].	-	-	-
End user certificate (EUC)	[...] an official document, issued by a competent national authority of the importing State, that identifies a government agency of the importing State as the ultimate recipient of an international transfer of small arms or light weapons.	-	[...] is a clear certified undertaking of a purchaser/importer that any arms transferred from the exporting country is for its sole lawful use and that the arms are not destined for transfer or re-export to any other entity or State, without the prior written consent of the relevant authority in the exporting State. Such consent has to be obtained from the relevant arms export authority in terms of the applicable legislation and procedures of the exporting State prior to the authorization to export. The end-use/user certificate should be an original document and the information pertaining to the arms on the end-use/user certificate should correspond with the order(s) from the purchaser/importer regarding the specific transaction of the arms. It should include an official stamp and / or seal legalizing (authenticating) the end-use/user certificate by the appointed Government authority in the buyer/importer's country indicating that it is an authentic document.	A document provided by the end-user in the importing country (...) containing details of the goods being exported, their quantity and the parties involved in the transaction (...). It may also specify the end use of the goods and contain an undertaking on the part of the end user not to re-export the goods without the approval of the or notification to the exporting state.

Key term	ISACS	Wassenaar Arrangement	UNODA study	Small Arms Survey
International import certificate (IIC)	-	-	[...] is a standardized certificate accepted by some States through bilateral or multilateral agreements, such as through the North Atlantic Treaty Organization and the European Union, which is signed and stamped by the importing Government's authorities to confirm that the importing Government is aware of, and does not object to, the proposed transfer of arms or dual-use items to the commercial entity or individual. An IIC constitutes an undertaking by the importer (whether consignee or purchaser) to import the arms or dual-use items into the country of destination without diversion or trans-shipment elsewhere, and not to re-export the items without an export licence from the relevant authority in the country of importation. It is also an assurance from the Government of the importing country that it will control any subsequent export of these goods. It may also require the importer to obtain proof of delivery of the arms through a delivery verification certificate.	Issued by the government of the importing State [indicating it] is aware of and has no objections to the import of specified items and quantities of controlled goods. The importer obtains the IIC and provides it to the exporter.
End use/r statement (EUS)	[...] a document issued by a private end-user that provides assurances regarding the end user and end use of internationally transferred small arms or light weapons. [A certified end-user statement] has been stamped and signed (or otherwise certified) by a competent authority of the importing State.	-	[...] is an affidavit that a purchaser/ importer, whether a Government agency or private entity, must submit in order to acknowledge that goods will not be re-sold or used for purposes other than those for which they are intended.	Signed and stamped by the commercial importer. Any retransfer restrictions that they contain apply to the commercial importer.

Key term	ISACS	Wassenaar Arrangement	UNODA study	Small Arms Survey
Delivery verification certificate (DVC)	[...] document, certified by customs or other competent authority of the importing State, confirming that internationally transferred small arms or light weapons have been received by the authorized end-user.	-	[...] is a document used to prove that the arms have been effectively transferred and delivered to the end user or consignee in the importing State.	A document provided by the government of the importing state that confirms the controlled goods have been delivered or arrived in the importing state. The importer applies for the DVC and is required to provide evidence that the delivery has taken place, such as a bill of lading, airway bill or a form endorsed by the customs authority of the importing state.
Elements/Activities				
End use	[...] the ultimate application of internationally transferred small arms or light weapons.	[...] could be integration of a component or subsystem into a larger end product.	<i>Stated end use</i> is the information provided in the end-use certificate on the intended use of the notified commodity (e.g., spare part for ..., incorporation in ..., use as ...). If it is a supply to a project, the name of the project would normally be indicated.	[Indication of] how the end user intends to use the items being exported.
Authentication	[...] checking if end-user and end-use documentation has been forged, altered or otherwise illegally tampered with [...]	-	[or legalization] is the formality by which the authorities of the exporting State certify the authenticity of the signature, the capacity in which the person certifying the document has acted and, where appropriate, the identity of the seal or stamp which it bears.	-
Certification	-	-	-	-
Verification	[...] checking that the contents of end-user and end-use documentation is accurate [...]	-	[...] is the process by which the authorities of the exporting State check the accuracy of the information contained in an end-use/user certificate, especially regarding the risk of diversion and the end user.	-
Assurances (undertaking)	[...] commitment to circumscribe, limit or specify the use of imported small arms or light weapons, or to rule out certain uses [...]	-	-	-

Key term	ISACS	Wassenaar Arrangement	UNODA study	Small Arms Survey
Re-export	The export of goods from the State that previously imported them, without further processing or transformation of the imported goods.	-	-	-
Actors/Entities				
End User (ultimate consignee)	[...] the ultimate recipient of an international transfer of small arms or light weapons.	[...] may be a national government, national military forces, or other national authorities such as police, customs or paramilitary forces (...) companies that provide security services. Industrial end-users are increasingly common when components or subsystems are exported.	-	Person or entity in the importing state that ultimately receives and uses the transferred items.
Importer	-	-	[...] is the party who makes an import declaration—or on whose behalf a customs clearing agent or other authorized person makes the import declaration. This may include a person who has possession of the arms or to whom the arms are consigned.	-
Consignee (foreign consignee)	[...] person (natural or legal) who is the intended recipient of a consignment.	-	[...] the party to which arms are addressed.	A recipient of the transferred goods. The consignee can be the end user or an 'intermediate' consignee that assists in the delivery to the end user.
Exporter	-	-	[...] is the party who makes, or on whose behalf the export declaration is made, and who is the owner of the arms or has similar right of disposal over them at the time when the declaration is accepted.	-

Key term	ISACS	Wassenaar Arrangement	UNODA study	Small Arms Survey
Consignor	[...] person (natural or legal) who sends a consignment (e.g. via a delivery service).	-	[...] is the shipper of the arms as stipulated in the transport contract by the party ordering transport.	-
Exporting state (country of origin)	-	-	-	The state that is responsible for authorizing the export.
Importing state (country of final destination; final destination country; recipient country)	-	-	-	The state in which the end user is located.
Foreign intermediate parties	-	-	-	Entities involved in the transaction such as freight forwarders, customs brokers, agents or representatives, and arms brokers.

