

Practical Disarmament Initiative Stockpile Management and Diversion Provisions in Selected International and Regional Instruments

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This background paper examines synergies in terms of the stockpile management and diversion of small arms and light weapons, their ammunition, and parts and components among the following international instruments:¹ the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA);² the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (ITI);³ the Arms Trade Treaty (ATT);⁴ and the following four sub-regional instruments: the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials (ECOWAS Convention);⁵ the Nairobi Protocol for the Prevention, Control, and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (Nairobi Protocol);⁶ the Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition, Parts and Components that Can Be Used for Their Manufacture, Repair or Assembly (Kinshasa Convention);⁷ and the

Khartoum Declaration on the Control of Small Arms and Light Weapons across the Neighbouring Countries of Western Sudan (Khartoum Declaration).⁸ The paper maps and compares

the provisions on stockpile management and diversion in each of these instruments and considers synergies, overlaps, and differences among them.

Table 1 Overview of instruments

Instrument	Date adopted	In force	Legal status		Scope			
			Legally binding	Non-legally binding	Small arms	Light weapons	Ammunition	Parts and components [†]
International								
PoA	20 July 2001	-		•	•	•	•	•
ITI	8 December 2005	-		•	•	•		
ATT	2 April 2013	2014	•		•	•	•••	•••
Regional								
Nairobi Protocol	21 April 2004	2006	•		•	•	•	•
ECOWAS Convention	14 June 2006	2009	•		•	•	•	•
Kinshasa Convention	30 April 2010	Not yet in force		Not yet in force	•	•	•	•
Khartoum Declaration	23 May 2012	-		•	•	•	••	

* The PoA contains no definition of 'small arms and light weapons', creating uncertainty as to whether provisions that are not clearly limited to the weapons themselves, including those on stockpile management, apply to small arms ammunition, parts, and components. The ammunition question has been the source of political controversy, with some states arguing that the PoA applies to ammunition and others refuting this assertion.

** The stockpile management provisions in the Khartoum Declaration cover ammunition, but not all the provisions in the instrument extend to ammunition.

*** Only certain ATT provisions apply to ammunition, parts, and components.

† The Nairobi Protocol and ECOWAS Convention use the term 'other related materials' rather than 'parts and components'.

Overview of instruments

The instruments under review all include undertakings and commitments that states have agreed to apply and implement with respect to small arms, and although they vary in terms of their scope and nature (see Table 1), they all contribute to the development of a normative framework on small arms control.

Stockpile management

What is stockpile management?

Definition

While there is no internationally agreed definition of 'stockpile management' with respect to small arms and light weapons, the International Small Arms Control Standards (ISACS) describes the term as follows:

Stockpile management of weapons is the term used to describe those procedures and activities that are necessary for the safe and secure accounting, storage, transportation and handling of small arms and light weapons.⁹

The PoA also describes the concept of stockpile management as the 'standards and procedures relating to the management and security' of stocks of small arms and light weapons.¹⁰ However, of all the instruments reviewed for this background paper, only the Kinshasa Convention provides a definition:

Management of the national stockpile: procedures and activities to ensure safe and secure storage, transport, handling, accounting and recording of small arms and light weapons, their ammunition and all parts and components that can be used for the manufacture, repair and assembly of such weapons.¹¹

In addition, although the Nairobi Protocol itself does not include a definition of stockpile management, the

Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons (Best Practice Guidelines) (RECSA, 2005) designed to assist states' implementation of the protocol notes that the term 'stockpile management'

refers to planning, acquisition, possession, record keeping, safe storage, control, maintenance, refurbishment, production and disposal of small arms and light weapons stockpiles

and provides the following definition for the purposes of the Nairobi Declaration and the Nairobi Protocol: 'The control and management, in all its aspects, of small arms and light weapons in state and non-state possession.'¹²

In the context of the stockpile management of ammunition, the International Ammunition Technical Guideline (IATG) defines the term as follows:

stockpile management procedures and activities regarding safe and secure accounting, storage, transportation and handling of ammunition and explosives.¹³

For the purposes of this background paper, and in accordance with general usage, the term 'stockpile management' does *not* cover the safe storage requirements a country may have in place regarding weapons held by civilians for civilian use. Accordingly, any provisions in the relevant instruments pertaining to the safe storage of weapons held by civilians (other than manufacturers, distributors, and repairers or gunsmiths) are not included or reviewed in this paper.

