

Indonesia

**National Report
2009**

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

Report

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

Executive Summary

For Indonesia, as an archipelagic state, the smuggling and illicit trafficking of SALW have posed threats to its territorial integrity and sovereignty. In the last few years, there are some cases in which non-state actors took the advantage of those illegal activities to serve their political purposes by fostering separatist movements and promoting criminal activities. Hence, the illicit circulation of SALW is no longer tenable, and in fact, would be detrimental to its national security and stability.

Indonesia has taken actions to tackling the threats and challenges posed by illicit trade and smuggling of SALW by strengthening bilateral as well as regional-level coordination. In this regards, Ministry of Foreign Affairs in cooperation with UN Office for Disarmament Office (UNODA), UN Regional Center for Peace and Disarmament in Asia and the Pacific (UNRCPD-AP), sponsored by Governments of Japan, Sweden and Switzerland, held Regional Meeting on the Implementation of the UN Programme of Action on Small Arms and Light Weapons on 29-30 March 2010 in Bali, Indonesia.

Forty seven participants representing Governments of Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Thailand, Vietnam and Japan, ASEAN Secretariat, UNODA, UNRCPD and UNDP had attended the Meeting and discussed regional implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, and the International Tracing Instrument.

By conducting joint investigation and interrogation in cooperation with authorities from the aforementioned neighboring countries, Indonesia has gathered information that some groups smuggled various type of arms, both factory-made and man-made, to be used in conflict areas such as Aceh and at the border between Indonesia and Papua New Guinea.

In implementing the 2001 United Nations Program of Action to prevent, combat, and eradicate illicit trade of SALW and its all aspects, the Government of Indonesia has designated point of contact and national coordinating mechanisms. Regarding its national legislations, there are two categories of regulations, namely regulation on the use and possession of SALW by the military/police and regulation that cover the possession and use of fire arms by civilians. In order to combat the illicit trade and trafficking of SALW, the Government of Indonesia acknowledges that a comprehensive legislation is required. There is also a need to promote and to strengthen cooperation among bordering countries, taking into account that one individual country can not combat the illicit trade of SALW.

In order to fully implement its commitment to the UN Programme of Action, international cooperation and assistance with other countries, the UN, the International Criminal Police Organization (ICPO) and international organizations become its priority. Potential areas of cooperation that can be pursued, among others, are (i) training for law enforcement officers and security forces in border security; (ii) record-keeping and stockpile management; (iii) capacity-building in marking and tracing; (iv) raising the public awareness through workshops/seminars (v) disseminating information related to aspects of illicit trade of SALW in the media, (vi) joint-operation with neighboring countries, (vii) disposal of confiscated weapons and (viii) information sharing in the Interpol system.

In view of the above, Indonesia supports the recommendations made by the UN Secretary-General that an international instrument to address the issue of the illicit trade of SALW is to be multilaterally negotiated. Indonesia believes such an instrument must not hamper the transfer of SALW from Government to Government. In the absence of such an instrument, states should fully implement the UN Program of Action to prevent, combat and eradicate the illicit trade of SALW.

A) NATIONAL LEVEL

1. National coordination agency

The Government of Indonesia has established an Inter-ministerial Working Group (IWG) on SALW to coordinate various relevant national agencies on matters relating to the implementation of the Program of Action on SALW. In this regard, the Directorate of International Security and Disarmament of the Ministry of Foreign Affairs acts as a national contact point and is tasked to coordinate the activities of this IWG.

At present, the IWG consists of representatives from the Ministry of Defence, the Ministry of Foreign Affairs, Ministry of Finance (Directorate General of Customs), the Ministry of Justice and Human Rights, Ministry of Home Affairs, Ministry of Trade, Ministry of Research and Technology, the Indonesian Armed Forces [National Intelligence Unit of the Indonesian Armed Forces (BAIS TNI), the Navy, the Air Force], the Indonesian National Police, as well as the PT. PINDAD (Armed Forces Industry).

