



大会

Distr.
GENERAL

A/HRC/Sub.1/58/27 *
27 July 2006

CHINESE
Original: ENGLISH

人权理事会
增进和保护人权小组委员会
第五十八届会议
临时议程项目 6

具体人权问题

防止使用小武器和轻武器侵犯人权

特别报告员巴巴拉·弗雷根据小组委员会
第 2002/25 号决议提交的最后报告**

* 根据大会 2006 年 3 月 15 日题为“人权理事会”的第 60/251 号决议，包括小组委员会在内的人权委员会所有任务、机制、职能和职责，自 2006 年 6 月 19 日起由人权理事会承担。因此，小组委员会向前人权委员会报告的文号序列 E/CN.4/Sub.2/_，自 2006 年 6 月 19 日起，改为文号序列 A/HRC/Sub.1/_。

** 本报告附件原文不译。

摘 要

这份最后报告论述两项对于理解国家在防止使用小武器侵犯人权方面的义务性质和程度至关重要的国际法律原则：国家防止民间行为者滥用小武器的尽责责任，以及自卫原则在国家防止与小武器相关的暴力的人权义务方面的意义。本报告附件载有关于联合国会员国对特别报告员问卷调查表所做答复的摘要和分析。

在人权法之下，国家负有最大限度地保护人权特别是生命权的首要义务。这种承诺既包含被动义务，也包含主动义务；国家工作人员必须避免使用小武器侵权，而国家则必须采取步骤尽量减少民间行为者之间的武装暴力。《公民权利和政治权利国际公约》第二条第一款规定，缔约国负有防止私人所为妨害包括生命权在内的各项基本权利的主动义务。

缔约国为履行防止小武器暴力的尽责义务而最低限度须采取的有效措施，必须超出仅仅将武装暴力行为定为刑事犯罪的程度。国家还必须实施一种起码的执照要求，防止小武器落入有可能滥用的人手中。此外，还应按照特别报告员所提防止使用小武器侵犯人权原则草案的建议，实施其他措施保护生命权。

自卫原则在国际人权法中具有重要位置，但并不因此而意味着存在一种拥有小武器的独立的必然权利，也并不因此而减轻国家在管制平民拥有小武器方面行使尽责责任。相反，正如本报告所示，在很多方面国家应当、能够也确实以符合自卫原则的方式管制火器的拥有。自卫是一种对尊重他人生命的普遍责任的公认的、由法律规定的例外。自卫是任何国家代理人或非国家行为者可能引起的刑事责任的免责依据。国际法并不主张有一种国际法律义务要求国家必须准许用枪自卫。自卫原则并不排除国家防止武器落入最有可能滥用的人手中的尽责责任。国家负有特别关键的义务，防止包括家庭暴力受害者在内的弱势群体遭受滥用小武器之害。

《联合国宪章》第五十一条适用于国家针对侵犯主权的武力袭击进行自卫的情况，并不适用于个人自卫的情况。

目 录

	<u>段 次</u>	<u>页 次</u>
摘 要.....		2
导 言.....	1 - 7	4
一、防止非国家行为者滥用小武器的国际人权法 义务.....	8 - 18	5
A. 与民间行为者滥用小武器有关的尽责标准.....	10 - 14	5
B. 履行尽责义务的有效措施.....	15 - 18	7
二、自卫原则与使用小武器和轻武器侵犯人权.....	19 - 39	9
A. 自卫是刑事免责依据而不是一项人权.....	20 - 25	9
B. 自卫主张的必要性和比例相称要求.....	26 - 32	10
C. 自卫主张不减轻防止民间暴力的尽责义务.....	33 - 37	12
D. 国家面对他国武力而自卫.....	38 - 39	13
三、结论和建议.....	40 - 46	14
 <u>附 件</u>		
I. Summary of Responses Received from U.N. Member States to Special Rapporteur's Questionnaire.....		23
II. Summary and Analysis of Responses Received from U.N. Member States to Special Rapporteur's Questionnaire.		56
III. Excerpts of U.N. Member States' Laws and Regulations Concerning Possession and Use of Small Arms and Light Weapons.....		64

导 言¹

1. 负责编写关于防止使用小武器和轻武器侵犯人权的全面研究报告的特别报告员的这份最后报告，是按照增进和保护人权小组委员会第 2002/25、2003/105、2004/123 和 2005/110 号决定以及人权委员会第 2003/112 号决定提交的。本报告附件载有关于各国对特别报告员根据小组委员会第 2003/105 号决定和人权委员会第 2004/124 号决定所拟问卷调查表的答复的摘要和分析。

2. 本报告正文补充特别报告员所拟前两份报告。她的初步报告(E/CN.4/Sub.2/2003/29)论述和平时期滥用小武器对人权造成的有害后果。特别报告员提出了一个法律框架，可据以分析现有人权标准如何界定国家在三种情况下的义务，即防止(a) 国家行为者使用小武器侵犯人权、(b) 民间行为者侵犯人权，以及(c) 将小武器转到处于有可能被用于严重侵犯人权的局势的地点。特别报告员的进度报告(E/CN.4/Sub.2/2004/37)论述武装冲突形势下小武器对人权和人身安全的有害影响。特别报告员在进度报告中评述了在小武器流通、滥用和转让问题上的国际人道主义法和人权法义务，并讨论了小武器流通和滥用在人权方面对不同性别的影响。

3. 这是最后报告，其中进一步确定两项法律原则：国家在尽责标准下采取积极步骤防止非国家行为者滥用小武器的责任，以及自卫原则对国家在小武器方面的政策的意义。

4. 整个这项研究的人权政策框架所依据的原则是，国家必须力求最大限度地保护本国社会和国际社会最大多数人民的人权。换言之，国家为了履行在国际人权法之下的义务，必须颁布和实施为大多数人民提供最大人权保护的 legal 和政策。就使用小武器侵犯人权而言，这项原则——最大限度的人权保护——意味着国家既负有防止国家工作人员侵权的被动义务，又负有增进公共安全和减少民间行为者使用小武器实施暴力的主动义务。

5. 因此，要求国家采取有效措施，通过健全执法确保公共安全，从而减少对小武器的需求。包括执法人员在内的国家工作人员按照人权要求和本着其专业所要求的高度责任感为社会群体服务，负责通过促进法治保护人人不受非法行为的伤害。(《执法人员行为守则》，大会 1979 年 12 月 17 日第 34/46 号决议)

6. 为了最大限度地保护人权，还要求国家采取有效措施，尽量减少民间暴力，这就需要对使用小武器违犯法律的人实行刑事制裁，而且，还需要防止小武器落入可能滥用的人手中。最后，关于域外人权考虑，国家有责任在小武器和轻武器可能被用于侵犯人权或违反国际人道主义法的情况下防止跨界转让这些武器。

7. 小组委员会在审议小武器的流通、转让和滥用对人权的影响问题方面可发挥关键作用。没有任何其他联合国论坛讨论过这个特定问题。尽管小武器对世界各国人民的权利所造成的巨大破坏性影响已经记录在案，但最近结束的全面审查防止、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会议没有产生任何提及人权的成果文件。

一、防止非国家行为者滥用小武器的 国际人权法义务

8. 本项研究的主要重点之一是，考虑在防止非冲突局势中的平民在内的非国家行为者使用小武器侵犯人权方面国家负有多大程度的责任。自特别报告员第一次着重指出非国家行为者侵犯人权的严重性质以来(E/CN.4/Sub.2/2003/29,第 30-35 段)，非冲突背景下火器所致死亡的估计人数又有增多，这就增加了这个问题的紧迫性。目前估计，每年火器暴力造成他杀和自杀死亡人数在 200,000 至 270,000 之间。² 非冲突背景下大量火器暴力事件不仅造成伤亡，而且造成社区动荡氛围下所有各项人权保护的削弱。鉴于这些侵权情况的严重性，要求重新审视国际人权法之下的有关法律和政策基础，据以责成国家防止可合理预见的使用小武器侵犯私人的情况。

9. 在人权法之下，国家必须最大限度地保护生命权。³ 这种承诺既包含被动义务，也包含主动义务；国家工作人员必须避免使用小武器侵权，而国家则必须采取步骤尽量减少民间行为者之间的武装暴力。本报告在以下各节中提出相关的法律根据，据以确定国家保护人权防止受民间武装暴力侵犯的主动责任——尽责责任。然后，本报告提出在尽责责任下为针对这种暴力最大限度保护人权而要求采取的具体有效措施。

A. 与民间行为者滥用小武器有关的尽责标准

10. 《公民权利和政治权利国际公约》第二条第一款规定国家必须尊重和确保所有个人的人权。确保人权要求国家主动采取行动，防范可合理预见的民间行为者的侵

权行为。法律评论人士，特别是妇女人权领域的法律评论人士，很早就指出国家在防范民间侵犯人权行为方面的尽责责任。⁴ 一位这样的评论人士 John Cerone 对国际人权法中尽责标准的应用进行过一次很有助益的全面统计，注意到提及尽责责任的有：

“联合国特别报告员、联合国特别代表和秘书长的报告；人权条约机构的评论、意见和结论性意见；专家组会议的报告；人权委员会和经济及社会理事会的决议；大会的宣言，以及宣传文论”⁵。

1. 人权事务委员会

11. 人权事务委员会经常讨论《公民权利和政治权利国际公约》缔约国的尽责责任。例如，在关于生命权的第 6 号一般性意见(1982)中，委员会对缔约国在第六条之下保护生命权的义务作了广义理解，指出“委员会认为，各缔约国应当采取措施，不仅防止和惩罚剥夺生命的犯罪行为，而且防止本国保安部队任意杀人”。在关于不歧视的第 18 号一般性意见(1989)中，委员会要求缔约国就《公约》第二条第一款、第三条和第二十六条提出报告时不要仅仅引述它们的宪法和法律，“这些资料固然有用，但委员会想了解的是是否存在任何实际歧视的问题，这种歧视可能是由公共机关、社区或私人或私人机构实行的”。同样，在关于迁徙自由的第 27 号一般性意见(1999)中，人权事务委员会指出，“缔约国必须保证，第 12 条保证的权利必须不能受到国家或个人的干涉”(第 6 段)。在关于《公约》缔约国的一般法律义务的性质的第 31 号一般性意见(2004)中，委员会进一步阐述了第二条第一款的要求：“只有在缔约国保护个人，而且既防止国家工作人员侵犯《公约》的权利，又防止私人或者实体采取行动妨碍享受根据《公约》应在私人或者实体之间实现的权利的情况下，缔约国才能充分履行有关确保《公约》权利的积极性义务”(第 8 段)。

12. 人权事务委员会也将尽责标准用在判例法中。在第 859/1999 号来文、即 Jim énez Vaca 诉哥伦比亚案中，委员会认定发生了违反《公约》第六条第一款的情况，其部分理由是，缔约国没有履行尽责责任调查谁是针对申诉人的谋杀未遂行为的责任人，造成申诉人不能安全地在哥伦比亚生活。委员会在 Jim énez Vaca 诉哥伦比亚案中认为，为了履行《公约》第二条之下的义务，“缔约国还有义务努力防止今后发生类似的违约情况”(第 9 段)。

2. 其他条约机构和特别程序

13. 其他人权条约机构也在一般性意见、判例和结论性意见中承认国家的尽责责任。消除对妇女歧视委员会在第 19 号一般性建议第 9 段中指出，“根据一般国际法和具体的人权公约规定，缔约国如果没有尽力防止侵犯权利或调查暴力行为并施以惩罚及提供赔偿，也可能为私人行为承担责任”。消除种族歧视委员会在第 4/1991 号来文(CERD/C/42/D/4/1991)、即 L. K.诉荷兰案中，委员会认定该国违反了《公约》第四条子项，因为缔约国对于个人的种族主义言论和威胁没有“认真迅速进行调查”。消除种族歧视委员会在关于阿拉伯联合酋长国报告的结论性意见(A/50/18)中建议，“缔约国尽一切努力防止对外籍工人，尤其是外国妇女家庭佣人所犯有的虐待行为，并采取一切适当措施确保她们不会受到任何种族歧视”。

14. 从联合国特别程序的报告中也可以明显看出在保护个人的权利免受民间行为者侵犯方面运用尽责标准的情况。例如，在法外处决、即审即决或任意处决问题特别报告员最近的报告中，作者指出，“各国负有法律责任行使‘尽责义务’保护个人生命免于受到罪犯袭击，包括恐怖主义者、武装抢劫者和贩毒者的袭击”(E/CN.4/2006/53, 第 47 段)。值得注意的是，特别报告员专门用这个例子否定一些政府的“格杀勿论”政策，并呼吁面对恐怖主义或其他威胁的国家按照人权要求澄清自己的政策并响应进行执法培训。

B. 履行尽责义务的有效措施

15. 既然尽责义务是国际人权法的一部分，就仍然需要问，国家必须采取什么具体措施，以便在防止非国家行为者使用小武器侵犯人权方面达到这种标准的要求。考虑国家采取必要行动的法律框架的出发点是《公民权利和政治权利国际公约》第二条第二款，其中要求缔约国“采纳为实施本公约所承认的权利所需的立法或其他措施”。根据第二条第二款，国家必须采取立法措施，追究侵犯他人生命权的人的责任。当然，每个国家都有惩治杀人罪的国家法律。除了制定一般立法之外，人权机构还强调需要“通过某种管制机构”进一步采取有效措施，以保护核心权利免遭侵犯。⁶

16. 因此，各国为防止小武器暴力而最低限度应采取的有效措施，必须超出仅仅将武装暴力行为定为刑事犯罪的程度。在尽责原则之下，国际人权机构必然会要求各国实施一种起码的执照要求，防止小武器和轻武器落入有可能滥用的人手中。⁷ 各国对

于防止使用小武器和轻武器侵犯人权问题特别报告员问卷调查表所作的答复证实了对这项原则的承认，从这些答复可以看出，各国普遍采取了对私人拥有小武器和弹药实行执照要求的做法。⁸ 执照的发放标准可能因国家而异，但大多数执照审批程序都要考虑如下几点：(a) 申请人的最低年龄；(b) 以往的刑事犯罪纪录，包括家庭暴力史；(c) 关于取得武器的合法目的的证明；以及(d)精神健康。⁹ 其他一些拟议标准包括：了解与小武器有关的法律、关于受过恰当使用火器的训练的证明，以及关于恰当保存的证明。执照应经定期展续，以防转让给未经许可的人。这些执照标准对于平民合法拥有武器并不是不可逾越的障碍。关于平民持有小武器的法律和程序始终应当是各个国家的根本权利，对于这项原则存在着广泛的国际共识。¹⁰ 虽然对于平民拥有火器进行管制在很大程度上由于火器制造商和美国的主张民间拥有枪械的组织大力反对而仍然是一个公众辩论中的争议问题，但事实上几乎已经形成普遍共识，一致认为需要在国家立法中为平民持枪执照确定合理的最低限度标准，以便既促进公共安全，又保护人权。¹¹ 这种共识是人权机制在权衡国家对于涉及民间枪械暴力的情况下防止核心人权遭到侵犯的主动责任时所要考虑的因素之一。

17. 负责监督国家保护生命权行动的人权机构还应考虑其他有效措施。这些措施类似于为对核心人权义务实现有意义的保护而通过的联合国准则。¹² 这些措施包括：

- (a) 禁止平民拥有设计用于军事目的的武器(自动和半自动突击步枪、机枪和轻武器)；
- (b) 组织和推行赦免，以鼓励不再实际使用武器；
- (c) 要求制造商提供标识和追踪信息；
- (d) 在宣传努力中增加性别观，确保妇女和儿童的特殊需要得到关照，特别是在冲突后局势中得到关照。

18. 特别报告员提议的原则草案(E/CN.4/Sub.2/2005/35)，特别是原则草案 10 至 14，就是为了向各国阐明在国际人权法之下特别是在与非国家行为者有关的方面的尽责义务的性质。

二、自卫原则与使用小武器和轻武器侵犯人权

19. 本报告讨论和承认人权法中的自卫原则，并且评估该原则在确定针对小武器和轻武器的人权原则方面的应有位置。¹³ 反对国家对平民拥有火器进行管制的人说，自卫原则从法律上证明“有权”拥有小武器，这就否定或大大减轻了国家管制小武器拥有的责任。¹⁴ 本报告的结论则认为，自卫原则在国际人权法中具有重要位置，但并不因此而意味着存在一种拥有小武器的独立的、法律上必然的权利，也并不因此而减轻国家在管制平民拥有小武器方面行使尽责责任。

A. 自卫是刑事免责依据而不是一项人权

20. 自卫是一种对尊重他人生命的普遍责任的公认的、由法律规定的例外。自卫是任何国家代理人或非国家行为者可能引起的刑事责任的免责依据。自卫有时被称为一种“权利”。对于这种理解，并没有充分的法律支持。自卫更确切地说是一种保护生命权的手段，而在这个意义上，自卫是侵犯他人权利的免责依据。

