

INDIA

Integrated National Report on

**The Implementation of International Instrument to Enable States to
Identify and Trace, In a Timely and Reliable Manner, Illicit Small Arms
and Light Weapons**

and

**The United Nations Programme of Action to Prevent, Combat and
Eradicate the Illicit Trade in Small Arms and
Light Weapons in All Its Aspects**

**New Delhi
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Introduction

The Government of India believes that combating and eradicating illicit trade in Small Arms and Light Weapons (SALW) in all its aspects is a key element in global, regional and national security. It is also necessary for the social and economic development of many countries. India has supported international co-operation to achieve this goal multilaterally, regionally and bilaterally. The following is a report on Government of India's policy and efforts to implement the International Tracing Instrument (ITI) and UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UN PoA). The report is laid out in two chapters.

National Point of Contact and Coordination Agency

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Government of India has set up an Inter-Ministerial Task Force in 2002 whose members include representatives from the Ministries of External Affairs, Defence and Home Affairs and National Security Council Secretariat. The Task Force meets regularly to provide inputs related to policy guidance, research and monitoring of efforts to prevent, combat and eradicate the illicit trade in SALW.

CHAPTER I: IMPLEMENTATION OF INTERNATIONAL TRACING INSTRUMENT

Manufacture of Small Arms & Light Weapons

The manufacture and production of SALW in India is fully controlled by Government of India. The manufacture of SALW is regulated under a licensing system established by the Arms Acts (1959) and Arms Rules (1962). Sections 5 and 7 of the Arms Act (1959) and Article 20 of Arms Rules (1962) prohibit the manufacture, transfer and repair of any SALW without a license. Through the licensing mechanism,

Government of India is able to regulate the categories and types of weapons which may be manufactured and the transactions which may be carried out in their respect.

SALW for armed forces/ police as well as for civilian use are primarily manufactured by Indian Ordnance Factories controlled by the Ministry of Defence. These factories are engaged in the manufacture of all categories of small arms. The

policy of the Government of India for manufacture of arms and ammunition in the private sector is based on the Industrial Policy Resolution, 1956. The private sector is primarily engaged in the manufacture of single and double-barrel guns and air rifles/ pistols. Even after liberalisation of the Indian economy and removal of licensing regime for major industries, the manufacture of arms like revolvers, pistols and rifled weapons – and ammunition thereof – has not been allowed in the private sector by the Government of India.

National Marking Practices (III)

All small arms produced/ manufactured in India are uniquely marked. This applies to arms that are produced for private/ personal use and those which are used by armed forces, police or Para-military forces. The Arms Act (1959) provides (Section 8) that arms which do not bear specified identification marks may not be sold or transferred. Further, under Arms Act (1959), any person found in possession of a weapon without identifications marks would be presumed to have removed/ obliterated the marks unless proven otherwise.

The SALW produced by Indian ordnance factories are marked by stamping/ engraving or laser marking to indicate the type/ nomenclature of the weapon, **‘IN’ for India for country of origin**, registration number, manufacturer/ factory of origin and the year of manufacture on one or more of the vital and critical components of a small arm - the body, the chamber, the cylinder, the breech block and the barrel – during the final stages of production. A record of each and every weapon manufactured by the factory is kept along with the information on the concerned dealer/ indenter to show receipts, disposal, balance of stock in hand, the daily sales of Arms and Ammunition of different categories and provide such other information as may be required. Allotment of these registration numbers for the armed forces/ police and para-military forces is done centrally and a record is maintained of these registration numbers along with the indent. This provides for a double check on the records.

Private sector manufacturers of firearms such as single, double barrel guns and air rifles/ pistols are required by law to get every firearm stamped to show: the maker's name and registered trademark; the serial number of the weapons as entered in his register and the year of stamping; and proof-mark (Arms Rules (1959) Section 25). The parts of the weapons to be marked are also specified under these provisions. In order to implement the international instrument on marking and tracing of SALW, suitable instructions have now been given by the Government of India to the States to ensure that the country of origin ie word ‘IN’ is suitably marked on all arms manufactured by the private sector arms manufacturers.