2. National point of contact

The temporary national point of contact is as follow:

Director of International Security and Disarmament,
Ministry of Foreign Affairs, Republic of Indonesia
7th Floor, BP7 Building,
Jl. Taman Pejambon No. 6, Jakarta 10110, Indonesia.
Phone: +62-21-3812646, 3441508 Ext. 4069,
Fax: +62-21-3858024,
E-mail: febrian_ruddyard@yahoo.com.au; andyrachmianto@deplu.go.id

3. Legislation, regulations, administrative procedures

- **Production**

The production of SALW in Indonesia, for military/police logistical purposes, was carried out by PT. Pindad. Through the enactment of the Presidential Decree No. 59/1983, which was subsequently updated through the Presidential Decree No. 6/1984, PT. Pindad was designated as a state-owned company, under the supervision of the Ministry of Defence.

PT. Pindad as the sole manufacturer of SALW in Indonesia applies international standards for proper marking and identification, storage and record keeping. In this regard, the Government has comprehensive information on the legal production of SALW and a system for marking, record-keeping and tracing of nationally-produced SALW.

In order to facilitate the procurement of domestic production weaponry, the Ministry of Defence, the Ministry of Industry and State Ministry of State-Owned Enterprise have Memorandum of Understanding (MoU) No. NK-02/I/M/2006, No. 11/M-IND/01/2006, No. MOU-01/MBU/2006. These MoUs mention that there is a need to develop national industry to provide weaponry in strengthening national defence system.

- **Export**

Law on Fire Arms year 1936 regulates the import, export, transfer, dismantlement, ownership, trade and transport of fire arms, gunpowder and ammunition. There is an Implementing Regulation No. 27 Year 1939 of the Law on Fire Arms year 1936 which regulates further fire arms in the Law Year 1936.

Emergency Law No. 12 year 1951 [regarding The Amendment of "ORDONNANTIE TIJDELIJKE BIJZONDERE STRAFBEPALINGEN" (STBL. 1948 NO 17) and Law No 8 year 1948] puts a penal sanction for anyone, who unlawfully takes out of Indonesia weapons, ammunition or explosives. The penal sanction is at maximum by a death sentence or life-time imprisonment or maximum imprisonment for 20 years.

According to the administrative procedures, all small arms produced by PT. Pindad to be exported to other countries should have an original End-User Certificate. The End-User Certificate will be used as one of the attachments to the Purchase Order, and to apply an export permit from the Ministry of Defence. This export of small arms will only be valid if, prior to the export, a bilateral arrangement between the Government of Indonesia and the purchasing government is made.

- **Import**

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Emergency Law No. 12 year 1951 [regarding The Amendment of "ORDONNANTIETIJDELIJKE BIJZONDERE STRAFBEPALINGEN" (STBL. 1948 NO 17) and Law No 8 year 1948] puts a penal sanction for anyone, who unlawfully, brings into Indonesia, produces, accepts, tries to gain, conveys or tries to convey, possesses, carries, stockpiles, transports, hides, uses, weapons, ammunition or explosives. The penal sanction is at maximum by a death sentence or life-time imprisonment or maximum imprisonment for 20 years.

The Government Regulation in lieu of Law No. 20 year 1960 on "the Authorization of Licensing in Accordance with the Law on Fire Arms" stipulates that the authorized Minister or the Head of National Police has the authority to grant or decline application for license of import, export, transfer, dismantlement, ownership, trade and transport of fire arms. As an exception, an authorized person of the Indonesian Armed Forces (TNI) shall hold the authority for granting the license for military procurement with the permission from the Ministry of Defence.

The Minister for Defence Regulation No. PER/6/M/VII/2006 and Minister for Defence Decree No. Kep/15/M/II/2005 regulate the procedure and guidance in purchasing military equipments in the Ministry of Defence and Indonesian Armed Forces.

The Law No. 2 year 2002 on Indonesian National Police stipulates in Article 15 paragraph 2 letter (e) that Indonesian Police is authorized to issue license and monitor the fire arms.

Administrative procedure on licensing by Indonesian National Police is regulated by Decree of the Head of Indonesian National Police No. SKEP/82/II/2004 on "Guidelines on the Monitoring and Controlling of Fire Arms". This Guideline contains the administrative procedure of monitoring, surveillance, controlling and licensing of the possession and the use of fire arms by civilian and national police.

Regulation of the Head of Indonesian National Police No. Pol.:13/X/2006 regulates the monitoring and controlling fire arms for the purposes of sports.