21. 条约、习惯法或一般原则等各类国际法的主要渊源都没有明确提出自卫是一项国际人权。几乎每一项重要的国际人权条约都承认生命权，但唯一明确承认自卫原则的只有《保护人权和基本自由公约》（《欧洲人权公约》）第 2 条。¹⁵ 然而，《欧洲人权公约》并没有承认自卫是一项权利。有一位评论人士说，“这项规定的作用只是在于从第 2 条第(1)款的使用范围中排除为防范非法暴力而必要的杀伤。这项规定并不提供一种国家必须加以保障的权利”。¹⁶

22. 习惯国际法中广泛承认自卫是国家实践所表明刑事责任辩护理由之一。然而，并没有证据表明国家在立法中将自卫定为本国法律之下的一项独立的权利，也没有法律意见证明国家必须承认存在一种独立的、必然的自卫权，对于这种权利必须在本国管辖范围内作为一项主权权利加以执行。

23. 同样，国际刑事法律也是将自卫定为刑事免责的一种依据，而不是一项独立的权利。前南斯拉夫问题国际刑事法庭指出了自卫原则的普遍要素。¹⁷ 该法庭指出，“国际刑事法院罗马规约第 31 条第一款所载的自卫原则‘反映大多数国家刑法典中的规定，可视为构成一项国际习惯法规则’”。¹⁸ 第三十一条起首部分明确指出，自卫是“排除刑事责任的理由”之一。第三十一条第一款所界定的合法辩护理由是：

被控告构成本法院管辖权内的犯罪的行为是该人或他人面临即将死亡的威胁或面临继续或即将遭受严重人身伤害的威胁而被迫实施的，该人为避免这一威胁采取必要而合理的行动，但必须无意造成比设法避免的伤害更为严重的伤害。¹⁹

因此，国际刑事法律将自卫定为据以确定刑事责任的一项规则，而不是要求国家执行的一项独立权利。

24. 国际人权机构的判例主张要求国家承认和评估自卫抗辩理由，将其视为刑事被告正当程序权的一部分。人权事务委员会的一些委员甚至主张，《公民权利和政治权利国际公约》第六条第二款要求，国家法庭在判处某人死刑时根据缔约国保护生命权的责任，考虑被告的个人情况，包括可能主张的自卫理由。²⁰ 在习惯法管辖地区，法庭在命案中判处死刑时必须考虑事实和个人情况。同样，在大陆法系管辖地区，“在对每一起人命案做出刑事定罪/判处徒刑时，都必须考虑到诸如被告的自卫、必要性、紧张心理和精神能力之类各种可加罪或减罪的情况”。²¹

25. 委员会的理解也支持要求国家在刑法方面承认自卫理由。根据对国际人权法的这种理解，可要求国家对于极端情况下可能必须使用火器并在与迫在眉睫的生命威胁相称的程度上使用火器的被告作无罪处理。即便如此，这些权威来源也并不意味着对于国家规定一种正面的国际法律义务，要求国家必须允许被告动用枪械。

B. 自卫主张的必要性和比例相称要求

26. 国际机构和国家在界定自卫方面一律都要联系必要性和相称性。²² 某项特定的自卫理由主张是否成立，取决于依照事实所作的断定。例如，在使用小武器和轻武器自卫的情况下，除非这种行动是拯救一人或多人的生命所必需，而且使用小武器实施的武力与应对的武力威胁比例相称，否则就不能用自卫为由减轻侵犯另一人生命权的责任。

27. 不论是国家还是非国家行为者使用小武器和轻武器，按照比例相称原则，都必然要提高为证明在自卫中使用这类武器的理由而必须表明的威胁程度起限。由于这些武器的致命性质以及对所有国家和个人规定的尊重生命权的强制法人权义务，²³ 只有在最极端的情况下才能使用小武器和轻武器进行自卫，明确地说，就是在生命权已经受到威胁或受到不应有的侵犯之时才能这样使用。

28. 关于国家工作人员在自卫情况下正当使用武力的要求载于联合国《执法人员使用武力和火器的基本原则》。在必须使用武力保护生命的例外情况下，国家工作人员可以使用火器，并且以自卫或保护他人作为决定使用武力的正当理由。²⁴ 然而，如果有可能在不诉诸武力的情况下避免威胁，保护生命的义务就包含执法人员利用其他非暴力和非致命的制约和冲突解决方法的责任。²⁵

29. 因此，使用火器的严重后果就必然意味着这方面与其他武力手段相比要有更详细和更严格的准则。²⁶ 即便在使用火器并不造成死亡的情况下，火器射击所造成的创伤可引起瘫痪、疼痛，而且使某人丧失活动能力的时间比其他造成暂时丧失活动能力的方法长得多。²⁷ 人权事务高级专员办事处编制发行的警察人权实践和标准培训手册中写道，“火器只能用于极端紧急的情况”。²⁸ 执法人员在上述情况之外使用火器很可能有悖于人权准则。

1. 人权事务委员会

30. 人权事务委员会赞同对于执法人员使用武力的自卫必要性和相称性要求。在 *Suarez de Guerrero* 诉哥伦比亚案中，人权事务委员会认定 Maria Fanny Suarez de Guerrero 因哥伦比亚执法人员使用武力而被任意剥夺生命、因为“没有证据说明警方的行动是为了自己或为了保卫他人而必须采取，或是有必要逮捕这些人或防止他们逃跑”。²⁹ 人权事务委员会还认定，造成 de Guerrero 死亡的武力在程度上“不符合本案情况下执法的需要”，因此“哥伦比亚的法律没有按照第六条第一款的规定对生命权给予适当的保护”。³⁰ 另外，在 *Burrell* 诉牙买加案中，³¹ 人权事务委员会认定，在一些狱警被扣又得到释放之后故意枪杀一名囚犯，是由于狱警慌乱所造成的，并不是必要使用武力的结果。*Burrell* 当时并没有使任何人处于可证明国家人员对他的任意枪杀确属正当的危险；所有狱警都已得到释放，所以“已经不存在使用武力的必要性”。因此，牙买加当局侵犯了 *Burrell* 的生命权，而且没有正当的自卫理由。³³

2. 欧洲人权法院

31. 欧洲人权法院也承认《基本原则》中所载的必要性和相称性要求。在 *Nachova* 等人诉保加利亚案中，欧洲人权法院认定，一名宪兵在准备逮捕过程中开枪

打死 2 人一事属于对生命权的侵犯。在作出这一认定时，法院驳回了保加利亚政府的论点，该政府认为这个军官的行动没有侵犯生命权，因为他根据保加利亚法律履行了“尽可能”保护“……使用武力所针对的个人的生命……”的职责。但法院所采取的立场则是，“任何使用武力都决不能超过‘绝对必要……’”。法院写道：

潜在致命火器的使用必定危及人的生命，即便存在着着眼于将危险减至最低限度的规则也是如此。因此，本法院认为，对于一个不构成致命或伤残威胁的、非暴力罪行的嫌疑人实行逮捕时使用这些火器，无论如何都不可能是[欧洲]《公约》第 2 条第 2 款意义内的“绝对必要”，即便不使用这些火器可能造成丧失逮捕逃犯的机会。³⁴

32. 在 *McCann* 等人诉联合王国案中，欧洲人权法院对《欧洲人权公约》中包含生命权方面免责自卫理由在内的第二条第二款理解为要求证明绝对必要性和相称性，以说明国家工作人员造成侵犯生命权的使用武力确有正当理由。³⁵

C. 自卫主张不减轻防止民间暴力的尽责义务

33. 看待个人为自卫而携带枪支的愿望，必须联系国家最大限度保护人权的广义义务。国家在国际法之下有义务促进执法和遏制民间暴力，这就需要建立一种法律和社会制度，规定在合理具备自卫的非暴力手段的情况下避免使用武力的总体性责任。³⁶

34. 即便存在一项“自卫的人权”，也并不因此否定国家通过合理管制平民拥有武器而最大限度保护全社会生命权的尽责责任。虽然并不存在全面禁止一切平民拥有武器的国际规定，但也并不存在必须允许人人都现在武器的规定。国家在履行尽量减少暴力的义务时，必须考虑的是整个社会，而不是某一个人。

35. 举例而言，即便存在“自卫权”，也并不排除国家防止武器落入最有可能滥用的人手中的尽责责任。从对于特别报告员问卷调查表所作答复可以看出，对可能的滥用进行甄别，是各国在防止非国家行为者小武器暴力方面为落实合法的国家政策利益而通常采取的措施之一。这种各国的共同做法就是合理贯彻许多国际机构已详细阐述的尽责原则的一例，对于自卫方面的法律似无任何消极影响。由此可见，国家至少应制定规章，防止武器落入某些人手中，对于这些人，可以根据年龄、刑事记录或个

人暴力史乃至精神不健全等因素，合理地预计不会理解或遵守作为自卫的先决条件的必要性和相称性要求。

36. 在确定的国家规定某些规章限制平民随意拥有武器的正面责任并非不符合自卫原则之后，还可以指出其他适当管制的情形。例如，在保护弱势群体的权利、包括最有可能在自己家里面临滥用枪支的危险的家庭暴力受害者权利方面，国家就负有特别明确的义务。家里有枪，家庭暴力就很容易演变成家庭命案。最近的一些研究表明，在美国，所有亲密伴侣的女性命案有 59% 是使用武器所为，³⁷ 在拥有一枚或多枚枪支的家庭中，女性被亲密伴侣谋杀的可能性要高出 7.2 倍。³⁸ 尽管人们以自卫作为正当拥有火器的理由，但研究表明，使用火器制止犯罪或打死罪犯的情况很少。³⁹ 相反，火器往往被用于伤害最有理由用于自卫的人——妇女。⁴⁰ 鉴于这样的证据，并且根据人权机构为防止侵害妇女的暴力而制定的国际尽责法律任务，其中包括

“各国政府有责任……慎防、调查和依据本国立法惩处针对妇女的暴力行为、对不论是国家还是个人犯下的针对妇女的暴力行为采取恰当和有效的行动……”⁴¹

— 国家负有不可推卸的国际法律责任，防止小武器落入有家庭暴力史的人手中。

37. 对可能的滥用进行甄别，以及在有家庭暴力史的情况下排除武器，这就是体现国家管制火器的尽责义务两例：(a) 符合常见的国家做法；以及(b) 并非不符合自卫原则。进行这种管制可以做到不牵涉那些反对从任何方面管制平民拥有火器的人虚伪地提出的所谓全面收缴问题。对于其他相似的规章，也可以根据实行了这类规章的国家的经验以及本文件所讨论的标准和原则草案加以评估。

D. 国家面对他国武力而自卫

38. 最后，还必须简单地讨论一下那种认为《联合国宪章》第五十一条为个人规定了自卫的法定权利的说法。⁴² 《宪章》第五十一条承认国家可以通过一国的行动或集体行动进行自卫而对另一国使用武力。⁴³ 该条适用于国家主权受到武力袭击而采取自卫行动的联合国会员国。第五十一条规定的是对《宪章》第二条第四款所表述的国际法中一般禁止使用或威胁使用武力的规定的一项例外。⁴⁴ 习惯国际法也规定针对他国进行自卫的国家必须符合必要性、相称性和威胁迫在眉睫这三个要素。⁴⁵

39. 国际法中的自卫权并非着眼于所针对的国家中的个人生命的保护；这种自卫权意在保护国家。⁴⁶ 第五十一条无意适用于个人自卫的情况。⁴⁷ 安全理事会和大会都没有讨论过第五十一条在任何方面适用于个人。⁴⁸ Antonio Cassese 指出，个人所要求的自卫原则常常被错误地与第五十一条本国际法之下的自卫相混淆。⁴⁹ “后者涉及国家或类国家实体的行为，而前者涉及个人针对他人的行动……[二者]往往被混淆。”⁵⁰

三、结论和建议

40. 国家为了履行在国际人权法之下的义务，必须制定和实施旨在最大限度保护大多数人民人权的法律和政策。国家在履行义务通过促进执法和遏制民间暴力而将暴力枪支最低限度时，必须考虑的是全社会，而不是某一个人。国际人权法要求国家必须“尊重和确保”其管辖之下的所有个人的人权。根据这项要求，国家负有保护个人免受国家和非国家行为者侵犯的主动义务。

41. 国家必须采取有效措施减少人民自行武装的必要性，为此应确保通过致力于保护法治和防止非法行为并受过这方面培训的执法部门支持而形成公共安全氛围。

42. 国家还必须采取有效措施，尽量减少民间武装行为者的暴力。要求国家针对使用武力违犯法律的人实施刑事制裁。还要求国家根据尽责原则防止小武器落入可能滥用的人手中。根据尽责标准，国际人权机构应要求各国设施制裁防止小武器被民间行为者用于侵犯人权的最低限度执照标准。

43. 其他符合尽责标准的有效措施包括禁止平民拥有为军用设计的武器；支持开展有效的赦免方案，以减少实际使用中的武器数量；要求制造商提供标识和追踪信息；以及在有关小武器的政策中纳入性别观点。国家在国际人权法之下负有保护包括家庭暴力的受害者在内的最弱势群体免受小武器滥用之害的正面责任。

44. 作为国际公认的刑事免责条件的自卫原则并非不符合国家管制平民拥有小武器的尽责责任。国际人权法中并不存在一种独立或必然的权利，要求国家必须让平民能取得武器；自卫原则也并不减轻国家防止武器落入最有可能滥用的人手中的尽责责任。相反，国家应在有关自卫的法律方面履行尽责责任，包括持有火器的人只能在必要和比例相称的情况下行事的可能性。

45. 《宪章》第五十一条适用于国家针对侵犯主权的武力袭击进行自卫的情况，并不适用于个人自卫的情况。

46. 增进和保护人权小组委员会应设法澄清国家防止使用小武器侵犯人权的主动责任。为此，负责编写关于防止使用小武器和轻武器侵犯人权的全面研究报告的特别报告员将欢迎小组委员会赞同防止使用小武器和轻武器侵犯人权的原则草案(E/CN.4/Sub.2/2005/35)，以此作为一项重要贡献，帮助当前为制定各国在小武器和轻武器方面所应采取的措施而正在开展的工作，以便在全世界的不同社会群体中落实国际人权。

Notes

¹ Ms. Frey would like to express her thanks to Ms. Lora Lumpe and Ms. Jennifer Johnson for their invaluable research assistance in preparing this report. Ms. Frey is also grateful for funding support from the Canadian Department of Foreign Affairs and International Trade for the summary and analysis of State responses to the questionnaire.

² Graduate Institute of International Studies, *Small Arms Survey 2004: Rights at Risk* (New York, Oxford University Press, 2004), p. 175. The highest regional concentration of firearm homicides is in Latin America and the Caribbean, with 40 per cent of the estimated cases, and Africa, with 20 per cent. The authors of the above study suggest that Latin American urban areas experience the highest rates of assaults, threats, robberies and sexual offences committed with firearms. North America experiences the highest regional firearm suicide rate. *Idem*, pp. 175-77.

³ See B.G. Ramcharan, *The Right to Life in International Law* (Biggleswade, Brill, 1985), p. 15 (“As a norm of *jus cogens*, no Government may deny the existence of the right to life and a higher duty and standard of protection of the right is imposed upon Governments”).

⁴ S. Farrior, “The International Law on Trafficking in Women and Children for Prostitution: Making it Live Up to its Potential”, *Harvard Human Rights Journal* 10, (1997), p. 225. (“By virtue of Article 2 of the Covenant, states violate their obligations under the Covenant if they fail to exercise due diligence to end slavery and the slave trade by private actors within their jurisdiction”); R.J. Cook, “State Responsibility For Violations of Women’s Human Rights”, *Harvard Human Rights Journal* 7 (1994), p. 125; D. Shelton, “Private Violence, Public Wrongs and the Responsibilities of States”, *Fordham International Law Journal* 13 (1989), p. 23.

⁵ John Cerone, “The Human Rights Framework Applicable to Trafficking in Persons and its Incorporation into UNMIK Regulation 2001/4”, *International Peacekeeping, The Yearbook of International Peace Operations*, vol. 7, 2001 (2002), pp. 43-98 (footnotes omitted).

⁶ In its general comment No. 7, the Human Rights Committee describes steps beyond mere legislation that States must take to prevent torture, “Because such cases nevertheless occur, it follows from article 7, read together with article 2 of the Covenant, that States must ensure an effective protection through some machinery of control.”

⁷ The need for international principles with regard to selection, training and oversight of State actors is discussed above in Section I (a).

⁸ Thirty-five out of thirty-eight responding States indicated that they license private ownership; three - the Czech Republic, Qatar and Ukraine - did not answer the question.

⁹ See States’ responses to part 2, annex I. See also, Conference room paper submitted by the Chairman (A/Conf.192/2006/PC/CRP.17), Preparatory Committee for the 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 which proposes consensus criteria for licences.

¹⁰ Ibid.

¹¹ More than 50 States have strengthened their national laws on civilian possession since 2001. At the January 2006 Preparatory Committee for the 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, the Chairman submitted a conference room paper (A/Conf.192/2006/PC/CRP.17) including a proposed declaration of principles about the national regulation of civilian possession after at least 12 States spoke in favour of including the issue at the Review Conference. Only the United States spoke explicitly against the reference to the regulation of civilian possession of small arms and light weapons. Despite this apparent consensus, there was no outcome document from the Small Arms Review Conference, held 24 June-7 July 2006, which made reference to the regulation of civilian possession.