Further if an imported firearm kept for sale by a dealer does not bear the manufacturer's name, the concerned importer is required to engrave appropriate Identification marks (identifying the importer), as allotted by the Government under these provisions (Section 25, Arms Rules (1962)).

The Magistrates and designated police officers are empowered under the Arms Rules to inspect the premises of arm manufacturing units, arms dealers, examine the stock and account of receipts and disposal of arms and ammunition or any other register or document.

The Government of India has issued necessary instructions to all procurement agencies of the three Services not to import any small arms which do not have markings indicating country of origin. Towards this, the following article in the Request for Proposal (RFP) for import of SALW has been included.

“In terms of para 8(a) of the International Instrument to enable States to identify and trace in a timely and reliable manner, illicit small arms and light weapons as adopted by the United National General Assembly on 8th December 2005, at the time of manufacture of each small arm or light weapon under their jurisdiction or control, the supplier shall ensure unique marking providing the name of the manufacturer, the country of manufacture and serial number or maintain any alternative unique user friendly marking with simple geometry symbols in combination with numeric and alpha numeric code, permitting ready identification by all. The manufacturer will confirm compliance with these provisions”.

Record Keeping (IV)

All ordnance factories maintain detailed records of small arms manufactured by them. Private firms and persons authorised to manufacture firearms against license issued under the Arms Rules of 1962 are required to maintain a Gun Manufacturing Register which records information including Serial Numbers, Date, Month and Year of manufacture. They are also required to maintain a Register of Rectification in which the Serial Numbers stamped on guns which are not passed by the Proof House on first submission are to be entered with a cross reference to the Gun Manufacturing Register. A designated Inspecting Officer inspects these registers regularly.

According to existing laws (Arms Act of 1959, Section 3), a proper license is a prerequisite for possession of any SALW. District authorities may issue license after duly making police enquiries. Due to the gravity of the problem of proliferation of illicit SALW – and the onslaught of terrorism, Government of India has, since 1987, withdrawn substantially, the license issuing powers of State/ District authorities – who may not, now, issue license for prohibited bore weapons. Since 1987, their powers have been limited to issuing licenses for non-prohibited bore weapons and these licenses are valid for a limited geographical area. Under the existing law, all civilians are required to get their weapons/ inspected once a year by a competent authority – this is also recorded in the license.

A record of arms sold in the civilian market (non-prohibited bore) is also required to be kept by each arms dealer under Section 26 of the Arms Rules (1962) in a Sale and Transfer Register. These records are regularly checked by the concerned state/ district authorities.

License for possession of prohibited bore weapons may only be issued, under special conditions, by the Ministry of Home Affairs, Government of India, who also maintains a record of all such weapons in possession of civilian population. Licences for prohibitive bore weapons are issued by the Central Govt. in the case of a person having threat from terrorists/ anti social elements and to certain defence personnel who were allotted weapons during their tenure by Defence establishment.

Armed forces/ police and para-military forces maintain a permanent record of all weapons in their possession.

CHAPTER 2 : IMPLEMENTATION OF PROGRAMME OF ACTION

Implementation at National Level

Provision of laws, regulations and administrative procedures/ Law enforcement (II.2, II.3, II.6)

India's domestic policy on SALW is regulated statutorily under the Arms Act (1959) and Arms Rules (1962), amended from time to time. These legislations and various executive instructions from Central and State governments have evolved a good mechanism for effective control and regulation of SALW in India. The Arms Act (1959) and Arms Rules (1962) cover all aspects of lawful possession of manufacture, sale, transfer, transport, export, import of arms and ammunition, and provide penal provisions for violation of these acts. The Arms Act (1959) and Arms Rules (1962) are Central Government legislations and State Governments have a specified role in their implementation. The provisions of the Arms Act and Arms Rules seek to classify fire arms and other prohibitive weapons so as to ensure that (i) dangerous weapons of Military patterns are not available to civilians, particularly the anti-social elements and that (ii) weapons for self defence can be possessed by citizens in special cases only under duly issued licences.