All purchases of arms for personal use from other countries/foreign sources, must acquire "Import Licensing" from the Head of Indonesian National Police. Prior to their sale, these purchases will have to be stored in the Police storage facilities for proper controlling and safety precaution.

In addition, the user/owner of SALW has to submit proper identification, including the type, mark, caliber, amount and former data of weapons and ammunitions, location of distribution, bio-data, and name of the country or last port that exported such weapons. The Head of National Police will decide to issue a license or permit if the applicant fulfills all of these requirements.

At this moment, there is an administrative procedure issued by Head of Indonesian National Police that individual possessors are not allowed to keep their own weapons and should be stored at the Police storage.

- **Transit and Retransfer**

Emergency Law No. 12 year 1951 [regarding The Amendment of "ORDONNANTIETIJDELIJKE BIJZONDERE STRAFBEPALINGEN" (STBL. 1948 NO 17) and Law No 8 year 1948] puts a penal sanction for anyone, who unlawfully, brings into Indonesia, produces, accepts, tries to gain, conveys or tries to convey, possesses, carries, stockpiles, transports, hides, uses, weapons, ammunition or explosives. The penal sanction is at maximum by a death sentence or life-time imprisonment or maximum imprisonment for 20 years.

In order to prevent the misuse and illicit trafficking of SALW, the Decree of the Head of Indonesian National Police no. Skep/82/II/2004, stipulates that the Indonesian National Police, in coordination with the National Intelligence Unit of the Indonesian Armed Forces (BAIS TNI) and the Ministry of Finance (particularly, the Directorate General of Customs) performs the mandated duties of monitoring and controlling SALW in Indonesia. It should be noted that the process of transit and transfer should have legitimate document with country destination and end user certificate and to mention the specific reasons for transit and retransfer in/within Indonesia.

National laws and regulations related SALW or their amendments are put into states' gazettes for public. Procedures related to SALW are disseminated through mass media, so that the public will know if there is any improvement or amendment to such procedures.

4. Law Enforcement/Criminalization

Any actions of misuse of firearms, based on Law No. 8 year 1948 article 13, shall lead to license revocation and weapon withdrawal to be put in the storage of Local Police. Meanwhile the perpetrator is to be processed according to the laws and regulations.

This provision, updated by the Law No. 12/1951 article 1(1) that emphasizes on penal punishment, life imprisonment, or a maximum 20 years imprisonment for any person that illegally produce, acquire, or try to acquire, transfer, possess, stockpile, hide, use or export any kind of firearms, munitions, or explosive materials.

5. Stockpile management and security

There are existing regulations governing the security and storage of SALW which are promulgated by each department/institution e.g. Ministry of Defence, Directorate General of Customs-Ministry of Finance, Directorate General of

Immigration-Ministry of Law and Human Rights, Indonesian Armed Forces, and Indonesian National Police. These laws stipulate among others:

- Only authorized officers are allowed to keep their government-issued small arms.
- Sanctions are imposed against state agents for violation of laws on safe storage of small arms.
- Training of forces in securing and safely storing small arms.
- All private-owned small arms by civilians are stored in the authorized storage facilities, inspected and controlled by the National Police.

The Indonesian National Police keeps the data on the inventories and use of small arms both for its members and for civilians.

The data on the inventories and use of SALW for military purposes is kept by the Armed Forces. All the data is periodically updated. Internal Inspectorate division in the Indonesian Armed Forces (TNI) has the responsibility to monitor and verify the use, storage, distribution and destruction of such weapons.

Tight registration system with several layers of security is applied in the weapons storage of Armed Forces. The SALW can only be brought out of the storage if it is required for duty; and after the use, the SALW must be returned in the storage again and re-registered.

The controlling and monitoring of use, storage and distribution of Indonesian Army's weapons are conducted by the small unit (Group/Regu) to the upper one (Division/Divisi). The control function is the responsibility of Commander of each unit. Monitoring on quantity and condition of SALW is conducted by the Unit Commander on daily basis and the Upper Unit Commander is responsible for the periodic monitoring on monthly basis.

6. Collection and Disposal

The Government has established procedures and safety standards to undertake weapons collection and disposal activities such as destruction of a confiscated, seized, or collected illicit SALW. These procedures and standards which involve the seizure and confiscation of SALW arising from criminal activities are ordered by the court through the issuance of warrants for their collection and destruction.

