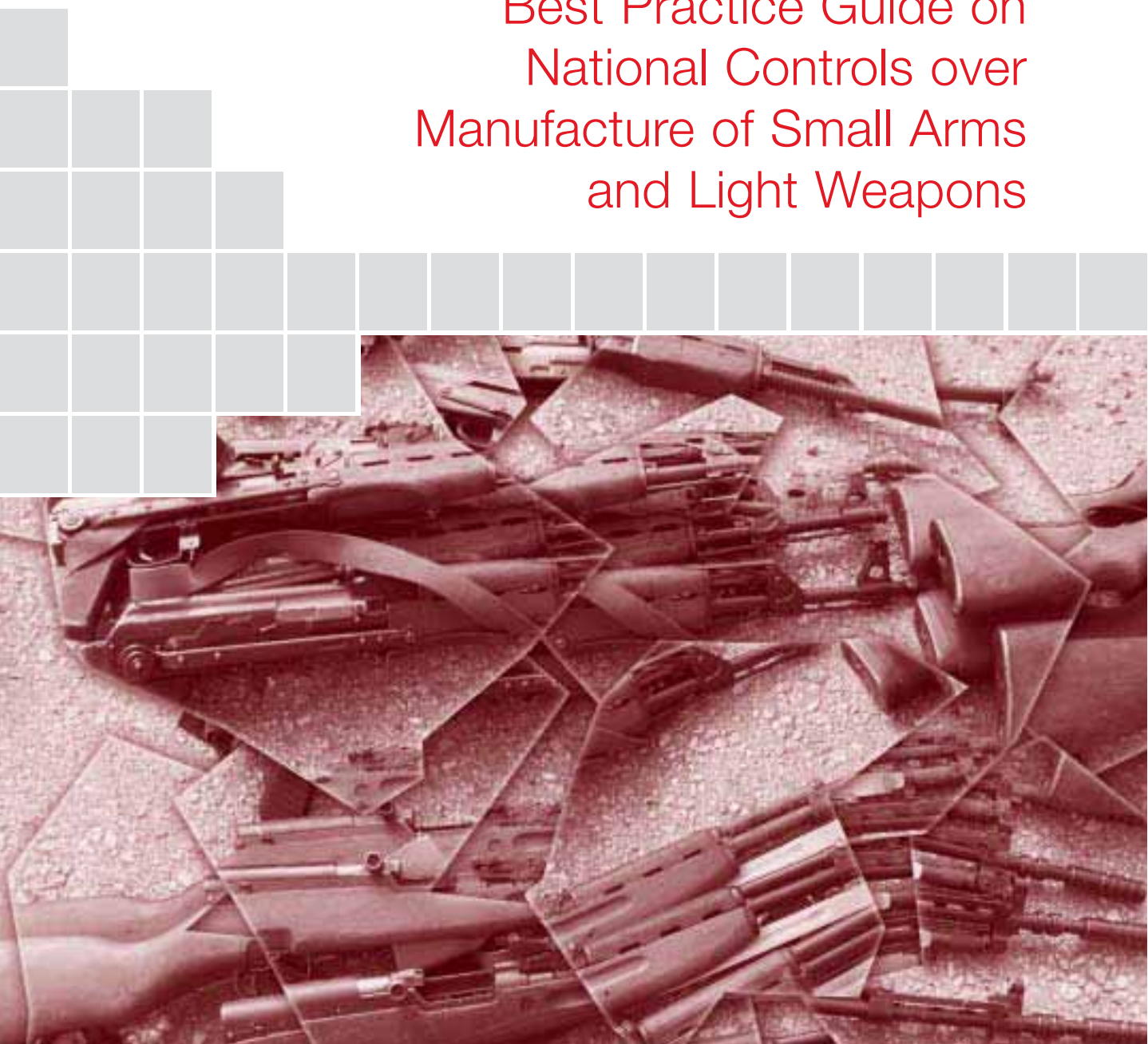




Handbook of Best Practices
on Small Arms and Light Weapons

Best Practice Guide on National Controls over Manufacture of Small Arms and Light Weapons



FSC. GAL/43/03/Rev. 3
19 September 2003

© 2003. The Organization for Security and Co-operation in Europe asserts its copyright in the entirety of this work and its formatting. Reproduction of this work (or sections thereof) in limited quantities for the purposes of study or research is permitted. All other requests should be directed to:
FSC Support Unit, Conflict Prevention Centre, OSCE Secretariat
Kärntnerring 5-7, A-1010, Vienna, Austria