As per entry 5 of List 1 of the Seventh Schedule to the Constitution of India, the Central Government has the exclusive jurisdiction on matters relating to arms, firearms, ammunition and explosives. The Ministry of Home Affairs of the Indian Government administers the Arms Act and has taken all possible measures to arrest the proliferation and trafficking in small arms and light weapons. The violators of the provisions of the Arms Act are meted out punitive punishments as provided in the Arms Act which range from imprisonment with fine to death sentence.

National Legislation /Administrative Procedures Regulating Activities of Brokers involved in trade of SALW. Rule 24 of Arms Rules 1962, permit the State government to grant licenses to the authorised selected dealers to sell or keep for sale arms and ammunitions. Licenses to such Arms Dealers are issued in the relevant Form of licenses viz Form IX, XI, and XII. Each license carries specific conditions, which are required to be followed by the arms dealers. The Government of India thus

has a comprehensive and effective mechanism to control all aspects of small arms and light weapons in India.

In addition to these, Government of India has also enacted several other laws which have penal provisions related to illegal possession, manufacture etc of SALW. These include Unlawful Activities (Prevention) Act 1967 as amended in September, 2004, Armed Forces (Special Powers) Act, Indian Penal Code, the Army Act and the analogous laws.

A specific distinction in terms of calibre (prohibited and non-prohibited bore) exists as far as possession and trading in firearms by civilians is concerned. Prohibited bore weapons are those in use by security forces/ police and license for these are, as a rule, not issued to civilians.

Challenges of Illicit SALW in India

India continues to face the challenge of proliferation of illicit SALW which are smuggled into the country by various anti-national groups. The seizures of illicit SALW, by security forces, from terrorists provide an indicative assessment of the problem they pose. In Jammu and Kashmir and the north eastern areas alone, the security forces in the preceding two decades have, seized approximately 48,000 weapons of all types, whose markings clearly indicated that these were brought into India through illicit channels. Such Illicit trafficking of SALW continues to pose a significant challenge to the Government. In the last three years alone (2007-09), the number of illicit SALW seized or confiscated by security forces in Jammu and Kashmir and in the north eastern areas was approximately 4,370. The Government of India remains committed to taking all necessary measures to put an end to such illicit flows. At the same time, the government has also taken effective measures to ensure that the weapons confiscated/ seized by security/ police forces do not find their way back into illicit trade channels or fall into the hands of unscrupulous elements. A small amount of crude “country-made” weapons are also found to be produced clandestinely in India. Since almost all terrorist activities involve the use of illegal weapons, including small arms, organisations indulging in such activities are declared as “unlawful” under the provisions of relevant acts.

State Stockpile Management and Security (II.10, II.17, II.18)

The SALW held by the armed forces, police and other Para-military forces are managed under a comprehensive system of regulations issued by Central and State Governments. The concerned government agency issues arms and ammunitions to armed forces, para-military forces and police as per the authorised scale and requirements. Under Chapter XX of the Defence Service Regulations (Regulations for the Army), specific and exhaustive provisions have been laid down for management and security of SALW held by the Army. These stocks are checked every quarter.

Police arms and ammunition which have been classified as obsolete or unserviceable are earmarked for destruction before they are destroyed by the concerned State Police Forces at a central location under proper supervision.

Disposal of seized and confiscated weapons (II.16)

In the course of law enforcement activities – and operations against terrorists, Government authorities regularly seize/ confiscate weapons belonging to both “prohibited” and “non-prohibited” bore categories. Detailed instructions have been issued by the Government of India for disposal of such arms and ammunition. The main aim of the Government is to ensure that these weapons do not find their way back into the illicit trade channels or fall into the hands of unscrupulous elements.

Destruction of country-made weapons:

Country-made weapons seized during the special drives or in the course of implementation of the law, after they are no longer required for any judicial purposes, are mutilated/ defaced and are destroyed by the concerned State Police forces at a central location under proper supervision.

