

31 May 2024
Chinese
Original: English

第四次联合国审查从各个方面防止、
打击和消除小武器和轻武器非法贸
易的行动纲领执行进度大会

2024年6月17日至28日，纽约

防止小武器和轻武器贩运和转用的负责任的行业行为和做法

墨西哥提交的工作文件

1. 小武器和轻武器的非法贩运和转用是一个普遍问题，威胁到国际和平与安全，加剧暴力，助长犯罪组织，破坏世界各地的法治。各国政府负有法律、实际和道义责任，以负责任、公平和透明的方式实施管制，防止转用和贩运。然而，小武器和轻武器转让方面的行业行为和做法既可以加强防止火器从合法市场转入非法市场，也可以为其提供便利。
2. 小武器和轻武器行业包括制造商、分销商、经纪人和其他中间商，在全球武器生态系统中占据核心地位。尽管监管部门为监督小武器和轻武器的分销和销售做出了努力，但行业主要参与者的多种做法和疏忽为贩运和转给未经授权的接受者提供了便利。
3. 小武器和轻武器行业的监管范围和效果并不普遍。在有监管的地方，这些监管也大相径庭，对不同的利益攸关方而言，情况并不均衡。在此背景下，该行业应自行履行应尽义务，而不是仅仅依靠政府指令或立法来防范责任或风险。
4. 小武器和轻武器的生产和供应显然是负责任转让的起点，因此需要给予足够的重视。生产过剩导致生产商、出口商、中间商和进口商失去更多的控制。在小武器和轻武器生产方面建立一种克制文化也同样紧迫。生产、出口、储存或使用应遵循(尽可能少)的方针，特别是避免出现经济利益超越和破坏人类安全需要的情况。



用于贩运和转用的机制

5. 若干机制为小武器和轻武器的贩运及其从合法领域转入非法领域提供了便利。每一种渠道都凸显了监管和行业行为在防止未经授权的接受者获取小武器和轻武器方面的严重失误。执法机构的调查表明，大量非法贩运的小武器和轻武器来自相对较少的一批经销商，尽管他们违反了监管规定，但往往逃避严格的惩罚措施。这些机制包括：

(a) **找人代买。**合法买家为无资格购买或拥有小武器和轻武器的人购买小武器和轻武器仍然是流入黑市的一种普遍方法。由于执法不严和监管不力，这些交易往往无法被发现；

(b) **批量和重复销售。**批量购买或在数天、数周和数月内重复销售的小武器和轻武器很容易流入非法市场，特别是在由代买者或中间人购买的情况下。对大宗交易缺乏严格检查助长了犯罪网络对小武器和轻武器的囤积；

(c) **枪展和私人销售。**在许多司法管辖区，枪展和私人销售缺乏强制性背景调查，这为非法贩运和转用创造了大量机会。这使得被禁止拥有小武器和轻武器的人可以绕过合法购买程序；

(d) **网上销售。**数字市场日益便利无照私人卖家进行匿名和不受管制的交易，使买卖双方可以在没有适当背景调查或在适当法律框架之外进行小武器和轻武器的转让。在许多情况下，无照“私人卖家”只要不从事火器生意，就可以出售火器，而且他们可以在不对购买者进行任何背景调查或保存任何记录的情况下出售火器。这种匿名性极大地妨碍了追查非法火器销售和持有情况的能力；

(e) **缺乏序列化和可追溯性。**没有序列号的小武器和轻武器(通常被称为“幽灵枪”)使追查被贩运或转用的武器来源的工作变得更加复杂。由于没有可追踪的识别信息，这些火器得以在非法市场上流通而不被发现。

小武器和轻武器贩运和转用的影响

6. 小武器和轻武器的贩运和转用造成了广泛的影响，从人权到可持续发展，再到国家及其社会的安全。

7. 非法小武器和轻武器的扩散对《世界人权宣言》所载的基本人权构成严重威胁。它还加剧冲突，导致杀人和武装暴力事件增多，并对弱势群体造成不成比例的影响。非法小武器和轻武器是助长冲突和暴力升级的工具，违反了《联合国宪章》的原则。它们的肆意流通增强了犯罪分子和武装团体的力量，破坏了和平进程，助长了有罪不罚的风气。非法小武器和轻武器的可取得性与杀人和武装暴力率的上升密切相关，破坏了《公民及政治权利国际公约》规定的国家保护生命权的义务。

8. 非法小武器和轻武器对妇女和儿童的影响尤为严重，性别暴力和使用儿童兵的现象无疑在增加。

9. 非法小武器和轻武器对各国安全环境造成的不稳定影响严重阻碍了可持续发展。用于解决安全问题的资源减少了对教育、卫生和基础设施等关键领域的投资，阻碍了可持续发展目标的实现和《2030年可持续发展议程》的实施。