TABLE OF CONTENTS

I.	INTRODUCTION	2
II.	INTERNATIONAL COMMITMENTS	3
III.	NATIONAL LEGISLATION	4
IV.	PROCEDURES	5
	1. Licensing requirements and conditions	5
	2. Licensing and authorizing bodies	5
	3. Issuance of licences and authorizations	6
	4. Suspension, review, renewal and revocation of licences and authorizations	7
	5. Control over compliance with existing requirements	7
V.	CONTROL AT THE MANUFACTURING STAGE	8
	1. Control by the recipient	8
	2. Control by the manufacturer	8
	3. Control over SALW components	9
	4. Control over finished SALW	9
	5. Penalties for violations of SALW management procedures	9
	ANNEX: REFERENCES	10

I. Introduction

The existence of effective procedures to control the manufacture of small arms and light weapons (SALW) constitutes an important element in efforts to prevent the destabilizing accumulation and uncontrolled spread of such weapons.

In accordance with the OSCE Document on Small Arms and Light Weapons, “the participating States agree to ensure effective national control over the manufacture of small arms through the issue, regular review and renewal of licences and authorizations for manufacture. Licences and authorizations should be revoked if the conditions under which they were granted are no longer met. The participating States will ensure that those engaged in illegal production can, and will, be prosecuted under appropriate penal codes” (OSCE, 2000, Section II(A)1).

Each State should adopt a decision on the establishment of its own national system for control over the manufacture of SALW.

Because of the diversity of national legal and administrative systems, no uniform procedure exists for control over the manufacture of SALW. Nevertheless, there are a number of elements available to ensure the effective functioning of such a control system, in the form of a legal framework, and decision-making and implementation mechanisms.

This Guide provides information and suggests approaches and procedures for the control over SALW manufacture. It contains references to relevant international commitments and cites the necessary elements of national legislation, setting out the norms and principles of control over SALW manufacture. It also considers effective measures for their enforcement.

For the purposes of this Guide, small arms and light weapons are man-portable weapons made or modified to military specifications for use as lethal instruments of war. The categorization of SALW used here is that of the OSCE Document on Small Arms and Light Weapons (OSCE, 2000, Preamble, para.3).¹

¹ According to the OSCE Document on Small Arms and Light Weapons, small arms are broadly categorized as those weapons intended for use by individual members of armed or security forces. They include revolvers and self-loading pistols; rifles and carbines; sub-machine guns; assault rifles; and light machine guns. Light weapons are broadly categorized as those weapons intended for use by several members of armed or security forces serving as a crew. They include heavy machine guns; hand-held under-barrel and mounted grenade launchers; portable anti-aircraft guns; portable anti-tank guns; recoilless rifles; portable launchers of anti-tank missile and rocket systems; portable launchers of anti-aircraft missile systems; and mortars of calibres less than 100 mm.

II. International Commitments

A number of important international commitments relating to national control over the manufacture of SALW are set out in resolutions of the General Assembly of the United Nations.

At present, the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (UNGA, 2001a), is the only global legally binding instrument that establishes common procedures for the prevention and suppression of the illicit manufacture of firearms.²

In accordance with the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (UNGA, 2001b), member States undertook to put in place adequate laws, regulations and administrative procedures to exercise effective control over the production of SALW. The States also undertook to prevent the illegal manufacture of SALW through the adoption of all necessary measures at the national level.

In accordance with the OSCE Document on Small Arms and Light Weapons, participating States agreed to ensure effective national control over the manufacture of SALW, and also to exchange with each other information on national procedures for control over their manufacture (OSCE, 2000, Section II).

The Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (OAS, 1997) was adopted by the member States of the Organization of American States to prevent, suppress and eradicate the illicit manufacture of firearms. This document is designed to facilitate co-operation and the exchange of information and experience, with a view to ensuring effective control over the manufacture of firearms.

A full list of references can be found in the Annex.

² The Protocol enters into force ninety days after the fortieth ratification, acceptance, approval or accession, but it shall not enter into force before the entry into force of the Convention (Art. 18). At the time of going to print, 52 States had signed the Protocol and five had ratified.

III. National Legislation

National legislation concerning control over the manufacture of SALW should reflect all the existing international obligations of the State in this field.

As a rule, national control over the manufacture of weapons and military equipment also extends to the manufacture of SALW.

National legislation concerning control over the manufacture of SALW may reflect the following:

- i) Licensing requirements and conditions;
- ii) Licensing and authorizing bodies;
- iii) Procedures for the submission and examination of applications for licences and authorizations;
- iv) Licensing and authorization procedures;
- v) Suspension, review, renewal and revocation of licences and authorizations;
- vi) Enforcement of licensing requirements;
- vii) Penalties (e.g., criminal liability for unlicensed manufacturing).