Disposal of prohibited bore Small Arms:

Details of SALW which are seized/ confiscated by the police or Para-military forces are sent to Ministry of Home Affairs after duly taking care of all the legal requirements. If required, in cases where the same type of weapons are already in use by the security forces – and for which spares would be available, the seized/ confiscated weapons are re-allocated to units of security forces for counter-terrorist operations. Other prohibited bore weapons seized by security forces are destroyed at the Central Ordnance Depot. Disposal of unserviceable/surplus weapons in Ordnance depots is carried out strictly as per laid down instructions and relevant orders on the subject. There is no possibility of misuse of any such weapon as due safeguards measures exist prior to their disposal and records are maintained thereof.

Disposal of non-prohibited bore Small Arms:

Serviceable weapons of non-prohibited bore which are seized and confiscated by police or other law enforcement agencies may be disposed by allotment to eligible persons holding a valid license for such weapons. Such weapons are required to meet all the requirements laid out in the Arms Act (1959) in terms of having proper markings. The allotment is based on the realization of the price which is fixed by the Government. A monthly statement of all such seized stock is required to be sent to the Ministry of Home Affairs by the concerned State Police Department. All obsolete/unserviceable weapons and firearms and their components are destroyed.

To ensure the security – and prevent misuse - of seized/confiscated weapons, a detailed inventory of these weapons is maintained in “seizure memos”. Such details include, *inter-alia*, the make and type of weapon. Their storage in local police stations

is normally not allowed. These weapons are usually stored in a central location, such as in State Police Headquarters, so as to ensure their safety and proper supervision. Pending their disposal, a monthly statement of stocks of such weapons held by State Governments is sent to the Central Government (Ministry of Home Affairs).

Steps to combat and eradicate the menace

The Government of India has initiated various measures/ steps to check inflow / proliferation of illicit weapons in the country. In the past, the Government under the aegis of Ministry of Home Affairs had convened a number of meetings with the representatives of the various States/ Union Territory Police departments to discuss this issue. The concerned have been directed to identify the areas where illicit manufacture, possession and use of illegal arms and ammunition have been rampant, make sustained and continued efforts to check them and provide feedback to the Government. Following are some of the important steps/ measures taken in this regard.

- (a) Fencing on the Line of Control along the international border in Jammu & Kashmir with ground sensors and flood lights, deployment of Security Forces along the border, etc. to check inflow of arms from across the border.
- (b) Premises licensed to manufacture arms are frequently checked with regard to utilization of raw materials, installed capacity of the machinery, power consumption etc. to assess whether the firm is engaging itself in unauthorized manufacture and sale.
- (c) Setting up of appropriate machinery to collect intelligence with regard to illicit manufacture and trafficking in arms and ammunition.
- (d) Frequent surprise checks of licensed dealers by law enforcement agencies are ensured.
- (e) Setting up of specialized investigating units for the areas where crime with the use of firearms is rampant.
- (f) Entrusting particularly those of organized rackets with interstate ramifications to the Central Bureau of Investigation for investigation and associating Central Bureau of Investigation in interrogation of persons arrested in connection with important cases or organized crimes.
- (g) Investigation of theft/ loss of arms and ammunition from police, paramilitary forces and also licensees are vigorously followed up to locate the offenders, besides making a study with regard to causes of negligence which resulted in thefts / loss in order to take preventive measures.
- (h) All country made firearms whose origin cannot be traced even after diligent efforts are referred to the State Scientific Section/ Forensic Science Laboratory where a ballistic expert examines them and classify them according to

the method of a manufacture, the type of trigger mechanism used, barrel design etc.

(i) When it appears from the examination in the Scientific Section/ Forensic Science Laboratory that a large number of firearms have originated from the same source, all the concerned cases are referred for investigation to a Special Cell, which is established in the State CID to trace these major sources of illicit firearms.