¹² *The Istanbul Protocol, The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, section II.B.1, 9 August 1999 (available at: <http://www.unhchr.ch/pdf/8istprot.pdf>; accessed 6 July 2006), which establishes certain obligations that States must respect to ensure protection against torture. See also general comment No. 17 of the Human Rights Committee. (Each State has a duty to take “every possible economic and social measure ... to reduce infant mortality and to eradicate malnutrition among children and to prevent them from being subjected to acts of violence and cruel and inhuman treatment or from being exploited by means of forced labour or prostitution, or by their use in the illicit trafficking of narcotic drugs, or by any other means”.)

¹³ Because of the severe limits on space and the breadth of issues that need to be covered in this study, the author does not attempt here to undertake a full legal discussion of the principle of self-defence in international law. For an authoritative discussion of this complex topic, see Antonio Cassese, *International Criminal Law* (2003). In addition, the legal concepts discussed herein assume a non-conflict setting. Situations of mass human rights abuse and armed conflict involve international humanitarian law and security law principles that require an extended if not completely separate set of legal and policy considerations. For the Special Rapporteur’s findings and recommendations regarding role of small arms and light weapons in violations of human rights and international humanitarian law in armed conflict, see her progress report (E/CN.4/Sub.2/2004/37).

¹⁴ David Kopel, Paul Gallant, and Joanne Eisen, “Is Resisting Genocide a Human Right?” *Notre Dame Law Review*, vol. 81, No. 4 (2006), p. 1 (“... The Universal Declaration of Human Rights affirms the existence of a universal, individual right of self-defense, and also a right to revolution against tyranny ... Taken in conjunction with Anglo-American human rights law, the human rights instruments can be read to reflect a customary or general international law recognizing a right of armed resistance by genocide victims”).

¹⁵ Convention for the Protection of Human Rights and Fundamental Freedoms, 213 United Nations *Treaty Series* 222, entered into force on 3 September 1953, as amended by Protocols Nos. 3, 5, 8 and 11, which entered into force on 21 September 1970, 20 December 1971, 1 January 1990 and 1 November 1998, respectively. Article 2 states:

(1) Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

(2) Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

(a) In defence of any person from unlawful violence;

(b) In order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(c) In action lawfully taken for the purpose of quelling a riot or insurrection.

¹⁶ John Cerone, "A human right of self-defence?", *George Mason Journal of Law, Economics, & Policy* (accepted for 2006 publication).

¹⁷ Antonio Cassese, *International Criminal Law* (New York, Oxford University Press, 2003), p. 223, No. 2 (2003) (citing *Prosecutor v. Kordić and Čerkez*, International Criminal Tribunal for the Former Yugoslavia (Trial Chamber) (26 February 2001) at section 451). "In *Kordić and Čerkez* a Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia held that self-defence as a ground for excluding criminal responsibility is one of the defences that 'form part of the general principles of criminal law which the International Tribunal must take into account in deciding the cases before it'." *Idem* at p. 223 (citing *Prosecutor v. Kordić and Čerkez*, International Criminal Tribunal for the Former Yugoslavia (Trial Chamber) (26 February 2001) at section 449).

¹⁸ *Ibid.*, p. 223, No. 2 (2003) (quoting *Prosecutor v. Kordić and Čerkez*, International Criminal Tribunal for the Former Yugoslavia (Trial Chamber) (26 February 2001) at section 451).

¹⁹ Rome Statute of the International Criminal Court (A/CONF.183/9), adopted 17 July 1998, as corrected by the procès-verbaux of 10 November 1998, 12 July 1999, and 8 May 2000.

²⁰ See communication No. 806/1998 of the Human Rights Committee, *Thompson v. Saint Vincent and the Grenadines* (CCPR/C/70/D/806/1998) of 5 December 2000. In his dissent, Lord Colville said self-defence was an avenue for the defence to counter accusations of homicide which must result in acquittal of any crime, "unless the prosecution can satisfy the tribunal of facts that the defendant's actions, which led to the death, exceed a proportional response, in his own perception of the circumstances, to the threat with which he was faced" (para. 5).

²¹ Human Rights Committee, communication No. 1077/2002, *Jaime Carpo et al. v. Philippines* (CCPR/C/77/D/1077/2002) of 15 May 2003 dissenting opinion of Mr. Nisuke Ando.

²² The presence of the principle of self-defence in emerging international criminal law reflects the global uniformity of the principle of self-defence and its elements. Antonio Cassese summarized the required elements of self-defence as a justification for criminal action in customary international criminal law as:

“(i) the action in self-defence is taken *in response to an imminent or actual unlawful attack* on the life of the person or of another person; (ii) there is *no other way of preventing or stopping the offence* [necessity]; (iii) the unlawful conduct of the other *has not been caused by the person acting in self-defence*; (iv) the conduct in self-defence is *proportionate* to the offence to which the person reacts.”

Cassese, *op. cit.*, p 222.

²³ *Ibid.* (“[T]he life, body, and dignity of human beings are protected by international norms having the rank of *jus cogens*, and are therefore not derogable by either States or Individuals.”)

²⁴ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990 (hereinafter “Basic Principles”), principle 9.

²⁵ Basic Principles, principle 4 (“Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.”). See also Office of the United Nations High Commissioner for Human Rights, Professional Training Series No. 5/Add.3, *Human rights standards and practice for the police* (United Nations publication Sales No. E.03.XIV.7) (2004), p. 23.

²⁶ Basic Principles, article 9, states that “Intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life”. See also Human Rights Committee, Consideration of Reports Submitted by States parties under article 40 of the Covenant, Second periodic report of States parties due in 1996, Addendum: Ireland (28 April 1999) (CCPR/C/IRL/98/2, para. 113). “The Human Rights Committee, in its comments on the first periodic report of Ireland (A/48/40, para. 612) emphasized the importance of the issuing of rules and guidelines on, *inter alia*, the use of firearms, and ensuring the strict enforcement thereof by law enforcement officials.” “The regulations governing the use of firearms by the Gardaí forces in Ireland thereafter developed are detailed in the Irish Garda Code 25.42.” *Idem.*, para. 117.

²⁷ *Small Arms Survey 2001: Profiling the Problem* (Geneva, the Graduate Institute of International Studies, 2001), pp. 216-17. (“Victims of small arms injuries often require resource-intensive surgery, followed by prolonged hospitalization and rehabilitation ... For the individual, the repercussions from firearm injury are profound ... [including] long-term, often permanent, psychological trauma and social marginalization.”)

²⁸ Office of the United Nations High Commissioner for Human Rights, Professional Training Series No. 5/Add.3, *Human rights standards and practice for the police* (United Nations publication Sales No. E.03.XIV.7) (2004), p. 24. The handbook further states that:

Firearms are to be used only in self-defence or defence of others against imminent threat of death or serious injury, or to prevent a particularly serious crime that involves a grave threat to life, or to arrest or prevent the escape of a person posing such a threat and who is resisting efforts to stop the threat and in every case, only when less extreme measures are

insufficient. Intentional lethal use of force and firearms shall be permitted only when strictly unavoidable in order to protect human life.

²⁹ Husband of Maria Fanny in *Suarez de Guerrero v. Colombia*, *Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 40 (A/37/40)*, communication No. 45/1979 (*Guerrero v. Colombia*) at 137 (1982), para. 13.2.

³⁰ *Ibid.*, para. 13.3.

³¹ *Rickly Burrell v. Jamaica*, communication No. 546/1993: Jamaica 1 August 1996 (CCPR/C/53/D/546/1993) (1996).

³² *Ibid.*, para. 9.5.

³³ In the Burrell case, the Human Rights Committee also held that States parties have a negative duty not to kill arbitrarily and that they have a positive duty to protect the lives of inmates while in State custody. In this case Jamaica had breached both of those duties. *Ibid.*, para. 9.5.

³⁴ *Nachova and Others v. Bulgaria* (Application Nos. 43577/98 and 43579/98) [2004], European Convention on Human Rights 89 (26 February 2004), para. 105.

³⁵ *McCann and Others v. United Kingdom*, Application No. 18984/91, paras. 148-49, Strasbourg, 5 September 1995. See also *Öcalan v. Turkey*, Application No. 46221/99, Strasbourg, 12 March 2003.

³⁶ A.J. Ashworth, "Self-defence and the right to life", *Cambridge Law Journal*, vol. 34 (1975), p. 289 ("The preservation of human life must rank high among state interests, and the interests in the minimization of physical violence, in the promotion of law enforcement and in ... 'the suppression of private warfare' all have a bearing upon the justifiability of force."). Ashworth further writes that,

a legal system which supports the maximum protection for every human life should provide that a person attacked ought if possible to avoid the use of violence, especially deadly force, against his attacker. This might be termed the "human rights" approach to self-defence, since it accords with the provision in the European Convention that no life shall be deprived of protection unless absolutely necessary for a lawful purpose. This approach, supported by the state interest in the minimization of violence, would result in a general duty to avoid the use of force where non-violent means of self-protection are reasonably open to the person attacked.

Idem., at p. 289.

³⁷ United States Bureau of Justice Statistics, 2002, cited in *Small Arms Survey 2004: rights at risk*, A project of the Graduate Institute of International Studies, Geneva, p. 183.

³⁸ James E. Bailey, MD, MPH, et. al., "Risk factors for violence death of women in the home," *Archives of Internal Medicine*, vol. 157, No. 7 (1997), pp. 777-782.

³⁹ In 2003 only 203 justifiable homicides by private citizens using firearms were reported by the United States Federal Bureau of Investigation Uniform Crime Reports, including 163 with handguns. This number compares to the 17,108 suicides, 11,829 homicides and 762 accidental deaths caused by firearms in 2003, data compiled by the Centers for Disease Control and Prevention.

⁴⁰ K.M. Grassel and others, “Association between handgun purchase and mortality from firearm injury”, *Injury Prevention*, vol. 9 (2003) (reporting that women who were murdered were more likely, not less likely, to have purchased a handgun in the three years prior to their deaths).

⁴¹ The elimination of violence against women, Commission on Human Rights resolution 1996/49, para. 4.

⁴² Don Kates, “Individuals’ right to self-defence under international law” (2003), excerpted in *Small Arms Survey 2004: rights at risk* (Geneva, the Graduate Institute of International Studies, 2004), p. 181. (The right to individual self-defence is implicit in Article 51 of the Charter of the United Nations.)

⁴³ Charter of the United Nations, 59 Stat. 1031, T.S. No. 993, 3 Bevens 1153, entered into force 24 October 1945, Article 51:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.

⁴⁴ Charter of the United Nations, 59 Stat. 1031, T.S. No. 993, 3 Bevens 1153, entered into force 24 October 1945, Article 2 (4) (“All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”). See also, *Repertory of Practice of United Nations Organs (1945-1954)*, *Repertory of Practice of United Nations Organs Supplements No. 1-9 (1954-1999)*, Vol. I-III, Article 51 (available at <http://www.un.org/law/repertory/art51.htm>). In particular, *Repertory of Practice of United Nations Organs Supplement No. 5 (1970-1978)*, vol. II., article 51, paras. 8-19, discuss Article 51 and Article 2 (4) of the Charter, as well as Article 51 in relation to the principle of proportionality.

⁴⁵ The equation on self-defence in international customary law is a measure of necessity, proportionality and immediacy to justify the use of force by one State against another State. It was established in the United States Supreme Court’s 1837 *Caroline* case and codified in Article 51 of the Charter of the United Nations (26 June 1945, 59 Stat. 1031, T.S. No. 993, 3 Bevens 1153, entered into force 24 October 1945).

⁴⁶ Cerone, “A Human Right of Self-Defense?”

⁴⁷ See General Assembly resolution 48/88 of 20 December 1998 (“Reaffirming once again that, as the Republic of Bosnia and Herzegovina is a sovereign, independent State and a Member of the United Nations, it is entitled to all rights provided for in the Charter of the

United Nations, including the right to self-defence under Article 51 thereof”); Kofi A. Annan, Secretary-General’s address to the General Assembly, New York (23 September 2003) (“Article 51 of the Charter prescribes that all States, if attacked, retain the inherent right of self-defence.”); Human Rights Committee, general comment No. 6 (1982) on the right to life, *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies (HRI\GEN\1\Rev.1)* at 6 (1994), para. 2. (“Under the Charter of the United Nations the threat or use of force by any State against another State, except in exercise of the inherent right of self-defence, is already prohibited.”)

⁴⁸ *Repertory of Practice of United Nations Organs Supplement No. 6 (1979-1984), Vol. III, Article 51, para. 13.* (“On several occasions the question of the bearing of Article 51 on the items under consideration gave rise to constitutional discussion in the Security Council ... In each of the seven situations, action by a Member State, claimed to have been taken in individual or collective self-defence, gave rise to questions concerning the application of Article 51 and the rights and obligations of Member States under that Article.”); see also *Repertory of Practice of United Nations Organs (1945-1954), Repertory of Practice of United Nations Organs Supplements No. 1-9 (1954-1999), Vol. I-III, article 51* (available at: <http://www.un.org/law/repertory/art51.htm>).

⁴⁹ Cassese, *op. cit.*, p. 223.

⁵⁰ *Ibid.*

ANNEXES

Annex I

SUMMARY OF RESPONSES RECEIVED FROM UNITED NATIONS MEMBER STATES TO THE SPECIAL RAPPORTEUR'S QUESTIONNAIRE

Part 1. Use of small arms and light weapons by law enforcement

Regulating the use of small arms, light weapons and ammunition

	Austria	Bangladesh	Chile	Colombia	Costa Rica	Cyprus	Czech Republic	Finland	Georgia	Germany	Greece	Jordan	Kyrgyzstan	Marshall Isl.	Mauritius	Mexico	Monaco	Mongolia	Morocco
Are there laws regulating possession and use?	SALW ammo ¹	SALW ammo	SALW ammo ²	SALW ammo ³	SALW ammo	SALW ammo	SALW ammo ⁴	SALW ammo ⁵	SALW ammo ⁶	SALW ammo	SA ⁷ ammo	SALW ammo ⁸	SA ⁹	SALW ammo	SALW ammo ¹⁰	SALW ammo ¹¹	SALW ammo ¹²	SA ¹³	SA ammo
Are there laws regulating the process for issuance to state agents?	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo ¹⁴	SALW ammo ¹⁵	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SA	SALW ammo	SA	SALW ammo	SALW ammo	SA ammo	
Are there laws regulating the process of collection from state agents that leave service?	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SA	SALW ammo	SA	SALW ammo	SALW ammo	SA ammo	SA
Are retiring officers allowed to keep their weapons?	No	SA ammo	No	No	No	SALW ammo	No	SALW ammo	SALW ammo	No	No	No	SA	No	No	No	No	No	No

Part 1. Use of small arms and light weapons by law enforcement (*continued*)

Regulating the use of small arms, light weapons and ammunition (*continued*)

<i>(continued)</i>	Niger	Norway	Philippines	Poland	Portugal	Qatar	Republic of Korea	Romania	Saudi Arabia	Slovakia	South Africa	Spain	Sudan	Syrian Arab Republic	Trinidad and Tobago	Turkey	Ukraine	United Arab Emirates	Uzbekistan
Are there laws regulating possession and use?	SALW ammo	SALW ammo	SALW ammo ¹⁶	SALW ammo ¹⁷	SALW ammo	SA ammo ¹⁸	SALW ammo ¹⁹	SALW ammo ²⁰	SALW	SALW ammo	SALW ammo ²¹	SALW ammo	SALW ammo ²²	SALW ammo ²³	SALW ammo ²⁴	SALW ammo	SA ammo ²⁵	SA ammo	SA ammo ²⁶
Are there laws regulating the process for issuance to state agents?	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo		SALW ammo	SALW ammo	SALW	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo		SA ammo	SA ammo
Are there laws regulating the process of collection from state agents that leave service?	SALW ammo	SALW ammo	SALW ammo	SALW ammo ²⁷	SALW ammo		SALW ammo	SALW ammo	SALW	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo	SALW ammo		SA ammo	SA ammo
Are retiring officers allowed to keep their weapons?	No	No	No	No	No		No	SALW ammo	No	No		No	No	No	No	SA		No	SA ammo

Part 1. Use of small arms and light weapons by law enforcement (*continued*)

Training on the use of small arms, light weapons and ammunition

	Austria	Bangladesh	Chile	Colombia	Costa Rica	Cyprus	Czech Republic	Finland	Georgia	Germany	Greece	Jordan	Kyrgyzstan	Marshall Isl.	Mauritius	Mexico	Monaco	Mongolia	Morocco	
Do you have training regarding small arms, light weapons, and ammunition on the following areas:																				
• <i>Technical and mechanical proficiency</i>	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
• <i>Practical and tactical efficiency</i>	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
• <i>Applied decision-making (i.e., meeting the requirements of law)</i>	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes		Yes	
Is there regular funding allocated to support training?	Yes	Yes	Yes	Yes	No	Yes		Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes

<i>(continued)</i>	Niger	Norway	Philippines	Poland	Portugal	Qatar	Republic of Korea	Romania	Saudi Arabia	Slovakia	South Africa	Spain	Sudan	Syrian Arab Republic	Trinidad and Tobago	Turkey	Ukraine	United Arab Emirates	Uzbekistan	
Do you have training regarding small arms, light weapons, and ammunition on the following areas:																				
• <i>Technical and mechanical proficiency</i>	Yes	Yes	Yes	Yes	Yes		Yes	Yes ²⁸	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes ²⁹	Yes	Yes	Yes
• <i>Practical and tactical efficiency</i>	Yes	Yes	Yes	Yes	Yes		No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
• <i>Applied decision-making (i.e., meeting the requirements of law)</i>	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Is there regular funding allocated to support training?		Yes	Yes	No	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	

Part 1. Use of small arms and light weapons by law enforcement (*continued*)

Investigating misuse of small arms, light weapons and ammunition

	Austria	Bangladesh	Chile	Colombia	Costa Rica	Cyprus	Czech Republic	Finland	Georgia	Germany	Greece	Jordan	Kyrgyzstan	Marshall Isl.	Mauritius	Mexico	Monaco	Mongolia	Morocco
Do you have laws requiring investigation of incidents of alleged misuse of small arms?	Yes	Yes	Yes ³⁰	Yes	Yes	Yes		Yes	Yes	Yes	Yes ³¹	Yes ³²	Yes	Yes	Yes ³³	Yes ³⁴	Yes	Yes	Yes
Are those investigations carried out by someone independent of the agency accused?	Yes	Yes	Yes	Yes	Yes	Yes ³⁵		Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	No	Yes
Is there judicial oversight of the investigative process?	Yes	Yes	Yes	Yes	Yes	No ³⁶		Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Yes	No	Yes
Are the investigative proceedings made available to the public?	No	Yes	Yes	Yes	Yes	No		Yes	No	No ³⁷	No	Yes	Yes	Yes	No	Yes	Yes	Yes	No
Are sanctions imposed against state agents who have misused small arms?	Yes	N/A	Yes	Yes	Yes	Yes		Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Are sanctions imposed against commanding/superior officers who authorize the misuse of small arms?	Yes	No	Yes	Yes	Yes	Yes		Yes	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Is there a process for compensating civilians and their families who have been injured or killed due to misuse of small arms by state security forces?	Yes	Yes	Yes	Yes	Yes	Yes		Yes	No	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Is there regular funding allocated in the national budget to support such investigations?	Yes ³⁸	Yes	Yes	No	Yes	Yes		Yes	No	Yes		Yes	Yes	Yes	No	Yes	Yes	Yes	Yes

Part 1. Use of small arms and light weapons by law enforcement (*continued*)

Investigating misuse of small arms, light weapons and ammunition (*continued*)

<i>(continued)</i>	Niger	Norway	Philippines	Poland	Portugal	Qatar	Republic of Korea	Romania	Saudi Arabia	Slovakia	South Africa	Spain	Sudan	Syrian Arab Republic	Trinidad and Tobago	Turkey	Ukraine	United Arab Emirates	Uzbekistan
Do you have laws requiring investigation of incidents of alleged misuse of small arms?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes ³⁹	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes ⁴⁰
Are those investigations carried out by someone independent of the agency accused?	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	Yes		Yes	Yes
Is there judicial oversight of the investigative process?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	No	Yes		Yes	No
Are the investigative proceedings made available to the public?	No	Yes	Yes	No	No		Yes	Yes	Yes	Yes		No	Yes	Yes	No	Yes		Yes	Yes
Are sanctions imposed against state agents who have misused small arms?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes
Are sanctions imposed against commanding/superior officers who authorize the misuse of small arms?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes		Yes	Yes
Is there a process for compensating civilians and their families who have been injured or killed due to misuse of small arms by state security forces?	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes
Is there regular funding allocated in the national budget to support such investigations?	Yes ⁴¹	Yes	Yes		Yes		Yes	No	No	Yes	Yes	Yes	Yes	Yes	No	Yes		Yes	Yes

Part 1. Use of small arms and light weapons by law enforcement (*continued*)

Security and storage of small arms, light weapons and ammunition

	Austria	Bangladesh	Chile	Colombia	Costa Rica	Cyprus	Czech Republic	Finland	Georgia	Germany	Greece	Jordan	Kyrgyzstan	Marshall Isl.	Mauritius	Mexico	Monaco	Mongolia	Morocco	
Are there existing laws governing the storage of small arms by state agents?	Yes	Yes	Yes	Yes	Yes	Yes		Yes ⁴²	Yes	Yes	Yes ⁴³	Yes	Yes	Yes	Yes ⁴⁴	Yes	Yes	Yes	Yes	Yes
Are off-duty agents allowed to keep their government-issued small arms?	No	No	Yes	No	No	Yes		Yes	Yes	Yes ⁴⁵	Yes	No	No	No	No	No	No	No	No	Yes
Are sanctions imposed against state agents for violations of laws on safe storage of small arms?	Yes	N/A	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes
Are there laws requiring training of forces in securing and safely storing small arms?	Yes	Yes	No		Yes	Yes		Yes	No	Yes	Yes	No	Yes	Yes	No ⁴⁶	Yes	Yes	Yes ⁴⁷		Yes
Do you allocate funding in your national budget for the facilities and resources to safely and securely store small arms?	Yes ⁴⁸	Yes	Yes	Yes	Yes	Yes		Yes	No	Yes	Yes	No ⁴⁹	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Are private storage facilities being inspected?	No	Yes	Yes	No	No	Yes		No		Yes		Yes ⁵⁰	Yes	No	Yes	Yes	Yes	N/A ⁵¹		Yes

Part 1. Use of small arms and light weapons by law enforcement (*continued*)

Security and storage of small arms, light weapons and ammunition (*continued*)

<i>(continued)</i>	Niger	Norway	Philippines	Poland	Portugal	Qatar	Republic of Korea	Romania	Saudi Arabia	Slovakia	South Africa	Spain	Sudan	Syrian Arab Republic	Trinidad and Tobago	Turkey	Ukraine	United Arab Emirates	Uzbekistan
Are there existing laws governing the storage of small arms by state agents?	Yes	Yes	Yes ⁵²	Yes	Yes		Yes	Yes ⁵³	Yes	Yes	Yes	Yes	Yes ⁵⁴	Yes	Yes	Yes		Yes	Yes ⁵⁵
Are off-duty agents allowed to keep their government-issued small arms?	No	No	Yes	No	Yes ⁵⁶		Yes		Yes	Yes		Yes	No	No	No	No	Yes	Yes	No
Are sanctions imposed against state agents for violations of laws on safe storage of small arms?	Yes	Yes	Yes	Yes	Yes		Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes
Are there laws requiring training of forces in securing and safely storing small arms?	Yes	Yes	Yes	Yes	Yes		Yes	Yes	No	Yes	Yes	Yes	Yes ⁵⁷	Yes	Yes	Yes		Yes	No
Do you allocate funding in your national budget for the facilities and resources to safely and securely store small arms?	Yes	Yes	Yes	No	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	
Are private storage facilities being inspected?	Yes	Yes	Yes		Yes		Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Part 1. Use of small arms and light weapons by law enforcement (continued)

Data collection

	Austria	Bangladesh	Chile	Colombia	Costa Rica	Cyprus	Czech Republic	Finland	Georgia	Germany	Greece	Jordan	Kyrgyzstan	Marshall Isl.	Mauritius	Mexico	Monaco	Mongolia	Morocco
Are there national laws requiring the collection and maintenance of data on the use of small arms?	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	N/A	Yes	Yes	Yes	No	Yes	Yes	Yes	No
Do you allocate funding in your national budget for the collection of this data?	Yes ⁵⁸	Yes	Yes	Yes	Yes	Yes		Yes	No	Yes ⁵⁹	N/A	No	Yes	No	No	Yes	Yes	No	No
Is this data disaggregated by gender?	No	Yes	Yes	No	No	No		No	No	Yes	N/A	No	No	Yes	No	Yes			No
Is this data public?	No	Yes	No		No	No		Yes	Yes	No ⁶⁰	N/A	No	No	Yes	No	Yes	No	No	No

<i>(continued)</i>	Niger	Norway	Philippines	Poland	Portugal	Qatar	Republic of Korea	Romania	Saudi Arabia	Slovakia	South Africa	Spain	Sudan	Syrian Arab Republic	Trinidad and Tobago	Turkey	Ukraine	United Arab Emirates	Uzbekistan
Are there national laws requiring the collection and maintenance of data on the use of small arms?	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes			Yes ⁶¹
Do you allocate funding in your national budget for the collection of this data?	Yes	Yes	Yes		Yes		Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	No			Yes
Is this data disaggregated by gender?	Yes	No	Yes	No	No		Yes	No	No	N/A		Yes	Yes	Yes	No	Yes			
Is this data public?	No	No	Yes	No	No		Yes	Yes	No	N/A	No ⁶²	No	No ⁶³		No	No			No

Part 2. State regulation of armed individuals and armed groups

	Austria	Bangladesh	Chile	Colombia	Costa Rica	Cyprus	Czech Republic	Finland	Georgia	Germany	Greece	Jordan	Kyrgyzstan	Marshall Isl.	Mauritius	Mexico	Monaco	Mongolia	Morocco
Are there laws requiring the licensing of all private ownership of small arms and ammunition?	Yes ⁶⁴	Yes	Yes	Yes	Yes	Yes	Yes	Yes ⁶⁵	Yes	Yes	Yes ⁶⁶	Yes	Yes ⁶⁷	Yes	Yes ⁶⁸	Yes ⁶⁹	Yes	Yes	Yes
Are there laws specifying limits to the type and number of weapons that can be held by individuals?	No	Yes	Yes	Yes	Yes	Yes		No	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes
If seeking to own several weapons, does the need for each one have to be justified separately?	Yes	Yes	Yes	Yes	No	Yes		Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Is there a periodic review of the licences?	Yes	Yes	Yes	Yes	Yes	Yes		No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Are there laws requiring screening or background investigation on individuals seeking ownership of small arms and ammunition based on:	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Age?	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Criminal record?	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Psychological profile?	Yes	Yes	No	Yes	Yes	Yes		Yes			Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes
Incidents of family violence?	Yes	Yes	No	Yes	No	Yes		Yes	No	Yes	No	No	No	Yes	No	Yes	No	Yes	No
• If yes, is the partner automatically notified of the request for a licence?	No	Yes				No		No		No				Yes					
• Justification of need?	Yes	Yes	No	Yes	Yes	Yes		Yes	No	Yes	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes
• Are there laws requiring training for seeking ownership of small arms and/or ammunition?	Yes	Yes	No	No	Yes	Yes		No	No	Yes	No ⁷⁰	No	No	No	No	Yes	Yes	Yes	No

Part 2. State regulation of armed individuals and armed groups (continued)

(continued)	Austria	Bangladesh	Chile	Colombia	Costa Rica	Cyprus	Czech Republic	Finland	Georgia	Germany	Greece	Jordan	Kyrgyzstan	Marshall Isl.	Mauritius	Mexico	Monaco	Mongolia	Morocco
• Do those laws require training be completed before issuing a licence?	Yes	Yes	No	No	Yes	Yes		No	No	Yes	No	No	No	No	No	Yes	Yes	Yes	No
• Do those laws require training in the safe use and handling of small arms and/or ammunition?	Yes	Yes	No	No	Yes	Yes		No	No	Yes	No	No	No	No	No	Yes	Yes	Yes	No
• Do those laws require training in the safe storage and maintaining security of small arms and/or weapons?	Yes	Yes	No	No	Yes	Yes		No	No	Yes	Yes	No	No	Yes	No	Yes	Yes	Yes	No
• Do you allocate funding in your budget for licensing, screening and/or training private owners of small arms and ammunition?	No	No	No	No	Yes	Yes		Yes	No	No ⁷¹	No	No	No	No	No	Yes	Yes	No	No
• Is there a database of licensed owners of small arms and ammunition?	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
• Is that database public?	No	Yes	No	No	No	No		No	Yes	No	No	No		Yes	No	Yes	No	No	No
• Do you allocate funding in your budget for maintenance of the database?	Yes ⁷²	No	Yes	Yes	No	Yes		Yes	No	Yes	Yes	Yes	No	Yes	No	Yes	Yes	No	No
• Are there programmes allowing for periodic amnesties for individuals who want to turn in small arms?	No	No	Yes	Yes	Yes	No		Yes	No	No	No	No	No	Yes	No	No	No	Yes	No
• Are there laws requiring the collection and maintenance of data on the use of small arms by private owners?	No	Yes	Yes	Yes	Yes	Yes		No	Yes	Yes	No ⁷³	Yes ⁷⁴	Yes	Yes	No	No	Yes	Yes	No

Part 2. State regulation of armed individuals and armed groups (continued)

(continued)	Austria	Bangladesh	Chile	Colombia	Costa Rica	Cyprus	Czech Republic	Finland	Georgia	Germany	Greece	Jordan	Kyrgyzstan	Marshall Isl.	Mauritius	Mexico	Monaco	Mongolia	Morocco
<ul style="list-style-type: none"> Are there laws requiring that the collection and maintenance of data on the use of small arms in incidents of crime including the type of firearm, use of the firearm and the type of injury caused? 	Yes	Yes	No	No	Yes	Yes		Yes	Yes	Yes	No	Yes	Yes	Yes	No ⁷⁵	No	Yes		Yes
<ul style="list-style-type: none"> Do you allocate funding in your budget for the collection of this data? 	Yes ⁷⁶	No	No	No	Yes	No		Yes		Yes	Yes	Yes	No	No	No	Yes	Yes		No

Part 2. State regulation of armed individuals and armed groups (continued)

<i>(continued)</i>	Niger	Norway	Philippines	Poland	Portugal	Qatar	Republic of Korea	Romania	Saudi Arabia	Slovakia	South Africa	Spain	Sudan	Syrian Arab Republic	Trinidad and Tobago	Turkey	Ukraine	United Arab Emirates	Uzbekistan
Are there laws requiring the licensing of all private ownership of small arms and ammunition?	Yes	Yes ⁷⁷	Yes ⁷⁸	Yes ⁷⁹	Yes		Yes	Yes ⁸⁰	Yes	Yes ⁸¹	Yes	Yes	Yes ⁸²	Yes	Yes ⁸³	Yes		Yes ⁸⁴	Yes ⁸⁵
Are there laws specifying limits to the type and number of weapons that can be held by individuals?	Yes	Yes	Yes	Yes	Yes		Yes	Yes	No	Yes	Yes	Yes	Yes ⁸⁶	Yes	No	Yes		Yes	Yes
If seeking to own several weapons, does the need for each one have to be justified separately?	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes ⁸⁷	Yes	Yes	Yes		Yes	Yes
Is there a periodic review of the licences?	No	No	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes
Are there laws requiring screening or background investigation on individuals seeking ownership of small arms and ammunition based on:	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes ⁸⁸
Age?	Yes	Yes	Yes	Yes	Yes		Yes	Yes		Yes	Yes	Yes	Yes ⁸⁹	Yes	Yes	Yes		Yes	Yes
Criminal record?	Yes	Yes	Yes	Yes	Yes		Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes
Psychological profile?	Yes	Yes	Yes	Yes	Yes		No	Yes		Yes	Yes	Yes	Yes		No	Yes		Yes	Yes
Incidents of family violence?		Yes	Yes		Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes
• If yes, is the partner automatically notified of the request for a licence?		Yes			No		Yes			No		No	Yes	Yes	Yes ⁹⁰	Yes		Yes	Yes
• Justification of need?	Yes	Yes	Yes		Yes		Yes	Yes		Yes	Yes	Yes	Yes		Yes	Yes		Yes	Yes
• Are there laws requiring training for seeking ownership of small arms and/or ammunition?	No	Yes ⁹¹	Yes ⁹²	No ⁹³	Yes		No	Yes	No	No ⁹⁴	Yes	Yes	Yes	Yes	Yes	No		Yes	Yes ⁹⁵

Part 2. State regulation of armed individuals and armed groups (continued)

