

E4J University Module Series on Firearms – Module 5: International Legal Framework on Firearms

Table 7: Comparative summary of international instruments (adopted from “Comparative Analysis of Global Instruments on firearms and other Conventional Arms: Synergies for Implementation”, UNODC, 2016)

	<i>UNTOC</i>	<i>Firearms Protocol</i>	<i>ATT</i>	<i>POA</i>	<i>ITI</i>
Legal status					
	• Legally binding	• Legally binding	• Legally binding	• Not legally binding	• Not legally binding
General provisions					
Scope of application (Items covered)	• n/a	<ul style="list-style-type: none"> • Firearms • Their parts and components • Their ammunition 	<ul style="list-style-type: none"> • Battle tanks • Armoured combat vehicles • Large-calibre artillery systems • Combat aircraft • Attack helicopters • Warships • Missiles and missile launchers • SALW 	• SALW	• SALW
Definitions	<ul style="list-style-type: none"> • Organized crime group • Serious crime • Confiscation and seizure 	<ul style="list-style-type: none"> • Firearms, parts and components, ammunition • Illicit manufacturing • Illicit trafficking • Tracing 	• None but national definitions cannot cover less than those in UN Register of Conventional Arms or relevant UN instruments	• None	<ul style="list-style-type: none"> • Small arms • Light weapons • Tracing • Illicit small arms and light weapons
Control measures					
Marking	• None	<ul style="list-style-type: none"> • At the time of manufacture • On import 	• None	• Manufacturers to apply an appropriate and reliable marking on each SALW	<ul style="list-style-type: none"> • At the time of manufacture • On import

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		<ul style="list-style-type: none"> • At transfer from government stocks to permanent civilian use 			<ul style="list-style-type: none"> • On transfer from government stocks to permanent civilian use • Found illicit SALW to be uniquely marked and recorded, or destroyed
Record-keeping	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Maintain records for at least 10 years of markings at manufacture / information on international transactions 	<ul style="list-style-type: none"> • Maintain records of export authorizations or actual exports of the conventional arms covered by the Treaty • Records to be kept for at least 10 years 	<ul style="list-style-type: none"> • Records kept for as long as possible on the manufacture, holding and transfer of SALW 	<ul style="list-style-type: none"> • Records for all marked SALW within their territory • Manufacturing records to be kept for at least 30 years; all other records, including records of import and export, for at least 20 years
Deactivation	n/a	<ul style="list-style-type: none"> • State parties are to prohibit or regulate deactivated firearms 	n/a	n/a	n/a
Stockpile and other security measures	n/a	<ul style="list-style-type: none"> • Enhance security of import and export systems • Take security measures to detect theft, loss or diversion, illicit manufacturing and trafficking • Increase the effectiveness of border controls, and customs trans-border cooperation 	<ul style="list-style-type: none"> • International assistance could include stockpile management 	<ul style="list-style-type: none"> • Ensure that anybody authorized to hold SALW establish standards and procedures on the management and security of their stocks 	n/a

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International transfers					
Import/export/ transit control system	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Establish or maintain an effective system of export and import licensing or authorization, as well as measures on international transit • 	<ul style="list-style-type: none"> • Establish and maintain a national control system, including a national control list 	<ul style="list-style-type: none"> • Establish or maintain an effective system of export and import licensing or authorization, as well as measures on international transit 	<ul style="list-style-type: none"> • None
Transfer prohibitions / risk assessments	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Prohibit transfers: a) that violate UN arms embargoes or treaties on the transfer or illicit trafficking of conventional arms b) With knowledge transfer will be used for genocide, crimes against humanity, grave breaches of the Geneva Conventions, or other war crimes • Deny export if overriding risk it, would undermine peace and security or will be used for a serious violation of international humanitarian or human rights law or offences in treaties relating to terrorism or organized crime 	<ul style="list-style-type: none"> • Assess export applications consistent with existing international law, taking into account the risk of diversion 	<ul style="list-style-type: none"> • None
Trans-shipment	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Take measures to regulate the transit or trans-shipment of conventional arms through its territory 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None