Export Controls (II.11, II.12, II.15)

Export of all lethal items as well as other equipment and stores manufactured by Defence Public Sector Undertakings (DPSUs) and Indian Ordnance Factories (which includes SALWs) is governed by a regime administered by the Ministry of Defence in consultation with the Ministry of External Affairs. DPSUs and ordnance factories may export their items only on receipt of a 'No-Objection Certificate' (NOC) from the Department of Defence Production and Supplies, Ministry of Defence. The grant of an NOC is subject, *inter alia*, to an end-user certificate-on a government-to-government basis-and to conformity with foreign policy objectives-which includes a ban on exports to countries under UN embargo.

In addition, provisions of the Arms Act (1959) and Arms Rules (1962) have very stringent provisions governing the export and import of small arms. Section 10 of the Arms Act (1959) requires that any one intending to engage in export/ import of arms should first acquire the requisite license. Furthermore, license for export is not granted for automatic weapons and weapons which are in use by the police or armed forces of the country, weapons of "current and popular bore" (Section 33, Arms Rules (1962)) for which ammunition is available domestically, and certain antique weapons.

Similarly import of arms by individuals or commercial entities is permitted only against a license. Such imports are, as a rule, allowed only to renowned shooters/ rifle clubs for their own use on the recommendation of the concerned Government Department. Furthermore, under the "Exim Policy 2002-2007", transfer of the imported firearm/s is not permitted during the lifetime of the importer/ licensee.

Global and Regional level

India recognizes that close international co-operation is required to prevent, combat and eradicate the illicit trade in SALW. To this end, India has supported the efforts of international organisations and the initiatives taken under UN auspices. India has already supplied copies of its domestic legislation to UN DDA (II.23)

International instruments against terrorism and trans-national organised crime (II.38)

India has been a victim of cross-border terrorism for over two decades. India unequivocally condemns terrorism in all its forms and manifestations and strongly

believes that there can be no justification, whatsoever, for any act of terrorism. The international community must have a policy of zero tolerance on terrorism and make further concerted efforts to fight this scourge. We must ensure that the issue is not obfuscated by efforts of some to veer the discussion towards so called “root causes of terrorism”.

India is signatory to all the 13 United Nations Conventions and Protocols dealing with international terrorism which are as follows:-

- (a) 1963 Convention on Offences and certain other acts committed on board Aircraft (Aircraft Convention)
- (b) 1970 Convention for the Suppression of Unlawful Seizure of Aircraft (Unlawful Seizure Convention)
- (c) 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Civil Aviation Convention)
- (d) 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons (Diplomatic agents Convention)
- (e) 1979 International Convention against the taking of Hostages. (Hostages Convention)
- (f) 1980 Convention on the Physical Protection of Nuclear Material
- (g) 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the convention for the suppression of unlawful Acts against the Safety of Civil Aviation (Extends and supplements the Montreal Convention on Air Safety) (Airport Protocol)
- (h) 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Maritime Convention)
- (i) 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Fixed Platform Protocol)
- (j) 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection (Plastic Explosives Convention)
- (k) 1997 International Convention for the Suppression of Terrorist Bombings (Terrorist Bombing Convention)
- (l) 1999 International Convention for the suppression of the Financing of Terrorism (Terrorist Financing Convention)
- (m) 2005 International Convention for the Suppression of Acts of Nuclear Terrorism (Nuclear Terrorism Convention)

India is fully committed to fulfilling its obligations under the relevant UNSC resolutions. India has submitted five national reports to the Counter Terrorism Committee (CTC) of the UN Security Council on measures taken to implement the

UNSCR 1373. In January 2004, Government of India enacted an order - prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) order 2004, which enable the concerned Central and State authorities to take necessary action as required under UNSCR 1267 in respect of the individuals and entities listed under the 1267 list. This order has been revised in March 2006, 2007 and July 2009. In December 2008, GoI amended the Unlawful Activities (Prevention) Act, 1967 to effectively implement the UNSCR 1267 and 1373. Following the Mumbai attacks' of November 2008, the UNSC 1267 Committee had included the names of three Pakistan-based terrorists Hafiz Muhammad Saeed, Zaki-ur-Rehman Lakhvi, Haji Muhammad Ashraf and Lashkar-e-Tayyiba alias Jamaat-ud-Dawah, in the consolidated list of entities and individuals associated with Al- Qaeda and the Taliban. India has hosted visits by a Counter Terrorism Executive Directorate (CTED) team in November 2006. Mr. Richard Barrett, Coordinator of the Monitoring Team of 1267 UNSC Committee visited India in September 2009.