10. 与非法小武器和轻武器有关的武装暴力和不安全限制了获得教育和保健的机会，而这些是受《经济社会文化权利国际公约》保护的基本权利。教育活动和保健服务的中断加剧了受影响人口的脆弱性，特别是在受冲突影响的地区。

对《小武器行动纲领》的建议

11. 必须制定通盘战略，处理小武器和轻武器转让的所有方面，包括制造、销售、转让、最终使用和处置，以期填补被用来转移武器的法律空白，并确保采取协调一致的全球办法，有效执行《从各个方面防止、打击和消除小武器和轻武器非法贸易的行动纲领》。^{*} 行业行动和参与是这些努力的核心，特别是当它是供应链的起点时。这方面的建议包括：

(a) **供应方面的改进。** 在小武器和轻武器行业实施自律并调整其做法以实现负责任的行为的同时，各国政府可以寻求全面的行业和供应方改进措施。当务之急是，所有小武器和轻武器在制造时都要有独特的永久标识。这些标识应包括制造国、制造商名称和序列号。这项措施将大大提高执法和监管机构追踪小武器和轻武器整个生命周期的能力，从而有助于查明流入非法市场的转用点。应鼓励行业创新和与政府当局合作；

(b) **道德实践和社会责任。** 企业责任必须成为小武器和轻武器行业在市场上取得成功的核心要素之一。道德论点绝不应被理解为与良好的商业行为相抵触。以合乎道德和负责任的方式开展业务也应被理解为竞争优势的关键途径；

(c) **未经授权的接受者。** 行业应优先防止向未经授权的接受者和非法市场转移，并实施严格的最终用途和最终用户评估程序。这应涵盖面向不受管制的民用市场的出口和转让，以及来自不受管制的民用市场的出口和转让；

(d) **中介监管。** 通过许可证发放、登记和严格的监督机制对小武器和轻武器中介活动进行监管，对于防止非法中介和贩运至关重要。这些监管应确保所有中介活动透明、负责并符合国际标准和义务，从而关闭非法武器转让的重要渠道；

(e) **全面记录保存：** 制造商和中间商应对小武器和轻武器的生产、持有和转让进行详细、准确和可查阅的记录。这些记录对问责是不可或缺的，对有效追查行动也是至关重要的。这将有助于发现和纠正小武器和轻武器库存管理和控制方面的漏洞，从而降低转入非法渠道或失控的风险；

(f) **加强与国际努力的合作：** 至关重要的是应积极参与和支持旨在打击非法武器贩运的国际努力，包括区域和次区域倡议。这就需要分享最佳做法，遵

^{*} 附件载有供第四次联合国审查小武器行动纲领执行进度大会成果文件采用的拟议段落，仅以附件所用语文分发。

守与军备控制有关的国际条约和协定，并参与制定和实施全球小武器和轻武器合法贸易监管标准的合作努力；

(g) **法律框架：**必须倡导和协助制定处理小武器和轻武器贸易所有方面的全面国家和国际法律框架。这包括制造、销售、转让和最终使用，以填补非法贩运者利用的法律漏洞，确保采取协调的全球方法进行军备控制，并确保小武器和轻武器行业疏忽、鲁莽或非法行为的受害者能够诉诸司法，追究犯罪者的责任并获得损害赔偿；

(h) **民间社会的作用。**民间社会组织和非政府组织在倡导加强国际标准和监督各国履行《小武器行动纲领》及其他相关国际协定的承诺方面发挥着重要作用。它们的参与确保了在制定和实施旨在打击打击小武器和轻武器非法贸易的政策过程中的透明、问责和广泛视角。

附件

[仅有英文]

The outcome document of the Fourth Review Conference of the Programme of Action to Prevent, Combat, and Eradicate the illicit trade of small arms and light weapons should consider the following language:

[2024 Declaration]

- We commit to take review our internal procedures to ensure that industry and private sector entities operating under national jurisdiction conduct their business consistent with the Programme of Action. We likewise commit to provide better policy and operational guidance to industry in supporting our efforts in the effective implementation of the Programme of Action.
- We recognize the need and importance of in-depth discussions on the role of industry in responsible international transfers of small arms and light weapons, and ensure that the work undertaken in the framework of the Programme of Action includes the involvement of external stakeholders, such as representatives of the business and financial communities, international organizations and civil society, including NGOs with specific expertise on responsible business conduct, arms transfers and the effects of their illicit and unregulated trade.
- We welcome the UN Guiding Principles on Business and Human Rights and the Information Note by the UN Working Group on Business and Human Rights on “Responsible business conduct in the arms sector: Ensuring business practice in line with the UN Guiding Principles on Business and Human Rights”.