In the Indonesian Armed Forces, disposal of SALW must be reported first to the Headquarter of Indonesian Armed Forces, Ministry of Defence and Ministry of Finance. After obtaining the approval from all these three institutions, then the disposal can be conducted, with the inspection of Inspectorate General of Indonesian Armed Forces, Navy and Air Forces.

The procedure of disposal of SALW resulted from the military operation conducted in handling the internal conflict or separatist movement, is under the authority of local Commander of Operation with the approval from the Indonesian Armed Forces.

Indonesian National Police has the same procedure of disposal for their SALW.

7. Export Controls

Law No. 10 year 1995 on Customs, amended by Law no. 17 year 2006, applies to all goods coming in or going out of Indonesia. The Law stipulates that any export and import goods should have permission and approval from the Indonesian government.

According to the Law on Firearms year 1936, Article 12, the license granted to companies to trade SALW is given by the Governor of Province in a location where the companies run their businesses.

According to the Law on Firearms year 1936, Article 23 & 25, the domestic transfer of firearms, munitions through sea, land and air, from province to province, from island to island, is only permitted with the license of the Head of Provincial Police.

8. Brokering

The brokering of small arms and light weapons is regulated in Law on Firearms of 1936 article 7, which stipulates that it is prohibited to trade/sell any fire arms, amunitions and explosives through auctioneer. Brokers that can be accepted are companies that have license from the Governor or Head of Special Region where the companies are located (article 12).

The Law No. 2 of 2002 on Indonesian National Police regulates the license on brokering activities for civilian purposes; supported with The Decree of the Head of the Indonesian National Police No. Pol.: Skep/82/II/2004 dated 16 February 2004.

9. Marking, Tracing and Record Keeping

In manufacturing SALW, PT PINDAD uses its own marking as identity of weapons which consists of serial number, model, year of production and country of origin. It is a unique marking to identify and trace the weapons.

In order to do tracing of SALW, for the domestic prevention, every weapon owned by the Indonesian Armed Forces and Indonesian National Police must have license and is approved through ballistic test.

To do tracing of other kinds of weapons, Indonesian National Police also applied ballistic test conducted at the Police Forensic Laboratory Center (PUSLABFOR). Information as a result of the test is recorded as part of the details/specification/characteristics of the weapons.

With regard to record keeping, as a standard practice based on the ISO 9001-9002, PT. Pindad will keep the records on its production and transfer for a 10 (ten)-year term. The records provide information on the type, quantity of production, and the recipient. The term of year is also applicable in the record keeping system in Department of Defence and National Police.

B) REGIONAL LEVEL

1. Legally binding instruments

Until now, there is no regional legally binding instruments concerning the regional efforts in preventing, combating and eradicating the illicit trade of small arms and light weapons in all its aspects in South East Asia.

2. Moratoria and regional action programmes

As stated in the ASEAN Political Security Community (APSC) Blueprint, in building a cohesive, peaceful and resilient Political Security Community, ASEAN subscribes to the principle of comprehensive security. The APSC Blueprint stipulates that our relevant sectoral bodies fully implement measures to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects, in accordance with UN PoA and the International Instrument to enable States to Identify and Trace, in Timely and Reliable Manner, Illicit Small Arms and Light Weapons (International Tracing Instrument).

Annual meeting of ASEANAPOL also discussed and exchanged informations on the illicit trade of SALW in the region.

3. Regional Cooperation

Indonesia recognizes that the problem of SALW is closely related to the transnational organised crimes and terrorism. In order to tackle this matter, Indonesia needs to cooperate with other countries in the region.

Ministry of Foreign Affairs in cooperation with UN Office for Disarmament Office (UNODA), UN Regional Center for Peace and Disarmament in Asia and the Pacific (UNRCPD-AP), sponsored by Governments of Japan, Sweden and Switzerland, held Regional Meeting on the Implementation of the UN Programme of Action on Small Arms and Light Weapons on 29-30 March 2010 in Bali, Indonesia.

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The Regional meeting was held as a follow-up to the Third Biennial Meeting of States in 2008. The Meeting served its purpose as a forum of exchanging views on the implementation of PoA in the South-east Asia as well as gathering inputs for the Fourth Biennial Meeting of States.