Comprehensive Convention on International Terrorism (CCIT). While there are a number of international conventions and protocols dealing with different types of terrorist acts, gaps remain in the international legal framework against terrorism. To overcome these gaps, India had introduced a draft proposal for a Comprehensive Convention on International Terrorism (CCIT) in the UN General Assembly in 1996. The CCIT is envisaged to provide a comprehensive legal instrument to cover all aspects of terrorism and to ensure effective international cooperation. The draft ensures that those responsible for terrorist attacks-not only as perpetrators but also as organizers, financiers and logistical providers as well as ideological and moral supporters – wherever they may be face justice and are punished.

India has also supported the UN Global CTS and the Plan of Action, adopted by member states on 8 September, 2006. India is firmly of the view that an early conclusion of the CCIT is imperative to any consolidation of counter terrorism efforts within the UN. India is keen that the negotiations in the UN on the Convention are concluded at the earliest and the Convention is

adopted by the Member States. In this regard, India continues to be constructively engaged with key countries to build support for the convention.

As mentioned earlier, India has a very strict export policy for SALW to ensure effective implementation of UN arms embargoes (II.32)

International cooperation to combat illicit trade in SALW

Considering that the illicit trade in SALW is closely linked with terrorism, illicit drug trafficking, money laundering and other trans-national organised crimes, India has taken bilateral initiatives with a number of countries to put in place arrangements which would help combat the illicit trade in SALW (II.27). The agreements aim at enhancing cooperation in combating organized crime and international terrorism. They provide for exchange of documentation, information and experience on the activities of persons involved in organized crime and terrorism, including, inter-alia, illicit trade in arms, and funding of international terrorism. India has signed a MoU with Italy on Combating

International Terrorism and Transnational Crime (February 2007). India has so far entered into agreement with 25 countries and set-up Joint Working Groups on combating terrorism and transnational crime. These Joint Working Groups have served as useful platforms for exchange of views and experiences, sharing of information, co-operation and capacity building and in facilitating agency to agency cooperation.

At the regional level, India along with other member states of BIMSTEC (Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation) have established a Joint Working Group to coordinate efforts in areas such as intelligence sharing and capacity building as well as to strengthen joint efforts on counter terrorism and trans-national crime. Similarly, India has a Joint Working Group arrangement with European Union (EU).

India has been actively associated with various workshops and seminars that have been organized either under UN auspices or by other interested parties to further effective international cooperation on this important subject. India has actively participated in the following meetings in 2008 and 2009:-

- (a) UN Workshop in Asia on International Instrument to Enable States to Identify and Trace Illicit Small Arms and Light Weapons in Seoul from May 27 – 28, 2008.
- (b) Third Biennial Meeting of States to consider 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 in New York from July 14-18, 2008.
- (c) United Nations Regional Seminar for “Enhancing International and Regional Cooperation to Prevent, Combat and Eradicate illicit brokering in Small Arms & Light Weapons in South and Central Asia” from June 17 – 18, 2009 at Kathmandu, Nepal.
- (d) Regional Seminar on peace and security in South Asia on Issues and Priorities for Regional Cooperation on Small Arms and Light Weapons (SALW) Control in Dhaka from November 08 – 09, 2009.
- (e) Expert group meeting on Firearms Protocol of the UN Convention on Transnational Organised Crime (UNCTOC) hosted by the UN office on Drugs and Crime in Vienna from November 3-6, 2009.