[Action-oriented measures for effective implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, 2024–2030]

- To take necessary steps to ensure that industry and private sector entities operating under national jurisdiction conduct their business consistent with the Programme of Action.
- To promote and facilitate opportunities for industry to develop and adapt their respective processes and oversight to contribute to supporting the implementation of the Programme of Action.
- To provide policy and operational guidance, as well as support, to industry efforts to conduct diversion risk assessments taking into consideration the Programme of Action.
- To raise industry awareness regarding the UN Guiding Principles on Business and Human Rights and the Information Note by the UN Working Group on Business and Human Rights on “Responsible business conduct in the arms sector: Ensuring business practice in line with the UN Guiding Principles on Business and Human Rights”.
- To develop operational guidance for different industry entities in the SALW supply chain as to how to assess human rights risk with respect to specific contracts/transfers.
- To enhance dialogue with and outreach to State’s industry to raise awareness and exchange of information and of best practices for the implementation of the Programme of Action, as well as to better understand the specific challenges and

needs of a State's industry in relation to the provisions of the Programme of Action.

- To promote the use of technological innovations from production in precluding diversion and ensuring SALW physical security throughout their lifecycle.
- To encourage producers to invest in research and development efforts to develop innovative technologies and solutions for enhancing the traceability, security, and accountability of SALW.
- To enhance oversight and follow-up of manufacturers/producers known to have facilitated trafficking and/or diversion.
- To engage in multi-stakeholder consultations with communities affected by irresponsible or negligent SALW industry practices.
- To ensure that victims of negligent or unlawful SALW industry conduct that results in diversion or illicit trafficking have access to justice to hold perpetrators accountable and obtain compensation for harm.
- To initiate or enhance focused deliberations on the role of industry in responsible SALW transfers and share their experiences and practices of effective measures including existing processes, guidance and related materials, and written guidance materials relating to national efforts to ensure industry awareness and compliance with national transfer control systems.
- To implement or enhance rigorous procedures for thoroughly assessing both the end-use and end-user of exported SALW with the aim of preventing their diversion, misuse, delivery, or re-transfer to unauthorized recipients.
- To promote that producers conduct thorough due diligence on potential customers to ensure that SALW are only sold to authorized recipients.
- To give due regard and special attention to exports and transfers to and from unregulated civilian markets.
- To strengthen verification of end-user certificates and ensure that SALW transfers are only conducted for legitimate purposes to authorized end-users, including through the adoption of verifiable and robust procedures for the issuance and authentication of end-user certificates.
- To enhance the regulation of SALW brokering activities through licensing, registration, and stringent monitoring mechanisms to prevent illicit brokering and trafficking.
- To ensure that brokering activities be transparent, accountable, and aligned with the Programme of Action in order to close a significant avenue for trafficking and diversion in SALW.
- To enhance controls and monitoring of suspicious bulk transactions that contributes to the stockpiling of SALW by criminal networks.
- To enhance oversight of the digital SALW marketplace to prevent anonymous and unregulated transactions by unlicensed private sellers that facilitate and perpetuate illicit trafficking and trade.
- To consider requiring contractual penalties and contingencies in SALW transfer agreements, including the cancellation of further SALW deliveries and the legal termination of relations with the client, in case diversion has occurred.

- To implement industry outreach programs and improve regulatory oversight as to ensure that manufacturers adhere to strict export control measures to prevent the unauthorized transfer of SALW across borders.
- To ensure awareness and continued updated for industry, especially exporters and brokers, for compliance with relevant UN Security Council-mandated arms embargoes and sanctions.
- To promote partnerships between producers and governments to sharing information and best practices, participating in capacity-building programs, and supporting initiatives to strengthen legal and regulatory frameworks related to preventing SALW diversion and trafficking.

[Action-oriented measures for effective implementation of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, 2018–2024]

- To enhance diversion prevention from production through proper marking and tracing.
- To enhance resilience to diversion and trafficking by implementing robust traceability mechanisms in SALW production processes.
- To ensure that SALW have unique and permanent markings at the point of manufacture (including the country of manufacture, manufacturer's name, and a serial number), to significantly enhance the ability of law enforcement and regulatory bodies to trace SALW across their lifecycle, facilitating the identification of diversion points into the illicit market.

[Action-oriented measures to promote effective international cooperation and assistance to ensure the effective implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects and the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, 2024–2030]

- To enhance capacity building of industry for better client assessments that take into consideration the potential client's intended end-use, prior record of lawful use, and known or suspected relationships with criminal organizations.
- To promote capacity building to support States' producers in providing comprehensive training to their employees on the risks of diversion (including training on identifying suspicious activities, reporting irregularities, and maintaining accurate records) and the importance of compliance with relevant regulations and standards.

[Follow-up to the Fourth Review Conference of the Programme of Action]

- One of the biennial meeting of States in the period between the Fourth and the Fifth Review Conferences be dedicated to the theme "The role of industry in supporting implementation of the Programme of Action and the International Tracing Instrument".