<i>(continued)</i>	Niger	Norway	Philippines	Poland	Portugal	Qatar	Republic of Korea	Romania	Saudi Arabia	Slovakia	South Africa	Spain	Sudan	Syrian Arab Republic	Trinidad and Tobago	Turkey	Ukraine	United Arab Emirates	Uzbekistan
• Do those laws require training be completed before issuing a licence?	No	No ⁹⁶	Yes	No ⁹⁷	Yes		No	Yes	No	No	Yes	Yes	Yes	Yes	Yes	No		Yes	
• Do those laws require training in the safe use and handling of small arms and/or ammunition?	N/A	Yes	Yes	Yes ⁹⁸	Yes		Yes	Yes	No	No	Yes	Yes	Yes	Yes	Yes	No		No ⁹⁹	
• Do those laws require training in the safe storage and maintaining security of small arms and/or weapons?	N/A	Yes	Yes	No ¹⁰⁰	Yes		Yes	Yes	Yes ¹⁰¹	No	Yes	Yes	Yes	Yes	Yes	No		No	
• Do you allocate funding in your budget for licensing, screening and/or training private owners of small arms and ammunition?	N/A	Yes	Yes	No ¹⁰²	No		Yes	No	Yes	Yes	Yes	No	Yes	Yes	No	No		Yes	
• Is there a database of licensed owners of small arms and ammunition?	Yes	Yes	Yes ¹⁰³	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes
• Is that database public?		Yes	Yes ¹⁰⁴	No	No		No	No	No	No		No	No	Yes	No	No		No	No
• Do you allocate funding in your budget for maintenance of the database?	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes		Yes	
• Are there programmes allowing for periodic amnesties for individuals who want to turn in small arms?		Yes	Yes	No	No		Yes	No	Yes	No	Yes	No	Yes	Yes	No	No		Yes	No
• Are there laws requiring the collection and maintenance of data on the use of small arms by private owners?		Yes	Yes	No	Yes		Yes	No	No	No	No	Yes	Yes	Yes	Yes	Yes		Yes	Yes

Part 2. State regulation of armed individuals and armed groups (continued)

<i>(continued)</i>	Niger	Norway	Philippines	Poland	Portugal	Qatar	Republic of Korea	Romania	Saudi Arabia	Slovakia	South Africa	Spain	Sudan	Syrian Arab Republic	Trinidad and Tobago	Turkey	Ukraine	United Arab Emirates	Uzbekistan
<ul style="list-style-type: none"> Are there laws requiring that the collection and maintenance of data on the use of small arms in incidents of crime including the type of firearm, use of the firearm and the type of injury caused? 	Yes	Yes	Yes	Yes	Yes		Yes	No	Yes	No	No	Yes	Yes	Yes	Yes	No		Yes	
<ul style="list-style-type: none"> Do you allocate funding in your budget for the collection of this data? 	Yes	Yes	Yes	Yes	Yes		Yes	No	Yes	No	No	Yes	Yes	Yes	No	No		Yes	

Part 3. Manufacture and transfer of small arms, light weapons and ammunition

Manufacture of small arms, light weapons and ammunition

	Austria	Bangladesh	Chile	Colombia	Costa Rica	Cyprus	Czech Republic	Finland	Georgia	Germany	Greece	Jordan	Kyrgyzstan	Marshall Isl.	Mauritius	Mexico	Monaco	Mongolia	Morocco
Do you have state owned or operated manufacturers of small arms?	No	Yes ¹⁰⁵	Yes	Yes	No	No		Yes	No	No	Yes	No	No ¹⁰⁶	No	No	Yes	No	No	No
Do you have privately owned manufacturers of small arms?	Yes	No	No	No	No	No		Yes	No	Yes	No	No	No	No	No	Yes	No	No	No
Do you provide State subsidies to private manufacturers of small arms?	No	No	No		No	No		No	No	No	No	No	N/A	No	N/A	No	No	No	No
Do you have national laws and/or enforceable policies which regulate the manufacture of small arms?	Yes ¹⁰⁷	Yes	Yes	Yes	No	Yes		Yes	Yes	Yes ¹⁰⁸	Yes ¹⁰⁹	Yes	N/A	No	Yes	Yes ¹¹⁰	Yes	No	No
Do these laws require that manufacturers of small arms be licensed?	Yes	Yes	Yes	Yes		Yes		Yes	Yes	Yes	Yes	Yes	N/A	No	N/A	Yes	Yes	No	N/A
Are there minimum requirements for issuance of licences?	Yes	Yes	Yes	Yes		Yes		Yes	Yes	Yes	Yes	Yes	N/A	Yes	N/A	Yes	Yes	N/A	N/A
Do those licences have to be renewed on a regular basis?	No	Yes	Yes			Yes		No	Yes	No	Yes	Yes	N/A	Yes	N/A	Yes	Yes	N/A	N/A
Do you allocate funding in your national budget for the collection of data and maintenance of a database?	Yes	No ¹¹¹		Yes		No		Yes	No	No ¹¹²	Yes	Yes	N/A	Yes	N/A	Yes	Yes	N/A	N/A
Are there procedures for investigating violations of laws by manufacturers of small arms?	Yes	Yes	No	Yes		Yes		Yes	Yes	Yes	Yes	Yes	N/A	Yes	N/A	Yes	Yes	N/A	N/A
Are there sanctions in place for violations by manufacturers?	Yes	No	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	N/A	Yes	N/A	Yes	Yes	N/A	N/A

Part 3. Manufacture and transfer of small arms, light weapons and ammunition (continued)

Manufacture of small arms, light weapons and ammunition (continued)

(continued)	Niger	Norway	Philippines	Poland	Portugal	Qatar	Republic of Korea	Romania	Saudi Arabia	Slovakia	South Africa	Spain	Sudan	Syrian Arab Republic	Trinidad and Tobago	Turkey	Ukraine	United Arab Emirates	Uzbekistan
Do you have state owned or operated manufacturers of small arms?	No	No	No	Yes	No		No	Yes	Yes	No	Yes	Yes	Yes	No	No	Yes	Yes ¹¹³	No	-- ¹¹⁴
Do you have privately owned manufacturers of small arms?	No	No	Yes	Yes	Yes		Yes	No	No	Yes	Yes	Yes	No	No	No	Yes		No	No
Do you provide State subsidies to private manufacturers of small arms?	N/A	No	No	No	Yes		No	No	No	No		No	No	No	No	No		No	No
Do you have national laws and/or enforceable policies which regulate the manufacture of small arms?	N/A	Yes	Yes	Yes	Yes	Yes ¹¹⁵	Yes	Yes	Yes	Yes	Yes ¹¹⁶	Yes	Yes	Yes	Yes ¹¹⁷	Yes		Yes	Yes ¹¹⁸
Do these laws require that manufacturers of small arms be licensed?	N/A	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A ¹¹⁹	Yes	Yes	Yes	Yes	N/A ¹²⁰	N/A	Yes		Yes	Yes
Are there minimum requirements for issuance of licences?	N/A	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A	Yes	Yes	Yes	Yes	N/A	N/A	Yes		Yes	Yes
Do those licences have to be renewed on a regular basis?	N/A	Yes	Yes	No	Yes	Yes	No	Yes	N/A	No	Yes	Yes	Yes	N/A	N/A	Yes		Yes	No
Do you allocate funding in your national budget for the collection of data and maintenance of a database?	N/A	Yes	Yes	No	Yes		No	No	N/A	Yes	Yes	Yes	Yes	Yes	N/A	Yes		Yes	
Are there procedures for investigating violations of laws by manufacturers of small arms?	N/A	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A	Yes	Yes	Yes	Yes	Yes	N/A	Yes		Yes	Yes
Are there sanctions in place for violations by manufacturers?	N/A	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A	Yes	Yes	Yes	Yes	N/A	N/A	Yes		Yes	Yes

Part 3. Manufacture and transfer of small arms, light weapons and ammunition (continued)

Transfer of small arms, light weapons and ammunition

	Austria	Bangladesh	Chile	Colombia	Costa Rica	Cyprus	Czech Republic	Finland	Georgia	Germany	Greece	Jordan	Kyrgyzstan	Marshall Isl.	Mauritius	Mexico	Monaco	Mongolia	Morocco
Are manufacturers of small arms permitted to sell or transfer directly to state agencies, including law enforcement and security forces?	Yes	Yes	Yes	N/A ¹²¹	N/A ¹²²	Yes		Yes	No	Yes	Yes	No	Yes	Yes	N/A ¹²³	Yes	No ¹²⁴	N/A	N/A ¹²⁵
Are manufacturers of small arms permitted to sell or transfer directly to private persons or groups?	Yes	No	No	N/A		Yes		Yes	No	Yes	Yes	No	No	Yes	N/A	Yes	No	N/A	N/A
Are manufacturers of small arms permitted to sell small arms outside the state to other governments?	No	No	No	N/A		No		Yes	Yes ¹²⁶	Yes	Yes	No	No	Yes	N/A	Yes	No	N/A	N/A
Are manufacturers of small arms permitted to sell small arms outside the state to private individuals or groups?	No	No	No	N/A		No		Yes	Yes	Yes	Yes	No	No	Yes	N/A	Yes	No	N/A	N/A
Are there national laws and/or enforceable policies regulating the sale or transfer of small arms within the state?	Yes	Yes	Yes	N/A		Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Do those laws contain procedures for investigating and verifying the end user of these small arms?	Yes	Yes	No	N/A	Yes	Yes		Yes	Yes	Yes	Yes	N/A ¹²⁷	No	Yes	N/A	Yes	Yes	Yes	Yes
Are there national laws and/or enforceable policies regulating the sale or transfer of small arms outside the state?	Yes	Yes	Yes	N/A		Yes		Yes ¹²⁸	Yes	Yes	Yes	Yes	Yes	Yes	N/A	Yes ¹²⁹	Yes	No	No

Part 3. Manufacture and transfer of small arms, light weapons and ammunition (continued)

Transfer of small arms, light weapons and ammunition (continued)

<i>(continued)</i>	Austria	Bangladesh	Chile	Colombia	Costa Rica	Cyprus	Czech Republic	Finland	Georgia	Germany	Greece	Jordan	Kyrgyzstan	Marshall Isl.	Mauritius	Mexico	Monaco	Mongolia	Morocco
Do those laws contain procedures for investigating and verifying the end user of these small arms, including the risk of diversion?	Yes	Yes	Yes	N/A		Yes		Yes	Yes	Yes	Yes	N/A	Yes	Yes	N/A	Yes	Yes	N/A	No
Do your laws contain requirements for verifying the human rights situation in buyer state or region?	Yes	No ¹³⁰	Yes	N/A		Yes		Yes	Yes	Yes	No ¹³¹	N/A		Yes	N/A	No	No	Yes	No
Before transfer, do you assess if there is risk the small arms will be used in internal repression?	Yes	Yes	Yes	N/A		Yes		Yes	Yes	Yes	Yes	N/A		Yes	N/A	No	N/A	N/A	N/A
Before transfer, do you assess whether there is a situation of armed conflict in which the small arms might be used?	Yes	Yes	Yes	N/A		Yes		Yes	Yes	Yes	Yes	N/A		Yes	N/A	No	N/A	N/A	N/A
Before transfer, do you investigate whether the end use of the small arms might be to commit acts of aggression or force on neighbouring countries or territories?	Yes	Yes	Yes	N/A		Yes		Yes	Yes	Yes	Yes	N/A		Yes	N/A	No	N/A	N/A	N/A
Before transfer, do you assess the potential impact of small arms on regional stability?	Yes	N/A ¹³²	Yes	N/A		Yes		Yes	Yes	Yes	Yes	N/A		Yes	N/A	No	N/A	N/A	N/A
Before transfer, do you assess the risk of whether small arms will be used in acts of terrorism or organized crime?	Yes	Yes	Yes	N/A		Yes		Yes	Yes	Yes	Yes	N/A		Yes	N/A	No	N/A	N/A	N/A

Part 3. Manufacture and transfer of small arms, light weapons and ammunition (*continued*)

Transfer of small arms, light weapons and ammunition (*continued*)

<i>(continued)</i>	Austria	Bangladesh	Chile	Colombia	Costa Rica	Cyprus	Czech Republic	Finland	Georgia	Germany	Greece	Jordan	Kyrgyzstan	Marshall Isl.	Mauritius	Mexico	Monaco	Mongolia	Morocco
Do you use any of the above criteria in your decision whether or not to export small arms?	Yes	N/A	Yes	N/A		Yes		Yes	No	Yes	Yes	No		Yes	N/A	No	N/A	N/A	N/A
Do you allocate funding in your national budget for making these assessments in decisions to export?	No ¹³³	Yes	Yes	N/A		Yes		Yes	No	No	Yes	No		Yes	N/A	No	N/A	N/A	N/A
Are there sanctions in place should a manufacturer or state agent transfer small arms in violation of these considerations?	Yes	N/A	No	N/A		Yes		Yes	No	Yes	Yes	Yes		Yes	N/A	Yes	N/A	N/A	N/A

Part 3. Manufacture and transfer of small arms, light weapons and ammunition (continued)

Transfer of small arms, light weapons and ammunition (continued)

(continued)	Niger	Norway	Philippines	Poland	Portugal	Qatar	Republic of Korea	Romania	Saudi Arabia	Slovakia	South Africa	Spain	Sudan	Syrian Arab Republic	Trinidad and Tobago	Turkey	Ukraine	United Arab Emirates	Uzbekistan
Are manufacturers of small arms permitted to sell or transfer directly to state agencies, including law enforcement and security forces?	N/A	No	Yes	Yes	Yes	No	Yes	Yes	N/A	Yes	Yes	Yes	No	Yes ¹³⁴	No	Yes	Yes ¹³⁵		No
Are manufacturers of small arms permitted to sell or transfer directly to private persons or groups?	N/A	No	Yes	Yes	Yes ¹³⁶	No	Yes	Yes	N/A	No	No	No	No	No	No	Yes			No
Are manufacturers of small arms permitted to sell small arms outside the state to other governments?	N/A	No	Yes	Yes	Yes	No	Yes	Yes	N/A	Yes	Yes	Yes	No	No	No	Yes			No
Are manufacturers of small arms permitted to sell small arms outside the state to private individuals or groups?	N/A	No	Yes	Yes	Yes	No	Yes ¹³⁷	Yes	N/A	No	No	No	No	No	No	Yes			No
Are there national laws and/or enforceable policies regulating the sale or transfer of small arms within the state?	Yes	Yes	Yes	Yes	Yes	Yes	Yes ¹³⁸	Yes	Yes	Yes	Yes	Yes	Yes ¹³⁹	Yes	Yes	Yes		Yes	Yes
Do those laws contain procedures for investigating and verifying the end user of these small arms?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A	Yes		Yes	Yes
Are there national laws and/or enforceable policies regulating the sale or transfer of small arms outside the state?	Yes	Yes	Yes ¹⁴⁰	Yes ¹⁴¹	Yes	Yes	Yes	Yes ¹⁴²	No ¹⁴³	Yes	Yes ¹⁴⁴	Yes	Yes	Yes	N/A	Yes		Yes	Yes

Part 3. Manufacture and transfer of small arms, light weapons and ammunition (continued)

Transfer of small arms, light weapons and ammunition (continued)

(continued)	Niger	Norway	Philippines	Poland	Portugal	Qatar	Republic of Korea	Romania	Saudi Arabia	Slovakia	South Africa	Spain	Sudan	Syrian Arab Republic	Trinidad and Tobago	Turkey	Ukraine	United Arab Emirates	Uzbekistan
Do those laws contain procedures for investigating and verifying the end user of these small arms, including the risk of diversion?	Yes	Yes	No ¹⁴⁵	Yes	Yes	Yes	Yes	Yes	N/A	Yes	Yes		Yes	Yes	N/A	Yes		Yes	Yes
Do your laws contain requirements for verifying the human rights situation in buyer state or region?	N/A	Yes	Yes	Yes	Yes		Yes ¹⁴⁶	Yes	N/A	Yes	Yes		Yes		N/A	yes			
Before transfer, do you assess if there is risk the small arms will be used in internal repression?	N/A	Yes	Yes	Yes	Yes		Yes	Yes	N/A	Yes	Yes		Yes		N/A	Yes		Yes	
Before transfer, do you assess whether there is a situation of armed conflict in which the small arms might be used?	N/A	Yes	Yes	Yes	Yes		Yes	Yes	N/A	Yes	Yes		Yes		N/A	Yes		Yes	
Before transfer, do you investigate whether the end use of the small arms might be to commit acts of aggression or force on neighbouring countries or territories?	N/A	Yes	Yes	Yes	Yes		Yes	Yes	N/A	Yes	Yes		Yes		N/A	Yes			
Before transfer, do you assess the potential impact of small arms on regional stability?	N/A	Yes	Yes	Yes	Yes		Yes	Yes	N/A	Yes	Yes		Yes		N/A	Yes			
Before transfer, do you assess the risk of whether small arms will be used in acts of terrorism or organized crime?	N/A	Yes	Yes	Yes	Yes		Yes	Yes	N/A	Yes	Yes		Yes		N/A	Yes		Yes	

Part 3. Manufacture and transfer of small arms, light weapons and ammunition (*continued*)

Transfer of small arms, light weapons and ammunition (*continued*)

<i>(continued)</i>	Niger	Norway	Philippines	Poland	Portugal	Qatar	Republic of Korea	Romania	Saudi Arabia	Slovakia	South Africa	Spain	Sudan	Syrian Arab Republic	Trinidad and Tobago	Turkey	Ukraine	United Arab Emirates	Uzbekistan
Do you use any of the above criteria in your decision whether or not to export small arms?	N/A	Yes	Yes	Yes	Yes		Yes	Yes	N/A	Yes	Yes		Yes		N/A	Yes		Yes	
Do you allocate funding in your national budget for making these assessments in decisions to export?	N/A	Yes	Yes	No	Yes		No	Yes	N/A	No	Yes		Yes		N/A	Yes			
Are there sanctions in place should a manufacturer or state agent transfer small arms in violation of these considerations?	N/A	Yes	Yes	Yes	Yes		Yes	Yes	N/A	Yes	Yes		Yes		N/A	Yes		Yes	Yes ¹⁴⁷

Notes

¹ Waffengebrauchsgesetz 1969 (Weapons Usage Act) and Kriegsmaterialgesetz (War Material Act).