Sources: Glenn McDonald, "Who's buying? End User Certification", in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, pp. 154-181; Sarah Parker, "Devils in diversity: Export controls for military small arms", in *Small Arms Survey 2009: Shadows of War*, Cambridge University Press, 2009, p. 64; Wassenaar Arrangement, *Introduction to End User/End Use Controls for Export of Military-List Equipment*, adopted in July 2014; United Nations Coordinating Action on Small Arms (UN CASA), *International Small Arms Control Standard (ISACS) 01.20: Glossary of Terms, Definitions and Abbreviations*, 30 June 2015; 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 Occasional Papers No. 21, December 2011, pp. 7-12.

4.1.2. Details of items, end use and end use/r to be provided to export control authorities

Much of the discussion in the UNIDIR Expert Group on end use/r control systems related to the fact that there has been significant work carried out to establish recommended contents for end use/r documentation. Chapter 2 discussed the best practice guidelines that identify essential elements for EUCs. Information on items, end use, end users and entities involved in the international transfer of conventional arms is recognized as important for informing assessments of the risk of diversion conducted by export control authorities. The findings of this study indicate a consensus in Euro-Atlantic organizations and export control regimes on the types of information that are regarded as the minimum requirement to be provided to export control authorities.

Table 3 in Chapter 2 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; and there is also agreement on some of the optional elements to include in such documents. Multilateral efforts to agree on essential elements in end use/r documentation have thus far been primarily restricted to a limited number of States that are either members or participating States in export control regimes or the EU and OSCE. The UNODA study on EUCs 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.²⁴⁵ The analysis of the UNIDIR Survey contained in Chapter 3 of this study shows that several elements are required as part of the contents for end use/r documentation in support of an export licence application not only in the Euro-Atlantic area, but also in some States in Africa, the Americas, Asia and Oceania. However, the available evidence indicates that this is not evenly spread in these regions. The UNIDIR Survey also revealed that while many exporting States provide a checklist or template of elements to include in end use/r documentation, not all States use such templates when importing conventional arms. Some States have developed their own templates, which do appear to correspond largely with the requirements laid out in best practice guidelines. Therefore, it seems sensible to bring importing and exporting States together to compare and discuss the contents of their national end use/r documentation. Could a checklist or template end use/r document be developed at the international level?

Many States request or provide the recommended details outlined in best practice guidelines discussed in Chapter 2, with the majority of respondents to the UNIDIR Survey and States reporting under the PoA requiring the following information to be included in end use/r documentation:

- Unique identifier;
 - o Date of issue of the end use/r documentation;
- Information on the items;
 - o Description of the conventional arms being exported (type, characteristics);
 - o Quantity;

²⁴⁵ 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 Occasional Papers No. 21, December 2011, p. 31.

- Information to be provided on the end use/r;
 - o State of final destination;
 - o Details of the end user (at least name and address);
 - o Description of the end use of the conventional arms;
- Information to be provided on entities involved in the transfer;
 - o Details of the exporter (at least name and address);
 - o Signature, name, position and address of the end user's representative/importer/consignee.

The information represents a solid basis on which to explore opportunities for agreement on the minimum elements to be contained in end use/r documentation. It should not, however, preclude States from seeking to include additional information as recommended in best practice guidelines or for particularly sensitive items, end users or destinations. For example, it could be recommended that if information is not requested on intermediaries involved in the transfer in other supporting documents, it should be included in the end use/r documentation.

One of the issues discussed in the UNIDIR Expert Group related to the question: 'Is it necessary to consider minimum contents for particular types of items?' The Group noted that 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 UNIDIR Expert Group raised the possibility of focusing attention on end use/r documentation for SALW only, and not dealing with other conventional arms. This reflects to some degree the fact that, as noted in Chapter 3, some States already seek additional information for transfers of SALW and MANPADS. The Wassenaar Arrangement has also developed 'Best Practice Guidelines for Exports of SALW' and 'Elements for Export Controls of MANPADS', while many of the guidelines referred to in Chapter 2 are specifically for end use/r documentation and controls relating to SALW. Therefore, one of the issues to be considered by a potential international process would be to determine whether harmonization of end use/r control systems should relate to SALW only. At the same time, some members of the UNIDIR Expert Group expressed interest in examining opportunities to reduce the number of template documents offered for use, because exporting and importing States and end users can find the process of identifying the correct document confusing. This point was also emphasized in informal consultations with representatives of the arms industry. This led to discussion on seeking to agree on minimum contents for end use/r documentation for all controlled items. As will be noted in Chapter 5, the scope of the items to be covered will be influenced by the forum in which the international process takes place.

As noted in Chapter 2, most of the existing guidance on end use/r documentation contents relates to documentation to be provided for State 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 it could be worth considering whether to focus attention. For example, ISACS provides provisions to be included in end use/r documentation for non-

State end users. However, as shown in Table 4, ISACS recommends that export licence applicants seeking to deliver SALW to non-State end users should provide the same details on item, end use and entities involved in the transfer as for a State end user. The only differences relate to the identifiers to be provided by government authorities. Therefore, is it necessary to consider developing a separate set of 'minimum' elements for non-State end users?