Aim

One of the aims of adequate and effective stockpile management in the context of small arms and light weapons control is to help prevent the loss and theft of items from stockpiles held by government agencies (such as defence and security forces), as well

as, for example, manufacturers and distributors.¹⁴ In this sense, stockpile management is an example of a diversion prevention measure, because it is designed to prevent weapons and ammunition from being diverted from unsecured and poorly managed stockpiles and falling into the hands of unauthorized end users. In the context of ammunition stockpile management, inadequately managed stockpiles can pose a threat to public safety and security through unintended explosions at munitions sites. Accordingly, another purpose of ammunition stockpile management is to reduce or eliminate such risks.

Principal elements

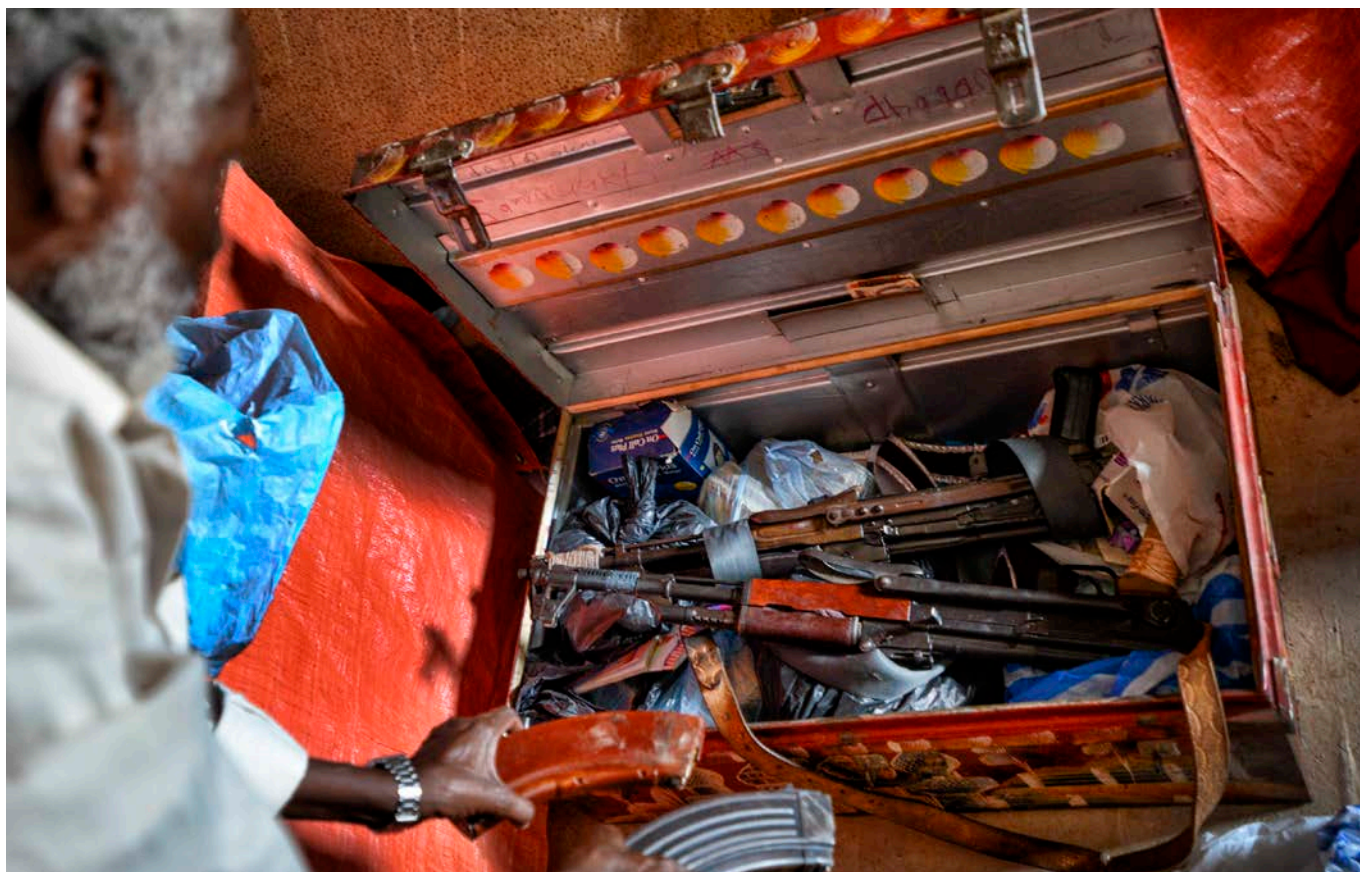
The principal elements of the stockpile management of small arms and light weapons identified by most of the instruments under review and applicable best practice guidelines include:

- appropriate locations for stockpiles;
- physical security measures;
- control of access to stocks;
- inventory management and accounting control;
- staff training;
- secure transportation of small arms and light weapons;
- procedures and sanctions in the event of theft or loss; and
- the determination and disposal of surplus stocks.¹⁵

A detailed review of the specific commitments pertaining to stockpile management in each instrument follows, including a description of:

the scope of the stockpile management provisions in each instrument and whether they cover:

- *stocks held by the state and/or stocks held by manufacturers, distributors, and repairers; and*
- *small arms and light weapons, ammunition, and/or parts and components; and*
- *the types of measures included.*



Assault rifles and ammunition kept in a lockable box stored in a shop in Somalia. Photo: Sean Sutton / MAG

UN Programme of Action and International Tracing Instrument¹⁶

Scope of stockpile management provisions

The PoA includes detailed provisions governing the management and security of small arms and light weapons held by 'the armed forces, police or any other body authorized to hold'¹⁷ such weapons (see the note at the end of Table 1 regarding ammunition, parts, and components). The requirement to ensure the management and security of stocks does not explicitly extend to stocks held by manufacturers, distributors, or repairers,¹⁸ although it does include provisions governing the management of weapons collected through disarmament, demobilization, and reintegration (DDR) programmes.¹⁹

Stockpile management measures

The stockpile management measures outlined in the PoA and ITI include the following:

- **standards and procedures:** UN member states have undertaken to 'establish adequate and detailed standards and procedures relating to the management and security of their stocks' of small arms and light weapons that should include:
 - appropriate locations for stockpiles;
 - physical security measures;
 - control of access to stocks;
 - inventory management and accounting control;
 - staff training;
 - security, accounting, and control of small arms and light weapons held or transported by operational units or authorized personnel; and
 - procedures and sanctions in the event of theft or loss;²⁰
- **surplus:** an undertaking to:
 - regularly review state stockpiles of small arms and light weapons and ensure that 'such stocks declared by competent national authorities to be surplus to requirements are clearly identified';
 - establish and implement programmes for the responsible disposal, preferably through destruction, of surplus stocks; and
 - ensure that surplus stocks are adequately safeguarded until disposal;²¹
- **marking:**²² an undertaking to ensure that all small arms and light weapons in the possession of government armed and security forces for their own use are duly marked;²³
- **tracing:**²⁴ an undertaking to ensure that effective measures are in place for tracing weapons held and issued by the state;²⁵

- **small arms and light weapons collected through DDR:** an undertaking to develop and implement DDR programmes, including the effective collection, control, storage, and destruction of small arms and light weapons, unless another form of disposal has been authorized, the weapons have been marked, and the alternate form of disposal or use has been recorded;²⁶ and
- **cooperation and assistance:** UN member states are encouraged to assist other states to build capacity in the areas of stockpile management and security and the destruction of small arms and light weapons, and to develop regional and international programmes for specialist training on small arms stockpile management and security.²⁷

In addition, at the *regional* level, the PoA encourages UN member states to promote safe, effective stockpile management and security, in particular physical security measures, for small arms and light weapons, and to implement regional and sub-regional mechanisms in this regard.²⁸

Arms Trade Treaty

The ATT only includes one specific reference to stockpile management: in the provisions on international assistance it stipulates that the type of assistance a state party may seek in implementing the treaty includes assistance with stockpile management.²⁹ This suggests that the adoption of adequate or effective stockpile management procedures constitutes (partial) implementation of the treaty; however, there is no explicit requirement under the ATT for states parties to adopt stockpile management procedures, and certainly no elaboration of what these procedures might be.³⁰

Nevertheless, adequate stockpile management is relevant to one treaty provision in particular, although not explicitly mentioned by it. Article 11 of the treaty obliges states parties to

take measures to prevent the diversion of conventional arms, including small arms and light weapons, and obliges them to assess the risk of arms being diverted when deciding whether or not to authorize an export.³¹ As part of this risk assessment, an exporting state party must consider whether there are measures that could be undertaken to mitigate (i.e. reduce) any risk of diversion. This could include helping the importing state to improve the security and management of its stockpiles if it is determined that there is a risk that small arms and light weapons supplied to the importing state for its armed forces are at risk of being lost or stolen because the importing state has a poor record of stockpile security, for example.