² Ley No. 17.798 sobre control de Armas, Explosivos y Elementos Similares, y los Reglamentos Institucionales de las FF.AA., Carabineros y Policia de Investigaciones como autoridades encargados por la Ley 17.798.

³ Decreto 2535 del 17 diciembre de 1993; Decreto Reglamentario 1809 de 1994.

⁴ Act No. 119/2002 Coll. On firearms and ammunition, as amended, effective as of 1 January 2003; Act No. 13/1993 Coll., Customs Act; Act No. 283/1991 Coll. On Police of the Czech Republic, as amended, section 39 et sequential.

⁵ Police Act.

⁶ Georgian Law “On Weapons”.

⁷ Law 3169/2003 on “Matters Concerning the Possession and Use of Firearms by Police Officers and article 1 of the Decision 8517/4/7mb of the Minister of Public Order dated 17 February 2004. The Government of Greece has drafted legislation that would regulate the possession and use of light weapons. As of September 2005, this legislation was being considered by Parliament.

⁸ Firearms and Ammunitions Law of 2001.

⁹ Law of the Kyrgyz Republic on “Small Arms”, 9 June 1999.

¹⁰ Police Act, Sect. 13D; Criminal Code Act, Section 140, 233 and 378 (g); Firearms Act.

¹¹ Ley Federal de Armas de Fuego y Explosivos.

¹² Loi No. 943 du 18 Juin 1971 et OS.G947 du 16 Octobre 1980 sur les Armes et munitions.

¹³ Law on Firearms of Mongolia.

¹⁴ There are regulations.

¹⁵ No. 283/1991 Coll. On Police of the Czech Republic, as amended, section 39 et sequentia.

¹⁶ Sections 3, 4, 5 and 6 of Implementing Rules and Regulations of Presidential Decree 1866, as amended by Republic Act 8294; Rule XI of Standard Operating Procedure 13 and Executive Order 522.

¹⁷ Law of 21 May 1999 on Firearms and Ammunition, as amended.

¹⁸ Police Code 23 of 1999.

¹⁹ Act on Special Measures for the Defense Industry and Enforcement Decree; Act on Control of Firearms, Swords, Explosives, etc.; Foreign Trade Act; Presidential decrees and enforcement decrees; and Public Notice on the Export and Import of Strategic Goods.

²⁰ Law 295/2004 on the Regime of Arms and Ammunition; articles 46-52 of Law 17/1996 on the Regime of Firearms and Ammunition; and Law 360/2002 on the Status of Policemen.

²¹ Firearms Control Act of 2000 and Firearms Control Regulations of 2004.

²² Sudan Police Force Law.

²³ Possession of hunting guns and small revolvers and ammunition therefore is permitted; the rest of the weapons are carried only by the armed forces.

²⁴ Firearms Act and Police Service Act.

²⁵ Articles 12, 15 and 151 of Ukrainian law “About Police” of 20 December 1990. The norms for usage of ammunition are laid out in “Shooting Course - Order of the Ministry of the Interior of Ukraine”, of 25 November 2003 (No. 1444).

²⁶ As of June 2005 (when the response was submitted), the law “About Weapons” was still under development in the Republic of Uzbekistan. Currently, all questions related to small arms, light weapons and ammunition are regulated by regulations of the relevant Ministries and Agencies. The control-licensing activities of the Ministry of the Interior, as determined by the regulation of 20 August 2001, No. 226, do not cover light weapons. They regulate small arms and ammunition to the small arms such as: rifled-barrel army models, special-order training models (including gelded ones), sport large-calibre arms (7.62 mm and more), small-calibre arms, hunting rifled-barrel arms, and smoothbore firearms and ammunition to all of these weapons, which belong to organizations and individual citizens, except those weapons that are in possession of the Ministry of the Interior, Ministry of Defense and Ministry on Emergency Situations, as well as State Customs Committee and National Security Agency. The Agency Regulations of the Ministry of the Interior, National Security Agency, Ministry of Defense, and the Office of Public Prosecutor: the possession and use of weapons by the members of the Armed Forces is regulated by the Armed Forces manual/regulations as well as individual regulations of distinct kinds of the Armed Forces.

²⁷ Ministry of Defence internal regulations.

²⁸ Article 34 of Law 295/2004 on the Regime of Arms and Ammunition; order of the minister of Administration and Interior 1020/1996 on the preparation, organization and conduct of the firing training of Ministry personnel.

- ²⁹ Instructions for securing the safety of weapons, ammunition and special means of the internal security forces is affirmed by the order of the Ministry of the Interior of Ukraine of 6 July 2001 (No. 541). Instructions about the safety measures for the use with firearms is affirmed by the order of the Ministry of the Interior of Ukraine of 25 November 2005 (No. 1444).
- ³⁰ Código de Justicia Militar, Ley No. 17.798, Código Penal y la reglamentación de cada Institución.
- ³¹ Presidential Decree 22/1996 on “Disciplinary Law for Police Personnel” and provisions of Law 3169/2003.
- ³² Criminal Law 1952 and Firearms and Ammunitions Law 2001.
- ³³ Police Act.
- ³⁴ Art. 157, Código de Justicia Militar; arts. 31 y 36, Ley Federal de Armas de Fuego y Explosivos; El Código Penal Federal.
- ³⁵ If the incident is serious.
- ³⁶ The Attorney General oversees such investigations.
- ³⁷ Publicity during the investigatory phase is at the discretion of the public prosecutor’s office. If charges are made, the court proceedings are public (with a few specific exceptions).
- ³⁸ There is no regular budget allocation, but money for investigations and damages is granted via the national budget as needed.
- ³⁹ Law 218/2002 on the Organization and Functioning of the Romanian Police; Regulation 193/1992 on the Organization of the Committees and Commissions for Human Rights and Humanitarian Law in the Ministry of Administration and Interior; Instruction 776/1998 on the Organization, Coordination and Control of the Activity of Labor Protection in the Ministry of Administration and Interior Units; article 21 of Law 90/1996 on the Coordination of the Labor Protection Activity; Law 550/2004 on the Organization and Functioning of the Romanian Police.
- ⁴⁰ Articles 247, 248, 249, 250, 297 of the Criminal Code of the Republic of Uzbekistan; Manual for performance of Garrison duties.
- ⁴¹ Through the budget of the National Army.

- ⁴² Firearms Act.
- ⁴³ Articles 3, 5, 7 and 8 of Decision 8517/4/7-mb of the Minister of Public Order, dated 17 February 2001.
- ⁴⁴ Firearms Act.
- ⁴⁵ With special permit by the relevant authority.
- ⁴⁶ There is no legal requirement for such training, but training on safe storage is given to law enforcement agents.
- ⁴⁷ Law on Police Organization and Law on Armed Forces.
- ⁴⁸ There is no regular budget allocation, but money is granted via the national budget as needed.
- ⁴⁹ Secure storage is the responsibility of relevant departments and is funded through their budgets.
- ⁵⁰ During police investigations; not routinely.
- ⁵¹ There are no private storage facilities.
- ⁵² Executive Order 61, designating the Philippine Constabulary as Government custodian of firearms, ammunition and explosives.
- ⁵³ Law 295/2004 on the Regime of Arms and Ammunition.
- ⁵⁴ Government orders, rather than law.
- ⁵⁵ Control over the storage of weapons is regulated by the control-licensing agencies (order of the Ministry of the Interior of the Republic of Uzbekistan No. 226 of 20 August 2001). For the forces of the Ministry of the Interior see “Manual for the service of artillery weaponry of the interior forces and army training colleges”; for the forces of the Ministry of Defense, see “Instructions for organizing the registration, storage and issuance of small arms and ammunition to the Armed Forces”.

⁵⁶ Except for military forces.

⁵⁷ Sudan Law for Weapons and Ammunition, 1986.

⁵⁸ Funding is allocated as part of the Normal Budget.

⁵⁹ Funded by the general budget allocated for the police.

⁶⁰ Depersonalized statistics are published.

⁶¹ The database of owners and users of the small arms is being formed according to the order of the Ministry of the Interior of the Republic of Uzbekistan No. 105 of 26 May 1998.

⁶² Regulation 87 and 88 of the Firearms Control Regulations, 2004 prescribe the types of information which must be kept by central databases. No provision is made by the Firearms Control Act, 2000 for such information to be made public. Applications may be made under the Promotion of Access to Information Act, 2000 to obtain certain records. In addition, the reporting duties of the national Conventional Arms Control Committee (in terms of Section 23 of the National Conventional Arms Control Act, 2002) implies the collection of data regarding all conventional arms exported and provides for this data to be made public.

⁶³ Some data are made public, but others are not.

⁶⁴ Such laws are enacted at the state level.

⁶⁵ Firearms Act (1/1998, as amended).

⁶⁶ Articles 7 and 10 of Law 2168/1993 and Common Ministerial Decision 4325/99 of the Ministers of Culture and Public Order.

⁶⁷ Law of the Kyrgyz Republic on “Licensing”, 3 March 1997.

⁶⁸ Firearms Act. As of March 2005, the Firearms Act will be repealed and replaced by a new enforcement act.

⁶⁹ Constitución Política de los Estados Unidos Mexicanos, art. 10; Ley Federal de Armas de Fuego y Explosivos, arts. 24-27, 34-35.

- ⁷⁰ Training is required only in cases where licences are for athletes.
- ⁷¹ The fees for using these services are raised by the competent authority.
- ⁷² There is no regular budget allocation, but money is granted via the normal budget process as needed to collect this data.
- ⁷³ The possession and use of small arms by private individuals is prohibited in Greece. In special cases and when the conditions of the law concur (special weapons of protection or security) private individuals are granted a licence by the competent police authorities.
- ⁷⁴ Only in cases where weapons are used in crime.
- ⁷⁵ No legal requirement to maintain this data, but records are kept.
- ⁷⁶ There is no regular budget allocation, but money is granted as needed to maintain the database.
- ⁷⁷ With the exception of shotguns acquired before 1990.
- ⁷⁸ Standard Operating Procedure 13, enacted at the state level.
- ⁷⁹ Weapon and Ammunition Statute, applied at national level.
- ⁸⁰ Law 295/2004 on the Regime of Arms and Ammunition.
- ⁸¹ Act 190/2003 Coll. On Firearms and Ammunition, as amended; Notice of the Ministry of the Interior 555/2003 Coll.
- ⁸² Applied at the federal level.
- ⁸³ Firearms Act 16:01 and Firearms (Amendment) Regulations No. 3 of 2004.
- ⁸⁴ Applied at the federal level.

- ⁸⁵ The Law of the Republic of Uzbekistan “About Licensing of Certain Types of Activities”. Also, in accordance with the order of the Ministry of the Interior of the Republic of Uzbekistan No. 226 of 20 August 2001, there are regulations regarding issuances of special permits for import/export, acquisition, transport, storage and carrying, and realization of weapons. Ammunition can be sold to citizens who are members of hunting societies and who have permits for the storage and carrying of weapons, and only through special stores.
- ⁸⁶ Regulation of the Arms Law of 1997.
- ⁸⁷ There is only one weapon allowed per individual.
- ⁸⁸ According to the established order, a permit for the acquisition of weapons can be issued based on a citizen’s application only after investigating the citizen’s identity, health, criminal history, lifestyle (abuse of narcotics, alcohol, leading to police detentions), behaviour at work and at home, affairs, and other important circumstances. In case there are foundations for refusal of a licence, the Ministry of the Interior notifies the citizen about the refusal without providing grounds for this refusal.
- ⁸⁹ Not less than 30 years of age for firearms and 25 years for air guns.
- ⁹⁰ The partner of a firearms licence applicant is interviewed before a licence is granted to the applicant.
- ⁹¹ A licensee must be a member of a gun club or shooting association.
- ⁹² National Police Commission Resolution 97-162 states that an applicant is required to undergo a Gun Safety Seminar and a Responsible Gun Ownership Seminar.
- ⁹³ Training is not required by law, but a licensee must pass an exam covering operations, safety and use of weapons.
- ⁹⁴ There is an exam of qualification, abilities and skills connected with the use of SALW.
- ⁹⁵ According to current regulations, the right to own weapons is given only to the members of the hunting society (those who have a hunting licence), which, according to its constitution must require passing relevant exams (“hunting minimums”).
- ⁹⁶ Some gun clubs require such training.

- ⁹⁷ Training is not required by law, but a licensee must pass an exam covering operations, safety and use of weapons.
- ⁹⁸ Training is not required by law, but a licensee must pass an exam covering operations, safety and use of weapons.
- ⁹⁹ Legislation to do so was under consideration in 2005.
- ¹⁰⁰ Training is not required by law, but a licensee must pass an exam covering operations, safety, storage and use of weapons.
- ¹⁰¹ For security companies.
- ¹⁰² Applicants for a permit pay a fee to support the licensing review system.
- ¹⁰³ Firearms Information Management System stores all names of registered firearms holders nationwide and their licensed firearms.
- ¹⁰⁴ Subject to the provisions of disclosure of information involving and/or relating to firearms and explosives.
- ¹⁰⁵ Bangladesh Ordnance Factories.
- ¹⁰⁶ There is no manufacture of SALW and ammunition in the Kyrgyz Republic.
- ¹⁰⁷ Austrian Trade Act, Federal Gazette 194/1994 (Gewerbeordnung).
- ¹⁰⁸ For war weapons, the War Weapons Control Act.
- ¹⁰⁹ Article 5 of Law 2168/1993.
- ¹¹⁰ Ley Federal de Armas de Fuego y Explosivos, Título Tercero, Capítulo 1; Capítulo IV del Reglamento de la Ley Federal de Armas de Fuego y Explosivos; Disposiciones de la Secretaría de la Defensa Nacional.
- ¹¹¹ No separate fund is allocated; accounting is done at government level.
- ¹¹² Funds are earmarked in the budgets of the competent authorities.

- ¹¹³ KNVO “Fort” Ministry of the Interior of Ukraine (town: Vinnitza).
- ¹¹⁴ Information withheld according to the law of the Republic of Uzbekistan “About State Secrets”.
- ¹¹⁵ Code 14 of 1999, which relates to weapons and ammunition.
- ¹¹⁶ Sections 45-58 of the Firearms Control Act, 2000.
- ¹¹⁷ Section 15 (1) of the Firearms Act, Ch. 16:01 forbids the manufacture of any firearm and ammunition in Trinidad and Tobago.
- ¹¹⁸ The Cabinet of Ministers Directive No. 236 of 28 June 2002 “About the measures for the realization of the Republic of Uzbekistan law ‘About licensing of certain types of activities’” requires licensing for production, repair and realization of battle, hunting and sport firearms and ammunition, as well as of side-arms (except national knives and knives for domestic use).
- ¹¹⁹ There is no private arms manufacture of small arms in Saudi Arabia.
- ¹²⁰ There are no private manufacturers of SALW; there are no licences for manufacturing SALW.
- ¹²¹ There is no private arms manufacturing in Colombia; weapons production is a state monopoly.
- ¹²² Costa Rica does not manufacture or export armaments.
- ¹²³ There is no arms manufacture in Mauritius.
- ¹²⁴ There is no arms manufacture in Monaco.
- ¹²⁵ There is no arms manufacture in Morocco and no export of firearms.
- ¹²⁶ Regulated by the Georgian Law “On the Control of Export-Import of Armaments, Military Equipment and Goods of Dual-Purpose Use”.
- ¹²⁷ It is illegal to export or transfer weapons at all times.

¹²⁸ Act on the Export and Transit of Defense Materiel (242/1990, as amended).

¹²⁹ Ley Federal de Armas de Fuego y Explosivos, arts. 55-59.

¹³⁰ Bangladesh does not export weapons, except for United Nations Missions. Weapons are authorized by the Bangladeshi government to Bangladeshi government agencies for security purposes.

¹³¹ The EU Code of Conduct and United Nations Decision 1540 are taken in mind.

¹³² Bangladesh does not export weapons, except for United Nations Missions.

¹³³ There is no extra budget for these assessments, but the necessary money is granted.

¹³⁴ Transfers of SALW are made in accordance with strict national laws and under enforced supervision to prevent diversion.

¹³⁵ Purchase (transfer) of arms for MVD (Ministry of the Interior of Ukraine) forces are conducted through a centralized system of DRO of the Ministry of the Interior of Ukraine. The units of the Ministry of the Interior, themselves, are forbidden from purchasing weapons.

¹³⁶ Except for military arms.

¹³⁷ SALW for military purpose may not be sold to private individuals or groups.