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Brokering	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Consider regulating those who participate in brokering activities 	<ul style="list-style-type: none"> • Take measures to regulate brokering taking place under its jurisdiction for conventional arms covered under Treaty 	<ul style="list-style-type: none"> • To develop adequate national legislation or administrative procedures regulating SALW brokering 	<ul style="list-style-type: none"> • None
Enforcement					
Criminalization (offences)	<ul style="list-style-type: none"> • Participation in an organized crime group • Corruption • Money-laundering • Obstruction of Justice 	<ul style="list-style-type: none"> • Illicit manufacturing • Illicit trafficking • Falsifying or removing or altering markings of a firearm 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None
Seizure and confiscation	<ul style="list-style-type: none"> • Measures to enable seizure and confiscation at national and international level 	<ul style="list-style-type: none"> • Measures for seizure, confiscation and disposal of firearms and ammunition 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Ensure that all confiscated, seized or collected SALW are destroyed, subject to any criminal prosecutions, unless another form of disposition or use authorized 	<ul style="list-style-type: none"> • None
Investigation and prosecution	<ul style="list-style-type: none"> • Special investigative techniques • Protection of witness and testimonies • Liability of legal persons 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None
International cooperation					
International cooperation in criminal matters	<ul style="list-style-type: none"> • Broad list of intl. cooperation: extradition, MLA, transfer of proceedings, cooperation in confiscation etc. extradition, 	<ul style="list-style-type: none"> • Cooperation in investigations • Information exchange • Cooperation in tracing 	<ul style="list-style-type: none"> • Cooperate with State parties in effective implementation • Exchanging information on matters of mutual interest 	<ul style="list-style-type: none"> • Enhance, mutual legal assistance and other forms of cooperation in order to assist investigations and 	<ul style="list-style-type: none"> • Cooperation in tracing

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	<p>law enforcement cooperation</p> <ul style="list-style-type: none"> • Serves as legal basis in the absence of bilateral treaties 		<ul style="list-style-type: none"> • Widest measure of assistance in investigations, prosecutions and judicial proceedings in violations of national measures • Take national measures to prevent transfers becoming subject to corrupt practices 	<p>prosecutions in relation to the illicit trade in SALW</p>	
Points of contact	<ul style="list-style-type: none"> • Competent national authority for MLA and extradition 	<ul style="list-style-type: none"> • Designate a single point of contact 	<ul style="list-style-type: none"> • Designate at least one national contact point responsible for exchanging information related to the implementation of the ATT 	<ul style="list-style-type: none"> ▪ A national point of contact to act as liaison between States ▪ A point of contact within subregional and regional organizations to act as liaison 	<ul style="list-style-type: none"> ▪ Designate one or more national points of contact to act as a liaison on all matters relating to implementation
Data collection and reporting obligations					
National reports	<ul style="list-style-type: none"> ▪ Self-assessment questionnaire ▪ UNODC SHERLOC portal to share strategies, laws, and judicial cases 	<ul style="list-style-type: none"> ▪ Self-assessment questionnaire ▪ UNODC SHERLOC portal to share strategies, laws, and judicial cases 	<ul style="list-style-type: none"> ▪ Annual reports on authorized or actual exports and imports of conventional arms ▪ Within the first year after entry into force provide an initial report of measures to implement ATT 	<ul style="list-style-type: none"> ▪ Voluntary biannual reports 	<ul style="list-style-type: none"> ▪ Voluntary biannual reports ▪ Report to UNODA national marking practices
Data collection	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • UNODC mandated to collect and analyze data on firearms trafficking from Member States: • Annual Illicit Arms Flows Monitoring Questionnaire (IAFMQ) 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Use, support and provide relevant information on the illicit trade in SALW to Interpol's International Weapons and Explosives Tracking System database 	<ul style="list-style-type: none"> • Invites states to collect data for the purpose of tracing firearms

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		<ul style="list-style-type: none"> • Biannual reports / study 			
Implementation support					
Inter-state mechanisms	<ul style="list-style-type: none"> • Conference of the Parties to UNTOC and Working Groups 	<ul style="list-style-type: none"> • Conference of the Parties to UNTOC and Working Group on Firearms 	<ul style="list-style-type: none"> • Conference of Parties to the ATT 	<ul style="list-style-type: none"> • Biennial Meeting of States (BMS) 	<ul style="list-style-type: none"> • Biennial Meeting of States (BMS)
Review of implementation	<ul style="list-style-type: none"> • Review mechanism through self-assessments and peer to peer review • Global review done in Conference of the Parties 	<ul style="list-style-type: none"> • Review mechanism through self-assessments and peer to peer review • Global review done in Conference of the Parties 	<ul style="list-style-type: none"> • Treaty implementation review done in Conference of Parties 	<ul style="list-style-type: none"> • Review conferences 	<ul style="list-style-type: none"> • Review Conferences