In addition, where a state party detects that a diversion of transferred conventional arms has occurred, it must take ‘appropriate measures’ to address this.³² If diversion occurs as a consequence of poor stockpile management—leading to arms being lost or stolen—the state that experiences the diversion is required to take measures to address such a diversion, and these measures would, arguably, include improving its stockpile management.

In summary, under the ATT, states parties may improve their stockpile management as a means of implementing their obligations to prevent and address the diversion of small arms and light weapons, but they are not *expressly* required to do so. In addition, the ATT does not prescribe what stockpile management measures states parties may adopt, and accordingly they have full discretion.

Nairobi Protocol

Scope of stockpile management provisions

The Nairobi Protocol includes provisions governing the control, accountability, and disposal of ‘State-owned’ small arms and light weapons, described as those ‘held by security

forces and other state bodies’.³³ Accordingly, it does not extend to stocks held by manufacturers, distributors, or repairers, although it does include a separate undertaking on the part of states parties to include provisions for the storage of small arms and light weapons by civilian owners in their national laws.³⁴

The term ‘small arms’ in the Nairobi Protocol is defined to include ammunition for a small arm or light weapon and ‘other related materials’, defined as any components, parts, or replacement parts of small arms and light weapons.³⁵ Accordingly, the stockpile management measures extend to small arms, light weapons, ammunition, and parts and components.

Stockpile management measures

The Nairobi Protocol does not include an explicit reference to ‘stockpile management’. Instead, it includes a provision on the ‘Control and Accountability of State-owned Small Arms and Light Weapons’ (art. 6), under which states parties commit to implement measures in the following areas:

- **inventories:** establish and maintain complete national inventories of small arms and light weapons held by security forces and other state bodies;
- **tracing:** ensure strict national accountability and the effective tracing of small arms and light weapons owned and distributed by the state;
- **marking:** ensure that all small arms and light weapons in the possession of the state are marked with a unique mark; and³⁶
- **surplus:** develop programmes for the identification of surplus, obsolete, and seized small arms and light weapons in state possession and ensure that such weapons are securely stored, destroyed, or disposed of.³⁷

While the Nairobi Protocol itself does not prescribe the measures states parties should implement, as noted above, detailed guidance on the meas-

ures they should adopt in implementing the protocol are provided in the Best Practice Guidelines (RECSA, 2005). These guidelines recommend the following:

- **procedures and measures:** states parties should adopt the following procedures and measures:
 - regulations for stockpile locations;
 - transport security measures;
 - access control measures;
 - emergency procedures (i.e. protection measures in emergency situations);
 - lock-and-key and other physical security measures;
 - inventory management and accounting control procedures;
 - sanctions to be applied in the event of loss or theft;
 - procedures for the immediate reporting of any loss; and
 - the selection and security training of stockpile staff;³⁸ and
- **managing surplus:** the Best Practice Guidelines recommend that states parties regularly review their stockpiles to identify surplus stocks, provide indicators for determining surplus stocks, and guidelines on disposal.³⁹

ECOWAS Convention

Scope of stockpile management provisions

The ECOWAS Convention includes detailed provisions governing the management and security of national stocks of small arms and light weapons, ammunition, and other related materials. This includes weapons held by state agencies, as well as manufacturers, dealers, and other individuals.⁴⁰

Stockpile management measures

The stockpile management measures outlined in the ECOWAS Convention include the implementation of measures in the following areas:

- **standards and procedures:** member states are required to establish standards and procedures for

stockpile management that include the following elements:

- appropriate sites;
- physical security measures for storage facilities;
- inventory management and record keeping;
- staff training;
- security during manufacture and transportation; and
- sanctions in case of theft or loss;⁴¹
- **surplus:** member states are required to regularly review storage facilities and the condition of small arms and light weapons, ammunition, and other related materials in order to identify for disposal surplus and obsolete stocks;⁴² and
- **information exchange:** member states are required to exchange data regularly on existing stockpiles of small arms and light weapons (management, inventory, security, surplus, losses, theft, and destruction).⁴³