National legislation on the control over the manufacture of SALW should include political guidelines regulating this activity without prejudice to the rights, legitimate interests and health of citizens, or the defence and security of the State.

The licensing authority should take into account SALW export criteria when considering licences for export-oriented SALW production on their national territory, or for licensed manufacturing of SALW outside their national territory.³

The export of SALW or collaboration with foreign citizens, companies or States with respect to the development and manufacture of weapons require an export licence or special permit in addition to authorization for the manufacture of SALW. *[See BPG on Export Controls]*

To prevent illicit trafficking in SALW, national legislation regulating the control over the manufacture of SALW should strive for transparency in the manufacture and international transfers of SALW.

³ For these criteria, see the OSCE Document on Small Arms and Light Weapons, Section III(A).

IV. Procedures

The manufacture of SALW can proceed only after a licence has been issued by an authorized State agency.

1. Licensing requirements and conditions

To obtain a licence for the manufacture (development or repair) of SALW, a manufacturer should meet a number of requirements and conditions, which may include:

- i) Appropriate standard specifications and strict compliance with them;
- ii) Appropriately qualified personnel;
- iii) Structural sub-units for the manufacture of SALW;
- iv) Premises, equipment, testing grounds and measuring apparatus;
- v) Where appropriate, the protection of State secrets;
- vi) Maintenance of records and safe storage of documentation, weapons and their component parts, as well as experimental and pre-production models; *[See BPG on Marking, Tracing and Record-Keeping]*
- vii) Protection of the production and storage facilities for weapons and their major components; *[See BPG on Stockpile Management and Security]*
- viii) Special unit for quality control of manufactured weapons and for monitoring compliance with the relevant statutory and technical norms;

- ix) Possibility for special commissions to monitor compliance with the licensing requirements and conditions.

The manufacturer should, in co-operation with the competent authorities, ensure continued compliance with such requirements and conditions.

2. Licensing and authorizing bodies

In order to facilitate and streamline the procedures for the issuance of licences for manufacturing SALW, it is preferable for manufacturers to deal with a single authorized State body. Other appropriate State authorities should participate, where necessary, in decisions regarding the issuance of licences and authorizations.

The State authorities for issuing licences and authorizations are required to keep the following records (a register of licences): *[See BPG on Marking]*

- i) Licensed activities;
- ii) Information on the applicant;
- iii) Date of the decision to issue the licence;
- iv) Licence number;
- v) Licence validity period;
- vi) Information on licence modifications;
- vii) Information on extending the validity of the licence;
- viii) Grounds for and dates of renewal, suspension and/or revocation of the licence.

The information contained in the licence register may be open to the public.

3. Issuance of licences and authorizations

A licence application may be based on the requirements set out in the relevant national legislation.

As a general matter, a licence should not be transferable and should be specific to a particular location.

Manufacturers are required to comply with the licensing requirements for the manufacture of SALW. They are also required to submit adequate and complete information to the State body authorized to issue the licence.

In order to issue a licence, the designated licensing authority should be provided with all the necessary documentation (original documents or certified copies), including, *inter alia*:

- i) Company's founding documents, articles of incorporation or other proof of licensed business;
- ii) Information on the weapons to be manufactured;
- iii) Proof that the company meets State standards for protection of proprietary and State

classified information, as applicable;
iv) Information on foreign control and/or ownership in the applicant company, as applicable.

The applicant is liable for inaccurate or false information as provided for in the national legislation.

A licence for the manufacture of SALW should contain, at a minimum, the following information:

- (i) Name, corporate status and place of registration of the manufacturer;
- (ii) Date of issue and expiry;
- (iii) Licensed activity;
- (iv) Name of the licensing authority.

The period of validity of the licence should be of a reasonable length.⁴ The authorization may be extended through the application procedure specified in the national legislation.

A licence or authorization may be refused on the following grounds:

- i) If the intended activity of the applicant is contrary to the interests of national or public security;
- ii) If the applicant has submitted inaccurate or false information;
- iii) If the applicant has failed to meet the licensing requirements and conditions.

⁴ In certain countries, it is common practice to issue licences with an unlimited period of validity. If the period of validity of the licence is unlimited, the manufacturer should be required to notify the relevant national supervision authorities about any changes to the licensed activities. This may involve modification, expansion or cessation of production or changes in the manufacturer's location, name or corporate status.

4. Suspension, review, renewal and revocation of licences and authorizations

In the case of repeated violations or a gross violation of the licensing requirements and conditions, the licensing authority may suspend or revoke the licence. The licensing authority may provide the licensee with a reasonable period to remedy any violations.