¹³⁸ Act on Control of Firearms, Swords, Explosives, etc.

¹³⁹ Sudan is not an exporter of armaments, but Sudanese law contains human rights requirements nevertheless. Sudan is a member of the Nairobi Protocol and has committed to all obligations in the Protocol.

¹⁴⁰ Standard Operating Procedure 13 and Executive Order 256.

¹⁴¹ Act of 29 November 2000 on Foreign Trade in Goods, Technologies and Services of Strategic Importance to the Security of the State and to Maintaining International Peace and Security.

¹⁴² Government Ordinance 158/1999 on the Control Regime of the Exports, Imports and other Operations with Military Goods, as amended by Law 595/2004.

¹⁴³ There is no export from Saudi Arabia

¹⁴⁴ Firearms Control Act, 2000 and National Conventional Arms Control Act, 2002.

¹⁴⁵ A bill pending in the Senate as of May 2005 for a National Firearms Act would incorporate other issues related to the transfer of SALW.

¹⁴⁶ Act on Special Measures for the Defense Industry and Enforcement Decree.

¹⁴⁷ Article 248 of the Criminal Code of the Republic of Uzbekistan.

Annex II

SUMMARY AND ANALYSIS OF RESPONSES RECEIVED FROM UNITED NATIONS MEMBER STATES TO THE SPECIAL RAPPORTEUR'S QUESTIONNAIRE

Sub-Commission decision 2003/105 and Commission decision 2004/124 authorized transmittal of a questionnaire elaborated by the Special Rapporteur to Governments and other entities in order to solicit information in connection with her study. Surveys were sent by the Office of the High Commissioner to Governments. Full or partially completed surveys were received back from 38 States.¹ The Special Rapporteur would like to express her gratitude to the States that responded to the survey. A chart summarizing all State responses is attached as annex I to this report.

The regional affiliation of the States that responded to the survey is:

Africa: 5 States (9% of the 53 States in the region)

Asia: 12 States (23% of the 52 States in the region)

Eastern Europe: 6 States (29% of the 21 States in the region)

Latin America and Caribbean: 5 States (15% of the 33 States in the region)

Western Europe and Other: 10 States (37% of the 27 States in the region)²

Unless otherwise noted, percentages used in the summary below are based on the number of responses received from States to individual questions. The responses have not been weighted on the basis of regional representation, non-answers, or any other factors.

A. Part 1: Use of small arms and light weapons by law enforcement

1. Summary of State responses

Because the primary focus of human rights law is on State practice, the first set of questions in the Special Rapporteur's survey requested States to provide information related to the possession and use of small arms by State officials, including law enforcement officers. Responses indicated a high degree of consensus among responding States regarding laws and practices that govern the possession of small arms, investigations of misuse, and storage of firearms by law enforcement. There was less consensus regarding State policies on collection of firearms from officers who are off-duty or retired. The following is a summary of the State responses regarding small arms and law enforcement:

- All responding States (100%) regulate at least the distribution of small arms ("SA") to law enforcement officers; 30 of 38 States (79%) regulate the distribution of all SA, light weapons ("LW"), and ammunition.
- At least 27 of 38 (71%) States collect State-issued weapons when law enforcement officers retire.

- All States (100%) answering the survey questions on training of law enforcement officers³ provide technical/mechanical training. All but one responding (the Republic of Korea) provide practical/tactical training. All but two (Mauritius and Mongolia) provide training in applied decision-making.
- All responding States (100%) have laws or regulations requiring investigation of allegations of misuse of firearms by law enforcement officials. Thirty of 36 States (83%) have independent investigations of alleged firearms misuse. The same percentage provide for judicial oversight of the investigative process. Twenty-three of 35 States (66%) make such investigative proceedings public. Based on the sample participating in the survey, there appears to be a higher degree of transparency in this regard by non-European States.
- Thirty-four of 35 responding States (97%) impose sanctions against State agents who misuse small arms. Thirty-two of 35 States (91%) impose sanctions against commanders/superior officers who authorize the misuse of small arms. (Bangladesh, Georgia and the Marshall Islands do not do so.)
- Only 1 of 34 responding States (3%) does not have a process in place to compensate civilians and/or families of civilians who have been injured or killed due to misuse of small arms by State forces.
- Thirty-five of 35 responding States (100%) have laws governing the storage of small arms by State agents. Six States do not reveal whether they impose sanctions against State agents for violations of laws on safe storage of firearms, but - of those responding to this question - all (100%) said that they did. Most responding States (85%) allocate funding in their budget for safe storage of small arms.
- Nineteen of 34 responding States (56%) do not allow off-duty State agents to keep their government-issued small arms. (Conversely, 44% do allow off-duty law enforcement agents to keep their weapons.)
- Thirty of 33 responding States (91%) have laws requiring the collection and maintenance of data on the use of small arms by law enforcement officers. Twenty-three of 32 responding States (72%) allocate funding in their budgets to support this requirement. Eight of 30 States (27%) make this data public.

2. Analysis of responses with regard to the draft principles

The responses of States with regard to the possession and use of small arms by law enforcement show significant convergence between the policies of States and those stated in the draft principles on the prevention of human rights violations committed with small arms (E/CN.4/Sub.2/2005/35), which the Sub-Commission considered at its fifty-sixth and fifty-seventh sessions. Though it would be premature to draw any normative conclusions from a 20% sampling of State responses, it is relevant to the Sub-Commission's further consideration of the draft principles to consider the views of the responding States.

Based on the responses received, in general, States' policies and practice tend to show support for the adoption and implementation of rules on force and small arms by law enforcement, (E/CN.4/Sub.2/2005/35, annex, draft principle 2, "Governments and State agencies shall adopt and implement rules and regulations on the use of force and small arms against persons by State officials, especially law enforcement officials.").

States' policies and practices indicate the existence of a chain of command and the imposition of sanctions against State officials who misuse small arms (E/CN.4/Sub.2/2005/35, annex, draft principle 3, "[I]n order to prevent the violation of human rights by small arms, Governments and State officials shall ensure strict enforcement of the rules and regulations they adopt, including a clear chain of command over all officials authorized by law to use force and, in particular, small arms. Governments shall ensure that arbitrary or abusive use of force carried out with small arms, including but not limited to force used by any State official or person acting at the instigation of or with the consent or acquiescence of a public official, is punished as a criminal offence.").

All responding States have laws governing the safe storage of small arms including imposition of sanctions for violations of laws regarding safe storage. There is less clarity about the requirements regarding storage of ammunition. Inconsistent policies regarding the possession of small arms by off-duty and retired law enforcement raise a concern about the potential for misuse of such weapons (E/CN.4/Sub.2/2005/35, annex, draft principle 4, "[I]n order to further prevent the violation of human rights by small arms, Governments and State officials shall establish and maintain adequate and detailed procedures for the proper storage and management of small arms, particularly ammunition. Governments shall actively pursue the collection, safe storage, destruction and responsible disposal of surplus small arms.").

With regard to training, all responding States require at least technical training of law enforcement in the use of firearms, and all but two responding States require situational training (E/CN.4/Sub.2/2005/35, annex, draft principle 5, "Governments and State agencies shall ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training on the acceptable conditions for the use of force set out in these principles. Those State officials who are permitted to carry firearms shall be authorized to do so only upon completion of special training regarding the limitations on their use. The compliance of State officials with rules and regulations on the use of force and small arms shall be subject to regular review.").

States' replies, however, offer little insight into the nature of the situational and human rights training of officers with regard to the proper use of firearms, (E/CN.4/Sub.2/2005/35, annex, draft principles 6, 7, 8).⁴ See annex III, however, for supplementary information provided by the Governments of Finland, Poland and Portugal that provide comparative models for domestic implementation of limitations on the use of force by law enforcement. The variety of State practice on the training and oversight of firearms use by law enforcement indicates that the international standards found in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (hereinafter, "United Nations Basic Principles") are not being implemented in a consistent manner designed to protect human rights.

All responding States require investigation of misuse of small arms by State officials, though only 83 per cent of responding States require investigations by independent entities or judicial oversight of such investigations. Responding States shared few details about the nature of the investigation required. (E/CN.4/Sub.2/2005/35, annex, draft principle 9, “Governments and State agencies shall establish effective reporting and investigative procedures to ensure that all incidents involving the misuse of small arms by State officials, including law enforcement and other security officials, are reviewed by independent and competent authorities. There shall be thorough, prompt and impartial investigation of all cases of death, torture, other ill-treatment or injury involving small arms. In addition to determining the cause, manner and time of death, torture or injury, and the persons responsible, all investigations should identify the type of weapon(s) used in the incident.”)

B. Part 2: State regulation of civilian possession and use of small arms

1. Summary of State responses

The second part of the Special Rapporteur’s survey asked questions related to the responsibility of States to take positive steps to prevent human rights violations caused by armed individuals and groups. The Special Rapporteur’s questions sought information regarding State laws and practices concerning licensing of civilian possession of small arms as well as regulations concerning training, storage of firearms and data collection relevant to civilian possession. Responses are summarized below.

- All responding States (100%) require licensing of private ownership of small arms and ammunition, and all require screening and/or background investigation of individuals seeking licences.
- All responding States (100%) vet applicants on the basis of a minimum age requirement and criminal record; 84% require consideration of psychological profile, and 73% examine instances of domestic violence.
- Nineteen of 33 responding States (58%) require training in (or demonstration of) safe use and handling of small arms and/or ammunition.
- Twenty-nine of 35 responding States (83%) limit the type and quantity of weapons individuals can hold. Four of 5 Latin American States (80%) and 8 of 10 Western European and Other States (80%) do so.
- All responding States (100%) maintain a database of licensed small arms owners. Twenty-five of 34 responding States (73%) allocate funding in their budget to maintain this database. Only 7 of 32 States (22%) responding to this question make this data public. (These States are Bangladesh, Georgia, the Marshall Islands, Mexico, Norway, Philippines, and the Syrian Arab Republic.)

- Fourteen of 34 responding States (41%) have periodic amnesties for individuals who want to turn in illegally held small arms and/or ammunition. (These States are Chile, Colombia, Costa Rica, Finland, the Marshall Islands, Mongolia, Norway, Philippines, Republic of Korea, Saudi Arabia, South Africa, Sudan, Syrian Arab Republic and the United Arab Emirates.)

2. Analysis of responses with regard to the draft principles

All responding States have licensing requirements for civilian possession of small arms. (E/CN.4/Sub.2/2005/35, annex, draft principle 10, “In order to ensure the protection of human rights by preventing small arms violence by private actors, Governments shall incorporate into their national laws licensing requirements to prevent possession of arms by persons who are at risk of misusing them. Possession of small arms shall be authorized for specific purposes only; small arms shall be used strictly for the purpose for which they are authorized ...”) Among those States, however, the factors considered as a basis for licensing to civilians vary to some degree and responding States provided few details about what evidence would disqualify an individual from being licensed to own a firearm. While all regulating States consider criminal record and age before approving a licence for civilian possession of a firearm, slightly fewer consider the psychological profile (84%) or domestic abuse record (73%) of the applicant. A majority of States (58%) require a demonstration of technical capability as part of the licensing process. (E/CN.4/Sub.2/2005/35, annex, draft principle 10, ... “[B]efore issuing a licence Governments shall require training in proper use of small arms, and shall take into consideration, at a minimum, the following factors: age, mental fitness, requested purpose, prior criminal record, and prior acts of domestic violence. Governments shall require periodic renewal of licences.”)

C. Part 3: Manufacture and transfer of small arms, light weapons and ammunition

1. Summary of State responses

The third part of the Special Rapporteur’s questionnaire requested information related to States’ laws and policies with regard to the manufacture and transfer of small arms. There was less consensus among responding States on specific regulation of the manufacture and transfer of small arms; however, the variance appears to be related largely to the fact that many States report having (or allowing) no small arms production or trade. The responses are summarized as follows:

- Fourteen of 35 responding States (40%) have State owned or operated manufacturers of small arms; 12 of 35 responding States (34%) have privately owned manufacturers of small arms.
- Thirty of 34 responding States (88%) regulate the private manufacture of small arms; all States (100%) that report having private manufacturers respond that they regulate those entities.
- Twenty-six of 28 responding States (93%) regulate manufacturing by requiring that manufacturers be licensed by the State. Ten States either did not answer this question

or indicated that it was not applicable to them, since they do not permit private manufacture of small arms. Nineteen of 26 responding States (73%) require licences to be renewed periodically.

- Twenty-six of 28 responding States (93%) have procedures in place for investigating violations of laws by manufacturers. Ten States either did not answer this question or indicated that it was not applicable to them, since they do not permit private manufacture of small arms.
- All 34 States responding to the question have enforceable policies or laws regulating the sale of small arms within the State. All but 2 of 32 responding States (94%) have laws containing procedures for investigating and verifying the end user of these small arms.
- Twenty-nine of 31 responding States (93%) have enforceable policies or laws regulating the sale of small arms outside the States; 26 of 28 responding States' laws contain procedures for investigating and verifying the end user of these small arms.
- Eighteen of 28 States (64%) responding to this question have laws requiring verification of the human rights situation in States or regions to which they are allowing sales of small arms. Ten participants in the survey did not respond to this question.
- Twenty of 38 States participating in the overall survey (53%) affirm that prior to transferring small arms they assess whether there is a risk the small arms may be used in internal repression. However, several States do not manufacture or export small arms, and so they marked these questions as not applicable to them. Of those that responded "yes" or "no" to this question, 95% assesses the risk that small arms may be used in repression. The same percentage (95%) assess the risk of small arms being used in armed conflict, acts of terrorism or organized crime, or acts of aggression or force on neighbouring countries.
- Only 13 responding States allocate funding in their budgets to support the consideration of the above factors in relation to export decisions.

2. Analysis of responses with regard to the draft principles

All responding States that report having private small arms manufacturers purport to regulate those entities. As indicated by the responses, State practice tends toward regulation of private manufacture, but many of the answers to questions in this section are too diffuse to show particular trends regarding how such regulation is carried out on the ground.

Almost all responding States (93%) require that small arms manufacturers be licensed, (E/CN.4/Sub.2/2005/35, annex, draft principle 11, "Governments shall incorporate into their national laws measures ensuring that proper controls are exercised over the manufacturing of small arms. For the purpose of identifying and tracing small arms, Governments shall require that at the time of manufacture, each small arm has a unique permanent mark providing, at a minimum, the name of the manufacturer, the country of manufacture and the serial number").⁵

Almost all responding States (93%) have a process for investigating licence violations though the sanctions for these violations were not explained in detail, (E/CN.4/Sub.2/2005/35, annex, draft principle 12, “Governments shall incorporate into their national laws measures ensuring the investigation and prosecution of persons responsible for the illegal manufacture, possession, stockpiling or transfer of small arms. Governments shall enact serious penalties for crimes involving the misuse of small arms, especially to commit domestic violence, and for the unlawful possession of small arms.”).

The questionnaire did not elicit information on States’ involvement in international disarmament, demobilization and reintegration programmes. Regarding domestic reduction of the supply of small arms, relatively few reporting States (41%) have periodic domestic amnesties for individuals who want to turn in illegally held small arms and/or ammunition, (E/CN.4/Sub.2/2005/35, annex, draft principle 4).

The survey posed a series of questions in Part 3 regarding the investigation and verification of the human rights and security situation in the States where small arms were being transferred. (E/CN.4/Sub.2/2005/35, annex, draft principle 14). The answers given by States to those questions indicate an awareness of the need to assess the impact of the transfers being considered including the potential effect on the human rights situation and the risk that the small arms will be used in repression. Still, only 13 of the responding States allocate funding to assess the implications of small arms transfers, indicating that the practices are not being implemented as effectively as possible given the gravity of the potential consequences.

Notes

¹ See footnote 2 for a listing of participating States. Representatives of two additional States - Venezuela and India - also responded; however, their response did not include answers to any of the survey questions.

² Responding States, broken down by regional grouping, are:

Africa - Mauritius, Morocco, Niger, South Africa, Sudan;

Asia - Bangladesh, Jordan, Kyrgyzstan, the Marshall Islands, Mongolia, Philippines, Qatar, Republic of Korea, Saudi Arabia, Syrian Arab Republic, the United Arab Emirates, Uzbekistan;

Eastern Europe - Czech Republic, Georgia, Poland, Romania, Slovakia, Ukraine;

Latin America and Caribbean - Chile, Colombia, Costa Rica, Mexico, Trinidad and Tobago;

Western Europe and Other - Austria, Cyprus, Finland, Germany, Greece, Monaco, Norway, Portugal, Spain, Turkey.

Regional groups are defined in “Member States of the General Assembly arranged in regional groups as of 31 May 2002”, UNEP/POPS/COP.1/INF/16, 29 November 2004.

³ The Czech Republic and Qatar did not answer these questions.

⁴ Draft principle 6: “In the training of State officials, especially law enforcement agents, Governments and State agencies shall give special attention to the promotion and protection of human rights as a primary duty of all State officials. Governments shall design training programmes to emphasize alternatives to the use of force and small arms, including the peaceful settlement of conflicts, the understanding of crowd behaviour, and the methods of persuasion, negotiation and mediation, as well as to demonstrate technical means, with a view to limiting the misuse of force and small arms.”