4.1.3. Types of assurances to be provided by the end user/importer

The UNIDIR Expert Group on end use/r control systems, the UNIDIR Survey, and the PoA national report analysis show that it is common and accepted practice to seek assurances relating to end use, end user, re-export and post-delivery cooperation before authorizing the export of conventional arms, including SALW. However, as shown by Chapter 3, the type of assurances utilized by States varies depending on the items or type of end use, end user or destination. Therefore, an international process could seek agreement on the inclusion of clear language relating to assurances in such areas, perhaps utilizing language already provided for in best practice guidelines. The findings presented in Chapter 3 show that a variety of options for assurances could be regarded as acceptable, with the applicant for the export licence responsible for securing the assurances. Therefore, one could envisage four sets of assurances that could be utilized in end use/r documentation or other documentation, such as a commercial contract, for:

- Assurance on use of items in accordance with declared end use;
- Assurance that the end user will be the ultimate recipient and will not divert or relocate the conventional arms;
- Assurances relating to re-export;
- Assurances on confirmation of delivery or post-shipment inspections.

The UNIDIR Survey indicates that assurances on end use and end user diversion are common and acceptable assurances for both exporting and importing States. However, a wider dialogue on this issue is obviously necessary to ensure that this view holds for States that did not participate in the Survey and are not participating States in Euro-Atlantic organizations or export control regimes. It could be envisaged, for example, that ATT States Parties may seek to include assurances that recipients use the imported items in accordance with international humanitarian and human rights law, and that the items are not used directly or indirectly in war crimes, genocide, violation of UN Security Council resolutions, international agreements on terrorism, transnational organized crime, acts of gender-based violence or violence against women and children, in accordance with Articles 6 and 7 of the ATT.

With regard to assurances on re-export, the findings indicate that a variety of assurances are utilized. In several cases, States noted that they use all of the assurances on re-export provided for in the UNIDIR Survey, depending on items and/or end use/r and destination. The OSCE EUC template, for example, recommends that States include provisions on re-export, but offers different options for the language to be included in the provision.

However, it is perhaps too ambitious to seek agreement on when a particular provision for re-export will be utilized. For example, as noted in Chapter 3, one State seeks a 'no re-export under any circumstances' provision when exporting technology to enable the production of SALW and ammunition. Could the use of such a provision in such cases be universalized? As a first step, and building upon the UNIDIR Survey, it could be possible for States to share their general practice of when particular provisions are utilized. This is likely to reveal that some States might require only notification to the original exporting State if the State seeking to re-export conventional arms is a participating State in an export control regime or is an ATT State Party. It could be agreed that particularly stringent assurances could be included on re-export in cases involving MANPADS or for States that are subject to UN Security Council restrictions with regard to arms procurement. Again this is an area in which the Wassenaar Arrangement has also provided guidance that could be utilized further.

In addition to the provision of assurances, it is also worth reflecting on the competent authority that agrees to abide by them. It is generally expected—although not always followed in practice—that a high-level government official of the importing State or a representative of the end user will provide assurances on end use, and that the export control authorities will take the assurances into account in their risk assessment. It is recognized that this is an important area for cooperation and building trust and confidence between the governments of the exporting and importing States. It is also recognized that this can be a particularly challenging issue for agreement and trust. This brings us on to the fourth key area.

4.1.4. Roles and functions of end use/r documentation

Chapter 2 outlined the recommendations contained in best practice guidelines on the roles and responsibilities for importing and exporting States with regard to roles and functions of end use/r documentation in national end use/r control systems. The OSCE best practice guide and ISACS module provide some guidance on the role and function of end use/r documentation. For example, ISACS Module 03.21, *National controls over the end user and end use of internationally transferred small arms and light weapons*, draws upon good practice guidelines developed within regional and international organizations and export control regimes for SALW, to provide guidance on roles for government agencies in importing States (verification of the *bona fide* of the end user and permission to import the items, as well as certification of end use/r documentation) and government agencies in the exporting State (authentication of the end use/r documentation and verification of its contents as one part of a broader risk assessment). The UNIDIR Expert Group recommended that an international exchange of national practice and understanding could further help to strengthen the effectiveness of end use/r documentation in preventing diversion.

The UNIDIR Survey showed that not all States issue and certify end use/r documentation when importing conventional arms. Independent research and investigations conducted by experts appointed to monitor implementation of UN arms embargoes have noted that even when importing States issue end use/r documentation for arms procurement by armed forces or the ministry of defence, the documents can omit essential information, be easy to forge, alter and can be utilized for facilitating illicit

arms transfers, as noted in Chapter 1.²⁴⁶ The UNIDIR Expert Group also considered that it can be useful to centralize the process for issuing end use/r documentation. While some States have put in place centralized licensing systems to control transfers of arms, 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 who are authorized to sign and certify end use/r documentation. Therefore, an international process on harmonizing end use/r control systems could seek to understand and address the challenges for States in providing end use/r documentation that fulfils the essential elements as recommended by best practice guidelines and the minimum recommended details that could be developed as part of the international process.

A second area in which States could take steps to prevent diversion by non-State actors would be to establish standards and verification processes for end use/r documentation, IICs and import licences for non-State end users.²⁴⁷ As Chapter 3 showed, a high share of UNIDIR Survey respondents do not certify end use/r documentation for non-State end users, and it is not clear whether authorizations are provided for import via other mechanisms that can assure exporting States that steps have been taken within the importing State to examine the *bona fide* of the end user or importer. In the cases of both State and non-State end users, and in line with the emphasis on cooperation in international instruments and agreements on arms transfers (e.g. PoA, Firearms Protocol, ATT), a State that is seeking to import conventional arms should assist the exporting States to facilitate legitimate international arms transfers.

Multilateral best practice guidelines and expert analyses emphasize that the exporting State has the greatest responsibility with regard to end use/r controls, because 'exporting States have more tools at their disposal for detecting, preventing and deterring diversions that occur at the point of embarkation and in transit than at the point of delivery or post-delivery'.²⁴⁸ Exporting States are charged with undertaking careful scrutiny of the end use/r documentation, in particular its authentication and the verification of its contents as part of a broader risk assessment process before authorizing the export of conventional arms. A number of respected analysts have stressed that 'rigorous and thorough' checks are the most effective defence against diversion.²⁴⁹

246 Hugh Griffiths and Adrian Wilkinson, *Guns, Planes and Ships: Identification and Disruption of Clandestine Arms Transfers*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, August 2007, p. 29.