The decision to renew a licence should be taken after written notification of compliance by the licensee, as well as subsequent verification. The licensee should then be informed in writing about the decision.

A licence may be suspended or revoked in the following cases:

- i) Cessation of business, such as through bankruptcy or dissolution of the corporate entity, etc.;
- ii) Non-compliance with national legislation or requirements;
- iii) Violation of the conditions of the licence.

Some provision should be made for review of the decision to suspend, revoke or renew the licence.

5. Control over compliance with existing requirements

The licensing authorities may monitor compliance with the requirements and conditions for the manufacture of SALW through a special commission or a competent administrative authority established for this purpose. Routine inspections should be carried out regularly within a reasonable timeframe.

Extraordinary inspections can be carried out to verify compliance, as well as on receipt of information, documents or other evidence of violations of the licensing requirements and conditions.

V. Control at the manufacturing stage

The manufacture of SALW should be monitored by both the manufacturer and the recipient, on the basis of instructions or guidelines specified in the national legislation.

1. Control by the recipient

SALW manufacture should be ordered by bodies authorized by national governments. At a minimum, a contract for the manufacture of SALW should contain the following information:

- i) Type of weapons;
- ii) Number of pieces;
- iii) Period of manufacture.

The specifications of the manufactured SALW should be listed in the technical documentation. The required materials to be used to manufacture the weapons and the basic combat characteristics of the weapons should be specified when each model is developed. The manufacturer is responsible for ensuring that the finished product complies with the required specifications.

The recipient may control the quality of the finished product at the manufacturer's premises through its representatives, who will carry out control checks of the manufacturing quality at both the production and assembly stages.

In the event of transportation of the finished product by the recipient, the serial numbers and

completeness of all SALW should be verified, recorded and maintained in accordance with national law.

Where applicable, the manufacturer should provide decommissioning (destruction) certificates for the components manufactured at other enterprises.

2. Control by the manufacturer

At the stage of SALW manufacture, controls could cover:

- i) Use of technical (design and technological) weapons documentation;
- ii) Use of special equipment required to manufacture the weapons;
- iii) Parts, assemblies and finished weapons;
- iv) Substandard weapons and their parts, registered by serial number during manufacture or destruction;
- v) Marking and stamping of the weapons.

During the manufacture of SALW, records (log books) should be kept to indicate the number and type of firearms manufacture, including serial numbers and other appropriate information necessary to trace the firearm.

Procedures for testing, storing and transporting firearms should be established.

3. Control over SALW components

Major components for the manufacture of SALW (i.e., firearms frames and receivers) should be controlled and appropriately marked upon manufacture. Manufacturers should ensure that assembly and production lines permit the accurate marking and accounting of these components. Manufacturers should establish appropriate procedures for proper storage, transportation and record-keeping of these components. *[See BPG on Stockpile Management and Security]*

4. Control over finished SALW

After final assembly, each weapon should be assigned a full identification number. The corresponding documentation should be completed and handed over to the recipient, together with the finished products. *[See BPG on Marking, Record-Keeping and Tracing]*

Authorization to transport major components and completed firearms should be established. Manufacturers should also ensure proper accounting and recording of the finished products, especially when the major components or finished products are to be transported.

The manufactured SALW to be transferred to the recipient should be kept in storage facilities, if possible on the main production site. The storage facilities should be appropriately secured to prevent unauthorized access. *[See BPG on Stockpile Management and Security]*

5. Penalties for violations of SALW management procedures

Appropriate civil, administrative or criminal penalties should be established for violations of State procedures for manufacturing, transferring or storing SALW.

Annex

References

- OAS(Organization of American States) (1997). *Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials*, AG/RES.1[XXIV-E/97]), of 13 November.
- OSCE. Forum for Security Co-operation (2000). *OSCE Document on Small Arms and Light Weapons*. FSC.DOC/1/00 of 24 November.
- OSCE. Conflict Prevention Centre (2002). *Overview of the first Information Exchange on SALW of 30 June 2001*. FSC.GAL/9/02 of 23 January.
- (2002). *Model Answer for the OSCE Information Exchange on SALW of 30 June 2001*. FSC.GAL/39/02 of 27 January.
- United Nations (1945). *Charter of the United Nations*. Signed 26 June.
- UNGA (United Nations General Assembly) (2001a). *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Conference against Transnational Organized Crime*. Adopted 31 May. Reproduced in UN Document A/RES/55/255 of 8 June.
- (2001b). *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*. Adopted 20 July. Reproduced in UN Document A/CONF.192/15.