Draft principle 7: “For specific operations and tactical situations, Governments and State agencies shall require prior planning to include alternative means of settlement without recourse to force and small arms.”

Draft principle 8: “In honouring the right to life, liberty and security of the person, as guaranteed in the Universal Declaration of Human Rights and reaffirmed in the International Covenant on Civil and Political Rights, the intentional lethal use of small arms may only be made when strictly unavoidable in order to protect life. State officials, including law enforcement and other security officials, shall not use small arms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives.”

⁵ The Special Rapporteur’s questionnaire did not request information relevant to draft principle 11 with regard to States’ marking and tracing procedures, though those questions, which have profound implications for preventing human rights abuses, have been addressed as part of the process of drafting an international instrument. See report of the Open-ended Working Group to Negotiate an International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (A/60/88, 27 June 2005).

Annex III

EXCERPTS OF UNITED NATIONS MEMBER STATES' LAWS AND REGULATIONS CONCERNING POSSESSION AND USE OF SMALL ARMS AND LIGHT WEAPONS

The questionnaire sent by the Special Rapporteur requested States to provide copies of relevant laws, executive orders and/or implementing regulations relating to the licensing, use and export of small arms and light weapons. Several participating States did so. This annex briefly sets forth examples of these States' procedures in three discrete areas:

- Use of deadly force by law enforcement officers and allegations of misuse of small arms and light weapons;
- Licensing criteria for civilian possession of firearms; and
- Small arms export decision-making process in relation to the human rights record of the recipient State.

This annex provides a view of selected States' practices in light of standards being developed by the international community with response to availability, use and transfer of small arms and light weapons. The standards against which national laws and policies are being compared are:

- Articles 4 to 11 of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (hereinafter "United Nations Basic Principles");
- Draft principle 10 of the draft principles on the prevention of human rights violations committed with small arms; and
- Section II, paragraph 11 of the United Nations Programme of Action on the Illicit Traffic in Small Arms and Light Weapons in All Its Aspects.

A. Use and misuse of small arms by law enforcement

Articles 4 to 11 of the United Nations Basic Principles state that:

4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

(a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;

- (b) Minimize damage and injury, and respect and preserve human life;
- (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
- (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

6. Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle 22.

7. Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.

8. Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

Special provisions

9. Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

10. In the circumstances provided for under principle 9, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.

11. Rules and regulations on the use of firearms by law enforcement officials should include guidelines that:

- (a) Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted;

- (b) Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;

- (c) Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;

(d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;

(e) Provide for warnings to be given, if appropriate, when firearms are to be discharged;

(f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

According to the State responses and the accompanying summary analysis:

- All States (100%) answering the survey questions on training of law enforcement officers provide technical/mechanical training. All but one responding (the Republic of Korea) provide practical/tactical training. All but two (Mauritius and Mongolia) provide training in applied decision-making.
- All responding States (100%) have laws or regulations requiring investigation of allegations of misuse of firearms by law enforcement officials. Thirty of 36 responding States (83%) have independent investigations of alleged firearms misuse. The same percentage provide for judicial oversight of the investigative process. Twenty-three of 35 responding States (66%) make such investigative proceedings public. Based on the sample participating in the survey, there appears to be a higher degree of transparency in this regard by non-European States.
- Thirty-four of 35 responding States (97%) impose sanctions against State agents who misuse small arms. Thirty-two of 35 States (91%) impose sanctions against commanders/superior officers who authorize the misuse of small arms. (Bangladesh, Georgia and the Marshall Islands do not do so.)
- And only one of 34 responding States (3%) does not have a process in place to compensate civilians and/or families of civilians who have been injured or killed due to misuse of small arms by State forces.

Supplementary information provided by representatives of the Governments of Finland, Poland and Portugal provide different models for legal specification of limitations on the use of force.

Of the three, the case of Finland provides the most flexible interpretation of the necessity and proportionality requirements under the United Nations Basic Principles. The Police Act (493/1995; amendments up to 315/2001 included) Section 27 - Use of forcible means specifies only that,

When carrying out official duties, police officers have the right to use necessary forms of force that can be considered justifiable to overcome opposition, remove a person from the scene, carry out an apprehension, prevent the escape of a person who has lost his or her liberty, eliminate an obstacle or avert immediate threat of a crime or other dangerous act

or event. When judging the justifiability of forcible means, the importance and urgency of the duty, the danger posed by the opposition, the available resources and other factors affecting the overall assessment of the situation shall be taken into consideration.

Moreover,

Persons temporarily assisting police officers at their request or with their consent in a situation in which it is vital to enlist the forcible aid of bystanders in carrying out an extremely important and urgent official police duty have the right, under a police officer's guidance, to exercise any essential forcible means authorized by a police officer acting within his or her powers.

(Provisions on self-defence and emergency are laid down in the Penal Code, which was not provided.)

Based on the information provided, Polish legislation and regulations appear to spell out the limits of necessity and proportionality more strictly, especially regarding the requirement of law enforcement officers to use armed force as a last resort. On the matter of misuse of weapons, there are legal regulations concerning distributing arms and ammunition among State agents. According to article 17 of 6 April 1990 - the Act on Police (Journal of Laws No. 7 of 2002, item 58 with subsequent amendments), "a police officer has the right to use arms if measures of direct coercion proved insufficient or if using such measures is impossible because of the circumstances of the given incident". Moreover, article 17 states in which situations a police officer has the right to use arms. According to excerpt 3 of this article, "usage of arms should cause as little harm to the person against whom it is used as possible".

Similarly, article 24 of the Polish Act of 12 October 1990 on Border Guards states that "arms cannot be used to take somebody's life, the usage of arms should cause as little harm to the person against whom it is used as possible, and it cannot endanger other people's lives or health". And article 15 of the Act of 16 March 2001 on the Government Protection Office states "the usage of arms should cause as little harm to the person against whom it is used as possible and may not lead to taking his/her life or endangering other people's lives or health".

The following regulations are also applicable:

- Regulation of the Minister of the Interior and Administration of 15 November 2000 on Police armament governs which items constitute police armament.
- Regulation of the Council of Ministers of 21 May 1996 details the conditions and police conduct when using firearms.
- The Police, Border Guards and the Government Security Office carry out complex training courses related to operating weapons - technical and mechanical skills (e.g., cleaning and maintenance of the weapons); practical and tactical skills (e.g., target shooting) and binding relevant law, including human rights. "Every functionary has the duty to observe the binding law (not only during the performance of their business duties), including human rights."

- Improper use of weapons, depending on the effects, can result in disciplinary, penal or civil liability, as laid out in chapter 10 of the Police Statute (Disciplinary and Penal Liability of Police Officers), chapter 14 of the Border Guard Statute (Disciplinary and Penal Liability of Functionaries of the Border Guards) and chapter 9 of the Government Security Office Statute (Disciplinary Liability of the Functionaries).

The alleged misuse of arms by Polish military also constitutes a crime, prosecutable under the Law of 6 June 1997 - Criminal Procedure Code (Journal of Laws No. 89 pos. 555), the Penal Code (Journal of Laws No. 88 item 553 with subsequent amendments), and Law of 24 August 2001 on Military Police and Order-maintaining Organs (Journal of Laws No. 123 pos. 135). Investigations of alleged incidents involving misuse of small arms are conducted by the Military Police and/or by the Military Prosecutor's Office - bodies directly subordinate to the Minister of Defence. If found guilty of misuse of small arms, soldiers in active service may be subject to imprisonment, demotion, dismissal from active service, and/or a fine.

Portuguese law and regulations appear to stipulate even stricter rules and preconditions for the use of small arms by law enforcement officers. According to the legislation provided, an officer should only point a gun at someone in extreme circumstances, namely in self-defence, when other people's safety is at stake or to prevent a crime from taking place. Police must always warn the person before discharging a firearm. Portuguese domestic law also stipulates that officers should try to use a gun in the least damaging way possible. And whenever a police officer uses a firearm (even when used according to the law), she/he must report the use to his/her commanding officer in writing. The excessive use of a gun by a police officer is a crime under the Portuguese Criminal Code, punishable by imprisonment.

Also of note, Council of Ministers resolution No. 37/2002 established a code of conduct and ethics for Portuguese public security forces. This code includes general rules on human rights, respect, honour, dignity, impartiality, solidarity and objectivity, as well as a specific requirement for the inclusion of a course in ethics in the police training course.

B. Licensing criteria for civilian possession of firearms

Draft principle 10 of the draft principles on the prevention of human rights violations committed with small arms states that:

10. In order to ensure the protection of human rights by preventing small arms violence by private actors, Governments shall incorporate into their national laws licensing requirements to prevent possession of arms by persons who are at risk of misusing them. Possession of small arms shall be authorized for specific purposes only, and small arms shall be used strictly for the purpose for which they are authorized. Before issuing a licence, Governments shall require training in proper use of small arms, and shall take into consideration, at a minimum, the following factors: age, mental fitness, requested purpose, prior criminal record, and prior acts of domestic violence. Governments shall require periodic renewal of licences.

According to the State responses, and the accompanying summary analysis:

- All responding States (100%) require licensing of private ownership of small arms and ammunition, and all require screening and/or background investigation of individuals seeking licences.
- All States (100%) vet applicants on the basis of attainment of a minimum age requirement and criminal record; 84 per cent require consideration of psychological profile, and 73 per cent examine instances of domestic violence.

The following table outlines the licensing practices of five states in some detail, based on information they provided.

Country	Legal Framework	Specifics
Czech Republic	<p>Act dated 8 March 2002 on firearms and ammunition, and changing and amending Act No. 156/200 coll., on certification of firearms, ammunition and pyrotechnic items</p> <p>Licensing criteria, Section 18</p>	<p>The police directorate of jurisdiction shall issue a firearms permit only to a natural person who meets the following requirements:</p> <ul style="list-style-type: none"> • Is a resident in the territory of the Czech Republic; • Has reached required age (21 for self-defence, collectors or professional use; 18 for hunting and sporting purposes, with licences available at 15 for sporting and 16 for hunting under certain circumstances); • Is fully capable of legal actions; • Is medically fit and capable; • Is professionally competent and capable; • Has full integrity (regarding criminal background); • Is reliable (regarding criminal background, alcohol or drug abuse, and treasonous behaviour); • Is a holder of a valid hunting licence (if obtaining a hunting firearm permit).
Finland	<p>Firearms Act (1/1998; amendments up to 804/2003 included) Sections 27-9</p>	<p>“A firearm licence may be granted to a person who has reached the age of 18 and who, on the basis of his or her state of health and behaviour, is deemed suitable for handling firearms, firearm components, cartridges and specially dangerous projectiles. ... A firearm licence is granted for a maximum of five years at a time. ...”</p> <p>The licence may be revoked if the licence is holder of an offence indicating violent behaviour, including a firearms violation.</p>

Mauritius	Firearms Act (RL 2/751 - 12 June 1982, as amended)	<p>Applicant has to provide all information required by the local Superintendent of Police in the district where she/he resides.</p> <p>The Superintendent must be satisfied that the applicant has a good reason for possessing the firearm(s).</p> <p>The Superintendent does not find the applicant to be a person “of intemperate habits or unsound mind”.</p> <p>Anyone sentenced to penal servitude or imprisonment for a term of three months or more for any crime is barred from having a gun or ammo for five years from the date of release.</p> <p>No person subject to the supervision of the Police, on licence under Part XIII of the Criminal Procedure Act, “has been bound over to keep the peace and be of good behaviour”; or is subject to a recognizance of good behaviour barring possession or use of a firearm.</p>
Philippines	Special Operating Procedure No. 13 (19 Sept 1991)	<p>Applicant must:</p> <ul style="list-style-type: none"> • Be at least 21 years of age; • Receive neuropsychiatric clearance (from the PNP), any government hospital or government accredited psychiatrist; • Provide certificate of good conduct from city/municipality where applicant lives; • Obtain clearance from intelligence agency; • Provide proof of income.
South Africa	Firearms Control Act, 2000 Section 9	<p>The requirements for a person to obtain a firearms competency certificate (necessary in order to obtain a firearms licence) include being:</p> <ul style="list-style-type: none"> • 21 years or older on the day the application is received by the designated firearms officer; • A South African citizen or a holder of a permanent South African residence permit; • Of stable mental condition and not inclined to violence; • Free from dependency on any substance which has an intoxicating or narcotic effect;

		<ul style="list-style-type: none"> • Free from conviction, whether in or outside South Africa, of an offence involving the unlawful use or handling of a firearm by him or her or another participant to the offence, whether committed in or outside South Africa; • Free from conviction, whether in or outside South Africa, of an offence involving domestic violence or sexual abuse and sentenced to a period of imprisonment without the option of a fine; • Free from conviction for other crimes - including fraud, drug trafficking, negligent handling of a firearm, sabotage, terrorism, public violence, arson, intimidation, rape and kidnapping. <p>An applicant for a competency certificate must also successfully complete tests demonstrating knowledge of the contents of the Firearms Act and on the safe handling of a firearm.</p>
--	--	--

C. Small arms export criteria

Section II, paragraph 11 of the Programme of Action (PoA) on the Illicit Traffic in Small Arms and Light Weapons in All Its Aspects commits States politically to exercise strict control over the international transfer of small arms, including:

To assess applications for export authorizations according to strict national regulations and procedures that cover all small arms and light weapons and are consistent with the existing responsibilities of States under relevant international law, taking into account in particular the risk of diversion of these weapons into the illegal trade. (Emphasis added.)

Existing international law obligations would include, inter alia:

- Obligations under the Charter of the United Nations - including binding resolutions of the Security Council, such as those imposing arms embargoes; the prohibition on the use or threat of force; and the prohibition on intervention in the internal affairs of another State;
- Any other treaty or decision by which that State is bound, including prohibitions on arms transfers that arise in particular treaties, such as the 1980 United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and its protocols, and the 1997 Anti-personnel Mine Ban Convention;

- The responsibility of States not to authorize international transfers of small arms and light weapons where they will be used or are likely to be used for gross violations of international human rights law, serious violations of international humanitarian law, or crimes against humanity and genocide.
- Respondents to the survey indicated a lower degree of consensus on issues related to regulation of the manufacture and transfer of small arms than to the previous areas; however, the variance appears to be related largely to the fact that many States report having (or allowing) no small arms production or trade.
- Fourteen of 35 responding States (40%) have State owned or operated manufacturers of small arms; 12 of 35 responding States (34%) have privately owned manufacturers of small arms.
- Twenty-nine of 31 responding States (93%) have enforceable policies or laws regulating the sale of small arms outside the States; 26 of 28 responding States' laws contain procedures for investigating and verifying the end user of these small arms.
- Eighteen of 28 States (64%) responding to this question have laws requiring verification of the human rights situation in States or regions to which they are allowing sales of small arms. Ten participants in the survey did not respond to this question.
- Twenty of 38 States participating in the overall survey (53%) affirm that prior to transferring small arms they assess whether there is a risk the small arms may be used in internal repression. However, several States do not manufacture or export small arms, and so they marked these questions as not applicable to them. Of those that responded "yes" or "no" to this question, 95 per cent assesses the risk that small arms may be used in repression. The same percentage (95%) assesses the risk of small arms being used in armed conflict, acts of terrorism or organized crime, or acts of aggression or force on neighbouring countries.
- Only 13 States allocate funding in their budgets to support the consideration of the above factors in relation to export decisions.

In Finland, small arms export decision-making is proscribed by the Act on the Export and Transit of Defence Materiel (242/1990; amendments up to 900/2002 included). This law lays out the requirement for an export licence from the Ministry of Defence for exports and brokerage of arms. It refers to the General Guidelines for the Export and Transit of Defence Materiel. These guidelines bind the Ministry to make export licence decisions based on United Nations, Organization for Security and Cooperation in Europe and European Union embargoes, the guidelines of the EU Common Criteria, the OSCE guidelines and factors relating to the internal situation of the recipient State, including human rights:

3.2.1. *In assessing licence applications in general terms the following factors will also be taken into account:*

- Foreign and security policy aspects, including the possible grounds for denial listed under chapters 2.1. or 2.2;
- Analysis of the situation prevailing in the recipient country, especially with regard to human rights, including attitudes of other States vis-à-vis the recipient country;
- Characteristics, intended use and military significance of the item to be exported ...

Section 15 of South Africa's National Conventional Arms Control Act of 2002 sets forth the guiding criteria and principles for the National Conventional Arms Control committee to consider when assessing an application for a permit to export any arms. These criteria and principles include:

- *Avoid contributing to internal repression, including the systematic violation or suppression of human rights and fundamental freedoms;*
- *Avoid transfers of conventional arms to Governments that systematically violate human rights or suppress fundamental freedom ...;*
- *Avoid contributing to terrorism and crime.*

Section 16 of the same Act provides for accountability under the law, including a requirement that all export applications include an end-user certificate and that the recipient supply a delivery verification certificate.

-- -- -- -- --