247 Mark Bromley and Hugh Griffiths, *End User Certificates: Improving Standards to Prevent Diversion*, Stockholm International Peace Research Institute (SIPRI), SIPRI Insights on Peace and Security 2010/3, p. 13.

248 Matt Schroeder, Helen Close and Chris Stevenson, "Deadly Deception: Arms Transfer Diversion", in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, p. 123.

249 Mark Bromley and Hugh Griffiths, *End User Certificates: Improving Standards to Prevent Diversion*, Stockholm International Peace Research Institute (SIPRI), SIPRI Insights on Peace and Security 2010/3, p. 15; Hugh Griffiths and Adrian Wilkinson, *Guns, Planes and Ships: Identification and Disruption of Clandestine Arms Transfers*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, August 2007, p. 27; Glenn McDonald, "Who's buying? End User Certification", in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, p. 155; Matt Schroeder, Helen Close and Chris Stevenson, "Deadly Deception: Arms Transfer Diversion", in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, p. 123; Brian Wood and Peter Danssaert, *Study on the*

As noted in Chapters 2 and 3, States have established procedures for authenticating and checking end use/r documentation, but are willing to share information on the challenges that are faced in these processes. An international process that facilitates a discussion among States on the information required to be included in end use/r documentation, why this information is required and how it will be used can help to address these challenges and those faced by States importing conventional arms.

In addition, an international process can examine and if possible clarify the roles of other key stakeholders in the transfer process, such as arms producers, brokers and dealers, and those entities involved in transportation. This can help to identify possible mechanisms for facilitating cooperation, in particular the exchange of relevant information prior to the transfer.

4.2. Potential areas for harmonization

The two potential areas that merit further research before being considered by an international process on the harmonization of end use/r control systems are discussed below. Both issues contain some elements that could be part of a global discussion in the near future, with some elements requiring considerable research and confidence-building between States, before consideration can be given to their adoption at the global level.

4.2.1. Exchange of information and indicators for risk assessment

A critical aspect of end use/r control systems is the ability of the export licensing authorities to conduct a thorough assessment of the risk of diversion for each proposed transfer. The four key areas described above address different aspects of the information on items, end use/r and transfer that are to be used when seeking to answer the following questions:

- Is there a significant risk that the items could be misused?
- Is the end user trustworthy? And what of the other entities involved in the transaction?
- Is there a significant risk that the items could be diverted?

For many States, it can be useful to receive information from other States and external sources to help in conducting a thorough risk assessment. In some cases, it could be useful for risk assessment indicators and guidance on sources of information to be shared between States. The UNIDIR Survey indicates that an exchange of end use/r documentation templates could be feasible as a first step in an international process to harmonize end use/r control systems. This exchange could help to inform deliberations on common minimum details of items, end use, end users and exporters to be included in harmonized end use/r documentation and assurances on end use/end users, as well as for post-delivery cooperation. This exchange could also help with authentication processes. The UNIDIR Survey shows that securing agreement on establishing an exchange of information on agencies authorized to issue, certify and

Development of a Framework for Improving End Use and End User Control Systems, United Nations Office for Disarmament Affairs Occasional Papers No. 21, December 2011, p. 22.

authenticate end use/r documentation (as has been recommended by both States and UN experts) would be welcomed by some States, but that not all States would be willing to participate. Such an exchange has been recommended by both States and UN Experts. A first step could be to propose a voluntary exchange of information.

Independent research analysts have proposed such exchanges of end use/r documentation, risk indicators and relevant information for authentication and verification of documentation as part of a wider risk assessment process.²⁵⁰ The UNIDIR Expert Group on end use/r control systems considered the possibility of sharing information on risk indicators. It is only proposed as a possible area for international discussion because the UNIDIR Expert Group revealed uncertainties on the utility of such information exchanges and the willingness of States to share valuable but sensitive information for other States' risk assessment processes. Some States may be willing to share such information, and therefore a voluntary exchange of risk indicators could be proposed as part of an international process. The development of guidelines could be also considered, building on regional developments.

4.2.2. Post-delivery cooperation

For many States, responsibility for an arms export ends when it leaves the exporting State's territory. In such cases, the exporting State is confident that the risk of diversion has been assessed as part of a comprehensive risk assessment before issuing an export authorization or licence. Chapter 1 suggests that this approach is not always sufficient for preventing diversion. Good practice guidelines developed by international and regional organizations and export control regimes refer to post-delivery cooperation measures as worth considering for particularly sensitive items, destinations and/or end users. The UN experts given the task of monitoring the implementation of sanctions, and also research institutes, strongly recommend the development and use of measures to facilitate cooperation and information sharing, such as:

- Confirmation of receipt of items (e.g. DVCs);
- Record-keeping by recipients of controlled items;
- Notifying, in a timely manner, relevant authorities in exporting States on loss or theft of controlled items;
- Abiding by assurances on re-export, whichever options are utilized;
- On-site inspections of the location of end use by the relevant authorities in the importing State and/or through cooperation between the relevant authorities in the importing and exporting States.

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 and/or relevant authorities in the importing State to increase confidence and ensure that follow-on deliveries are possible.²⁵¹ The UNIDIR Expert Group considered the possibility of reframing

²⁵⁰ Mark Bromley and Hugh Griffiths, *End User Certificates: Improving Standards to Prevent Diversion*, Stockholm International Peace Research Institute (SIPRI), SIPRI Insights on Peace and Security 2010/3, p. 13.

²⁵¹ Glenn McDonald, "Who's buying? End User Certification", in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, p. 163; Ilhan Berkhol and Virginie Moreau, Post-Export Controls on

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 UNIDIR Expert Group, this better reflected the intentions of existing national programmes that examined the post-delivery phase of an arms transfer. The experts explained that they considered cooperation in the post-delivery phase as a means to build confidence and trust.