The Meeting produced a Meeting Summary as attached.

C) GLOBAL LEVEL

Indonesia realizes that international co-operation is required to prevent, combat and eradicate the illicit trade in SALW. In this regards, Indonesia has supported the efforts of international organisations and the initiatives taken under UN auspices.

1. International instruments against terrorism and crime

From 16 Conventions on terrorism, Government of Indonesia has ratified 6 of them, as follows:

- a) Convention on Offences and Certain other Act Committed on Board Aircraft (1963), ratified by Law No.2 Year 1976.
- b) Convention for the Suppression of Unlawful Seizure of Aircraft (1970), ratified by Law No.2 Year 1976.
- c) Convention for the Suppression of Unlawful Acts against Safety of Civil Aviation (1971), ratified by Law No.2 Year 1976.
- d) Convention on the Physical Protection of Nuclear Material (1980), ratified by Presidential Decree No.49 Year 1986.
- e) Amendment to the Convention on the Physical Protection of Nuclear Material (1980), ratified by Presidential Decree No.46 Year 2009.
- f) International Convention for the Suppression of the Financing of Terrorism (1999), ratified by Law No.6 Year 2006.
- g) International Convention for the Suppression of Terrorist Bombings (1997), ratified by Law No.5 Year 2006.

In the scope of ASEAN, Government of Indonesia has signed the ASEAN Convention on Counter-Terrorism (ACCT) but yet to ratify. Through this Convention, ASEAN countries committed to cooperate in information exchange and enforcement of border-control law, immigration regimes and intelligence cooperation.

2. International cooperation and assistance

In order to combat the illicit trade and trafficking of SALW, Indonesia fully realizes the need to have international cooperation and assistance with other countries, the UN and international organizations. Thus, it has become our priority. Potential areas of cooperation that has been and can be further pursued, among others, are (i) training for law enforcement officers and security forces in border security; (ii) record-keeping and stockpile management; (iii) capacity-building in marking and tracing; (iv) raising the public awareness through workshops/seminars and (v) disseminating information related to aspects of illicit trade of SALW in the media, (vi) joint-operation with bordering countries and (vii) disposal of confiscated weapons.

Indonesia has bilateral cooperation with some countries related to law cooperation through Mutual Legal Assistance (MLA).

Related to effort in combating illicit trade in SALW linked to transnational organized crime and terrorism, Indonesia in cooperation with Australia has established Jakarta Center for Law Enforcement Officer (JCLEC) in 2004, which is a training agency for the capacity improvement of law enforcement officers in combating the trans-national organized crimes, including terrorism. The training is intended not only for national officers, but also for officers from other countries in the region. Other programs that Indonesia is being involved in are ILEA (International Law Enforcement Agency) and Anti-Terrorism Assistance Program.

Indonesia as one of the members of ICPO-Interpol plays an active role in exchanging information, especially information related to lost or stolen weapons which has been discovered by the Police, then to be informed to the Interpol in Lyon-France and forwarded to all the member countries. NCB-Interpol Indonesia also has received many requests on assistance in checking its own database related to the lost/stolen weapons which has been discovered by Police of other countries.

NCB-Interpol Indonesia uses the Interpol Global Police Communication System (I-24/7) to submit notices, share crucial police data securely and efficiently with police in other countries and to access the Interpol's database and services 24 hours a day.

Indonesia has established and maintained cooperation not only with Interpol, but also through ASEANapol, especially in the exchange of information on lost or stolen weapons. Indonesia believes that this cooperation and networking can be used as a significant mechanism to combat illicit trade of SALW.

3. Cooperation with civil society and NGOs

The Government of Indonesia disseminates the information on the danger of illicit trade of SALW and the harm caused by the illicit possession of SALW through mass media.

Although there are NGOs in Indonesia concerning on conventional weapons, such as cluster munitions and anti-personnel landmines, hitherto there is no Non-Governmental Organizations in Indonesia working particularly on the illicit trade/trafficking of SALW.

4. Information exchange

Indonesia non-formally gives information related to illicit trade routes and techniques of acquisitions through Police to Police cooperation and workshops on arms-smuggling in ASEAN scope.