The results of the UNIDIR Survey and PoA national report analysis indicate that further examination of procedures for delivery confirmation could be considered as part of an international process on harmonizing end use/r control systems. However, broader mechanisms for post-delivery cooperation are still in very limited use. Nevertheless, a number of States are already utilizing or examining the option of post-delivery cooperation, including on-site checks. Therefore, beginning a dialogue on post-delivery cooperation might find a more favourable audience today than when researchers began to promote the issue several years ago and met resistance from exporting States that stressed that a rigorous pre-licensing risk assessment is sufficient for preventing diversion. Good arguments have been developed to address concerns that post-delivery cooperation can be expensive for exporting States. For example, the Small Arms Survey has noted that such cooperation tends to be used primarily in cases presenting greater diversion risks, and therefore robust risk assessments before authorizing arms exports remain but additional tools and greater cooperation with importing States are utilized.²⁵² The more significant challenge is in relation to concerns by importing States that such post-delivery cooperation equates to monitoring and a violation of the national sovereignty of the importing State. However, this should be regarded as presenting a challenge to creative options for facilitating post-delivery cooperation rather than an obstacle to all prospects for success in this area. For example, as noted in Chapter 2, one could envisage opportunities for confidence-building between States in which importing States performed post-delivery checks and shared this information with relevant authorities in exporting States, e.g. reporting on missing items.

Arms Transfers. Delivery Verification and End Use Monitoring, Group for Research and Information on Peace and Security (Brussels), GRIP Report 2009/4, p. 6; 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 Occasional Papers No. 21, December 2011, pp. 57-58.

252 Glenn McDonald, "Who's buying? End User Certification", in *Small Arms Survey 2008: Risk and Resilience*, Cambridge University Press, 2008, p. 173.

5. Potential processes for the development of common understandings

This chapter considers potential avenues for States to engage in a dialogue to explore the possibility of developing common understandings of end use/r control systems. The first part of the chapter considers three key lessons that the study has drawn from efforts to develop common understandings of end use/r control systems in export control regimes and regional organizations. These lessons inform the recommended potential processes for developing common understandings, which are discussed in the second part of the chapter. Three potential processes are recommended for developing common understandings of end use/r control systems. The first two potential processes—the UN and the ATT—are international and potentially global in scope. The third potential process could be a series of regional processes, located in regions that do not host major arms exporters. A key feature of this chapter is to consider mechanisms to enable contributions to the international process from States that have not been party to multilateral considerations of end use/r control systems.

5.1. Lessons learned from multilateral efforts to harmonize end use/r control systems

As shown in Chapter 1, international calls for harmonization of end use/r control systems have been frequent during the last two decades. Table 9 shows several Euro-Atlantic organizations and export control regimes that have been particularly active in this regard and that include major arms exporters as members or participating States. These initiatives and instruments include good practice guidelines for end use/r control systems, checklists or templates for end user documentation and related practices and information exchange mechanisms. These processes present useful lessons for harmonizing end use/r control systems. This section highlights three key lessons for a future multilateral process:

- Take a step-by-step approach;
- Understand opportunities for and limitations of information sharing and international cooperation; and
- Involve States that are not participating States of export control regimes and Euro-Atlantic organizations.

Table 9. Examples of types of multilateral efforts to harmonize or establish common standards

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 (EU)	X	-	X	X
Organization for Security and Cooperation in Europe (OSCE)	X	X	X	-
United Nations Coordinating Action on Small Arms (UN CASA), ISACS	X	-	X	-
Wassenaar Arrangement (WA)	X	-	X	X

5.1.1. Step-by-step approaches: The OSCE experience

The OSCE provides a useful example of a step-by-step approach towards voluntary harmonization of end use/r documentation for SALW transfers. Its experience could serve as the basis for an international process or other regional developments in establishing good practices for end use/r control systems to prevent diversion. The first step in the OSCE case was the development by government experts of a best practice guide on export controls, which listed details and assurances to be contained in EUCs, and recommendations on format and certification, authentication and verification processes.²⁵³ Drawing upon this guidance, the participating States of the OSCE adopted a politically binding decision in the Forum on Security Cooperation (FSC) in November 2004 that outlined the standard elements to be contained in EUCs and verification procedures for SALW exports.²⁵⁴ In order to assess the implementation of the decision, OSCE participating States adopted another politically binding decision in the FSC in November 2008, which arranged for an intergovernmental information exchange of national EUCs and relevant verification procedures.²⁵⁵ The next stage in the OSCE process consisted of the development of an informal EUC template, which was based on the adopted elements as well as the best practice guide and existing national practices.²⁵⁶ The template serves as a checklist as well as a potential basis for end use/r documentation for States that do not have a template or checklist. The UNIDIR Expert Group considered the OSCE experience as a potentially useful method

²⁵³ Organization for Security and Co-operation in Europe (OSCE), “Best practice guide on export control of small arms and light weapons”, in *Handbook on Best Practices on Small Arms and Light Weapons*, OSCE, 2003.

²⁵⁴ Organization for Security and Co-operation in Europe (OSCE), *FSC Decision 5/04: Standard Elements of End-User Certificates and Verification Procedures for SALW Exports*, OSCE document FSC.DEC/5/04, 17 November 2004.

²⁵⁵ Organization for Security and Co-operation in Europe (OSCE), *Forum for Security Cooperation. Decision No. 12/08. Information Exchange with Regard to Sample Formats of End User Certificates and Relevant Verification Procedures*, OSCE document FSC.DEC/12/08, 12 November 2008.

²⁵⁶ Organization for Security and Co-operation in Europe (OSCE), *End User Certificate for Small Arms and Light Weapons*, an electronic template developed by the OSCE and the Stockholm International Peace Research Institute (SIPRI) for end user certificates for the export of small arms and light weapons, 28 September 2011, <<http://www.osce.org/fsc/83178?download=true>>.

for moving forward with harmonization in other regions, but also for a potential approach to a global mechanism.

5.1.2. Understanding opportunities and limitations of information sharing and international cooperation: The case of the Wassenaar Arrangement

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 or 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 destabilizing accumulation or be a potential threat to security and stability in the region of destination'.²⁵⁷ An information exchange is likely to play a critical role in the realization of end use/r control harmonization. In this regard, the UNIDIR Expert Group noted some of the challenges to sharing information on diversion or misuse at the international level and the need for legal agreements on exchange of information. It was also noted that some States prefer to conclude bilateral arrangements or limited multilateral agreements, rather than broad multilateral arrangements.

Furthermore, although the Wassenaar Arrangement has made a significant contribution to the development of good practice standards in this area, it also serves as a useful example of where the limits for what can be achieved in a multilateral setting on this issue rest. The Wassenaar Arrangement has made a significant contribution to the development of good practice standards on end use/r controls, as evidenced by Tables 2 and 19. However, the UNIDIR Expert Group noted that while the participating States of the Wassenaar Arrangement have considered the issue of end use/r controls for many years, it has been challenging to secure consensus on mandatory elements. For example, although the Wassenaar Arrangement's participating States adopted an *Introduction to End user/End use Controls for Export of Military-List Equipment* in July 2014, this was because the participating States could not yet agree on the adoption of *Elements* or *Guidelines* on the issue. Therefore, there are technical and political challenges to the harmonization of end use/r control system understandings among some of the world's largest arms exporters. The difficulties in establishing a global process should not be underestimated.

5.1.3. The need to involve States that are not major arms exporters

One of the key topics of discussion among the UNIDIR Expert Group was the fact that States that do not participate 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 it is also the result of engagement with States that have not thus far

²⁵⁷ Wassenaar Arrangement, *Best Practices to Prevent Destabilising Transfers of SALW through Air Transport*, adopted in December 2007, para. 2.4.

contributed to the development of good practice guidelines and documentation for strengthening and harmonizing end use/r control systems. This principle opens up the possibility not only of pursuing a multilateral process through the UN or among ATT States Parties on the issue of the harmonization of end use/r control systems, but it could be useful for regional groupings and organizations in Africa, the Americas, Asia and Oceania to consider end use/r control problems.

5.2. Possible avenues for establishing common understanding on and strengthening of end use/r control systems

This study recognizes the ongoing work in international and regional organizations, as well as in the export control regimes, to strengthen end use/r control systems as a measure to address the diversion of conventional arms. Therefore, the study does not propose that States embark on a process that simply replicates work that has already been undertaken, but rather that they explore the potential for options and avenues to widen the number of stakeholders involved in the international arms trade in efforts to strengthen end use/r control systems. In particular, the study seeks to promote regional and international dialogue that involves a broad range of States and other important stakeholders, such as industry, in consultations and the development of common understandings to strengthen end use/r control systems. The following questions need to be considered when exploring possible avenues for supporting States in their efforts to strengthen end use/r control systems:

- What existing processes—e.g. UN, ATT or regional—could be utilized to facilitate inclusive and comprehensive dialogue?
- Can all three processes be utilized at the same time or could there be sequencing?
- Which regions should be the focus if a regional approach is considered?

This section presents three possible avenues that could be utilized to promote and engage in a global dialogue to strengthen end use/r controls. The list of possible avenues here is not exhaustive as there are other existing processes which may be useful for States in carrying such dialogue forward. However, the three options presented represent the most appropriate avenues at present.

5.2.1. United Nations

As demonstrated in Chapter 1, many States have raised and discussed in the **UNGA** and **Security Council** the need to strengthen end use/r control systems and called for exploring options for standardization of documentation and enhanced international cooperation. A UN process represents a clear option for undertaking an international dialogue on end use/r control systems. As shown in Chapter 3, UN Member States have already provided information when reporting on implementation of the **PoA** and in response to the **UNGA resolution on the national legislation on the transfer of arms, military equipment and dual-use goods and technology**. To some degree, therefore, an exchange of information on the contents of national end use/r documentation and some related practices has already taken place between States. The UNIDIR Survey has demonstrated that States may now be willing to go further and provide **samples of**

templates or checklists. Therefore, perhaps an explicit request for such documentation could be included in the next UNGA resolution on the exchange of national legislation on the transfer of arms, military equipment and dual-use goods and technology.

UNGA resolution 46/36H of December 1991 included **a request to the Secretary-General** from UN Member States for assistance:

‘upon request and within available resources, in holding meetings and seminars at the national, regional and international levels, as pertinent, with a view to: [...] Promoting the development of internationally harmonized laws and administrative procedures relating to official arms procurement and arms transfer policies’.²⁵⁸

Further, should interest exist, States could examine whether the issue of end use/r control systems with regard to SALW transfers could be a theme of a **PoA Biennial Meeting of States** or **Meeting of Governmental Experts**. As noted in Chapter 4, there are some States that are interested in exploring the strengthening of end use/r control systems with SALW transfers being the main focus. Given the provisions on EUCs in the PoA, it would seem a suitable venue for pursuing a global dialogue on end use/r controls for SALW transfers. However, as noted in Chapter 1, a proposal was made during the preparations for the 2006 PoA RevCon for a GGE to be convened on the issue of EUCs, but the proposal was not adopted despite the fact that there seemed to be acceptance of the concept.²⁵⁹

This study recognizes that the timing of the initiation of such a dialogue is critical. The UNIDIR Expert Group discussed the potential for initiating a UN process that could be adopted globally by all UN Member States and bring together significant importers and exporters into a single forum, such as a **GGE**. It was noted that if a GGE were to be considered, it would require significant support by UN Member States. It would also benefit from guidance on the issues to be addressed and current practices, such as end use/r documentation. **UNIDIR’s Survey** represents a good start in this regard. A GGE convened to consider harmonizing end use/r control systems to address diversion and misuse could present a report on the understandings reached on key terms, concepts and the process for strengthening end use/r controls, as well as areas of contention. The report could provide guidance on next steps to be undertaken within the PoA framework or other forums. The report could also contain a checklist or end use/r documentation template as an annex. A recommendation to develop guidelines on certification and issuing of EUCs, as well as authentication and verification, could also be considered.

5.2.2. Arms Trade Treaty

Chapter 1 noted that the issue of end use/r documentation and controls faded from the PoA framework, the Secretary-General’s reports and Security Council statements on small arms, once negotiations for an ATT got under way. Therefore, several members of the UNIDIR Expert Group noted that if the ATT has **subsidiary bodies** that address operational issues relating to its provisions, in particular addressing diversion and

²⁵⁸ General Assembly, *General and complete disarmament: International arms transfers*, UN document, A/RES/46/36H, 6 December 1991, para. 8(c).

²⁵⁹ Glenn McDonald, Sahar Hasan and Chris Stevenson, “Back to Basics. Transfer Controls in Global Perspective”, in *Small Arms Survey 2007: Guns and the City*, Cambridge University Press, 2007, p. 123.

promoting international cooperation, then harmonizing end use/r control systems could be a particularly useful topic for consideration. At the same time, several experts noted that some significant players in the international arms trade are neither signatories nor States Parties to the ATT. Yet, 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. As with the UN process, the ATT provides a forum in which States that are not major exporters or participating States of export control regimes can also share experience, practice and understandings on end use/r control systems.

The ATT is a new instrument but it could make an important contribution to the issue of **strengthening the risk assessment** and cooperative elements of end use/r control systems to address diversion. In particular the harmonization of end use/r documentation could be addressed via a working group in accordance with Articles 5, 7, 8 and 11. The group could request the **exchange of documentation and practices** to inform consultations in a manner comparable to the OSCE step-by-step approach. It is also conceivable that **a group of experts** in an **ATT working group** could develop good practice guidelines on end use/r controls, including common understandings, essential and desirable elements, assurances, and guidance on roles and functions. As with the UN process, **a template end use/r document or checklist** could be drafted and offered for use on a voluntary basis for States.

5.2.3. Regional process

The UNIDIR Expert Group reflected on the positive experience of Euro-Atlantic regional and export control regime efforts to consider the harmonization of end use/r control systems. The option of 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, is therefore also worth considering. One could foresee the possibility for the **sharing of regional experiences** in this regard too.

Regional initiatives in Latin America and the Caribbean, as well as in sub-Saharan Africa—led by **CARICOM**, **ECOWAS**, the **Southern African Development Community** and the parties to the **Nairobi Protocol**—provide useful forums for further consideration of the issue. As noted in Chapter 1, the Security Council has in the past recommended that ECOWAS States consider the development of a standardized EUC, and several States in the subregion participated in the UNIDIR Survey. This could be an issue to be pursued within the framework of the ECOWAS Convention. The fact that the RECSA guidance for implementation of the Nairobi Protocol also addresses the contents of EUCs could also be used as the basis for consultations in East Africa. Such regional processes could take place in coordination with other international processes, such as those listed above. It is also worth reflecting on whether these States should consider the harmonization of end use/r controls systems only for SALW transfers or for conventional arms more broadly.

The progress made in step-by-step processes in Euro-Atlantic organizations to harmonize end use/r control systems, in particular documentation, provides a

potentially useful model for other regions to consider.²⁶⁰ Elements of the processes described above, which have been utilized within the OSCE on this issue already, could prove useful. Therefore, as above, a first step could be the exchange of documentation and practices, which could then be subject to a comparative study and analysis. As in the OSCE, a step-by-step process could be developed to deliver similar outcomes to the OSCE or those outlined above.

The proposed next phase of UNIDIR's project on the harmonization of end use/r control systems envisages a series of regional meetings to consider existing practices in Africa, the Americas and the Asia-Pacific. The meetings are intended to contribute to potential global processes, but could also have spin-off effects for the regions or subregions that will participate in UNIDIR meetings.

²⁶⁰ Mark Bromley and Hugh Griffiths, *End User Certificates: Improving Standards to Prevent Diversion*, Stockholm International Peace Research Institute (SIPRI), SIPRI Insights on Peace and Security 2010/3, p. 13.

6. Conclusions

This study sought to address two related objectives:

- Identify which aspects of national end use/r control systems could feasibly be harmonized;
- Explore the feasibility of, and potential frameworks for, a process to strengthen control systems and enhance cooperation to prevent diversion at the regional and/or global level.

To this end, the study has presented six options that States could consider as part of a meaningful dialogue on potential areas for cooperation, shared understanding and alignment of measures to strengthen end use/r control systems. It also provides recommendations on three different forums for undertaking an international dialogue, noting potential outcomes. All proposals are predicated on the study's central hypothesis that:

Greater cooperation and alignment between States with regard 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 their intended end use/rs.

A key finding of the study is the challenge of utilizing the word 'harmonization' to promote an international process on end use/r control systems. However, via consultations with the UNIDIR Expert Group and the results of the UNIDIR Survey and analysis of reports on the PoA, the research team found that the three elements of the definition could be feasibly pursued via an international process on end use/r controls:

- 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.

Therefore, while an international process to harmonize end use/r controls is unlikely to find traction, one that seeks to enhance international cooperation, forge common understandings and align standards has potential.

The UNIDIR Survey and analysis in Chapter 3 shows that there are potentially good foundations on which to develop an international process to consider agreement on details of end user, end use and items, as well as assurances on end use and re-export, to be included in end use/r documentation. In particular, it shows several areas in which agreement could be reached and common understandings developed. The UNIDIR Survey also found willingness by a significant group of States to exchange end use/r documentation templates and checklists. The potential for this to be a starting point for an international process has already been shown in the example of the

OSCE. The evidence presented in this study points towards potentially productive and positive results for the **definition of key terms and details of items and end use/r to be provided to export control authorities and types of assurances to be provided by the end user/importer**. This reflects the fact that much of the attention on end use/r control systems has focused upon the contents of end use/r documentation requested by exporting States as part of the application for a licence to export controlled items. However, efforts have also been undertaken by regional and international organizations, as well as export control regimes, to **elaborate on the roles of such documentation in end use/r control systems**, in particular for risk assessment. This is a crucial aspect of a discussion on effective end use/r control systems, as Chapter 1 has shown that the provision of end use/r documentation is insufficient if not subjected to authentication and verification as part of a comprehensive risk assessment to prevent diversion.

For many States, it can be useful to receive information from other States and external sources to help conduct a thorough risk assessment. In some cases, it could be useful for risk assessment indicators and guidance on sources of information to be shared between States. UNIDIR's Survey and research revealed hesitancy on the part of some States to share valuable but sensitive information. Other States indicated that they are ready to engage in exchanges to facilitate authentication and verification. It is anticipated that opportunities to engage in an **exchange of information and indicators for risk assessment** will present themselves as part of a longer-term process to strengthen end use/r control systems.

The preliminary research into post-delivery controls and monitoring shown in Chapters 2 and 3 confirms the findings of earlier studies on the challenges and limits of measures being undertaken at this stage of a transfer. However, this study's proposal to examine the potential for greater cooperation between the relevant authorities in the exporting State and the end user to increase confidence and ensure that follow-on deliveries are possible as part of a shift from post-delivery controls to **post-delivery cooperation** is yet to be tested. It is recommended that further exploration be undertaken as there are some signs of exporting States other than the United States of America beginning to examine options that could be captured under the post-delivery 'cooperation' heading. Switzerland is one example and Germany is another.

The study does not express a preference regarding the avenue that States could take to explore the development of common understandings of end use/r control systems. It finds merits and challenges in each of the options presented. For example, while a **United Nations** process could involve all UN Member States, the most likely route will be via the PoA process and therefore focused on SALW and not all conventional arms. Conversely, an **Arms Trade Treaty** process has the benefits of broad scope in terms of arms covered, but will not involve all UN Member States. Nevertheless, one could envisage the issue of end use/r controls being examined by experts in both UN and ATT forums and therefore the study does not believe it is necessary to close either route yet. The progress made in step-by-step processes in Euro-Atlantic organizations to harmonize end use/r control systems, in particular on documentation, provides a potentially useful model for other regions to consider. **Regional processes** for States that are not in export control regimes and outside the Euro-Atlantic area could be initiated by an exchange of views, practices and documentation which could then be subject to a comparative study and analysis. Such processes could be undertaken in

formal or informal settings and would strengthen and complement UN and/or ATT processes. One could envisage that UN, ATT and/or regional processes could result in the development of:

- Good practice guidelines on end use/r controls, including common understandings, essential and desirable elements, assurances, and guidance on roles and functions; and/or
- An EUC document template or checklist.

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Acronyms and abbreviations

ATT	Arms Trade Treaty
ATT-BAP	Arms Trade Treaty Baseline Assessment Project
CARICOM	Caribbean Community
DVC	delivery verification certificate
ECOWAS	Economic Community of West African States
EU	European Union
EUC	end user certificate
EUS	end user statement
FSC	Forum on Security Cooperation (OSCE)
GGE	Group of Governmental Experts
IIC	international import certificate
INTERPOL	International Criminal Police Organization
ISACS	International Small Arms Control Standards
MANPADS	Man-Portable Air Defence Systems
MERCOSUR	Mercado Común del Sur (Southern Common Market)
NATO	North Atlantic Treaty Organization
OSCE	Organization for Security and Co-operation in Europe
PGE	panel of governmental experts
PoA	United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
RECSA	Regional Centre on Small Arms
RevCon	United Nations Conference to Review Progress Made in 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
RUF	Revolutionary United Front (Sierra Leone)
SALW	small arms and light weapons
SECO	Swiss State Secretariat for Economic Affairs
SEESAC	South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons
SFC	Swiss Federal Council
UAE	United Arab Emirates
UN	United Nations
UNCASA	United Nations Coordinating Action on Small Arms
UNDDA	United Nations Department for Disarmament Affairs
UNDP	United Nations Development Programme

UNGA	United Nations General Assembly
UNIDIR	United Nations Institute for Disarmament Research
UNITA	Uniao Nacional Para a Independencia Total de Angola (UNITA)
UNODA	United Nations Office for Disarmament Affairs
Security Council	United Nations Security Council
WA	Wassenaar Arrangement



Examining Options to Enhance Common Understanding and Strengthen End Use and End User Control Systems to Address Conventional Arms Diversion

This study responds to the various international calls to explore opportunities for greater harmonization of end use/r control systems, with particular regard to end use/r documentation, in order to strengthen efforts to prevent diversion of conventional arms.

The study 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, and potential frameworks for, a process to strengthen end use/r control systems and enhance cooperation to prevent diversion at the regional and/or global levels. It uses a wide variety of materials, including multilateral instruments for strengthening and use/r control systems, research carried out by internationally recognized experts, as well as the results of a UNIDIR Survey on national end use/r control systems and international cooperation and information exchanges, distributed to States in June-October 2015. Several meetings and events convened by UNIDIR in 2015 were used to explore assumptions and proposals relating to aspects of the end use/r control system to be harmonized, and potential international processes to be utilized.

This study offers a number of options for States to have a meaningful dialogue on potential areas for cooperation, shared understanding and possible alignment of measures to enhance common understanding and strengthen end use/r control systems to address conventional arms diversion.