Kinshasa Convention

Scope of stockpile management provisions

The Kinshasa Convention includes detailed provisions relating to the management of weapons and ammunition stocks belonging to the state, including firms that manufacture for the state. It also includes a requirement that states parties establish norms and standards for the proper management of stocks held by licensed manufacturers, distributors, and repairers that do not act on behalf of the state,⁴⁴ although it does not prescribe what these norms and standards should be.

The measures outlined in the convention apply to the secure management of small arms and light weapons, ammunition, and parts and components.

Stockpile management measures

The stockpile management measures pertaining to state-held weapons include:

- **administrative measures and procedures:** states parties must establish 'administrative measures and procedures' governing the management of all stockpiles, including the following elements:
 - appropriate storage sites;
 - physical security measures;
 - inventory management and record keeping;
 - staff training;
 - measures to ensure security during transport;⁴⁵ and
 - building the capacity to manage and secure stockpiles;⁴⁶
- **inventory management:** a requirement to establish national inventories of small arms and light weapons, ammunition, and parts and components;⁴⁷
- **physical inspections:** a requirement to conduct a semi-annual inspection to evaluate and inventory stockpiles and check storage conditions;⁴⁸
- **surplus:** a requirement to 'collect, seize and register' small arms and light weapons, ammunition, and parts and components that are surplus and to destroy this surplus, while also submitting information on the destruction process to the sub-regional database established by the secretary-general of the Economic Community of Central African States (ECCAS).⁴⁹ States parties must also keep information on destroyed surplus in a national database for at least 30 years;⁵⁰ and
- **marking:** a requirement to mark weapons with, among other things, the identification of 'the ministerial department or State body under whose responsibility the weapon falls'.⁵¹

Khartoum Declaration

Scope of stockpile management provisions

The Khartoum Declaration includes an agreement among signatories to strengthen national capacities and institutions in order to develop and implement comprehensive small arms and light weapons control strategies,

national action plans, and interventions, 'including physical stockpile security management (PSSM)⁵² of State-held small arms and light weapons and ammunition, in accordance with international standards'.⁵³ In other words, it contains a general commitment to improve the stockpile management of state-held small arms and light weapons and ammunition,

but this does not extend to stocks held by manufacturers, distributors, or repairers, nor to parts and components.

Stockpile management measures

Although it does not specify the nature of the improvements to be made or the elements or processes to be strengthened, the Khartoum Convention does indicate that stockpile management procedures should be aligned with 'international standards'.

Since the commitment extends to the stockpile management of small arms and light weapons *and* ammunition, the international standards that are of relevance include the ISACS and IATG.

Summary of findings

Table 2 provides a summary of the scope of the relevant instruments with respect to stockpile management, as discussed in greater detail above.

As illustrated in Table 2, the scope of the instruments under review varies in terms of whose stocks must be managed or secured and whether this includes stocks of ammunition, parts, and components in addition to small arms and light weapons. In practice, this means that states that are parties to the ECOWAS Convention and/or the Kinshasa Convention, for instance, have broader, more onerous obligations with respect to stockpile management, since they have undertaken to ensure the safety and security of stockpiles of small arms, light weapons, ammunition, and parts and components belonging to both state agencies and manufacturers, distributors, and repairers. In contrast, states that have only signed the Khartoum Declaration have only committed to ensuring the security of stockpiles of small arms, light weapons, and ammunition belonging to state agencies.⁵⁴ Notably, although all the regional instruments require states parties to manage stockpiles of ammunition as well as small arms and light weapons, they do not differentiate between the management of small

Table 2 Comparative overview of scope of stockpile management provisions in relevant instruments

Instrument	PoA/ITI	Nairobi Protocol	ECOWAS Convention	Kinshasa Convention	Khartoum Declaration	ATT
Covers state-held stockpiles	•	•	•	•	•	ns
Covers stockpiles held by manufacturers, etc.	-	-	•	•	-	ns
Covers stockpile management of small arms and light weapons	•	•	•	•	•	ns
Covers stockpile management of ammunition	-	•	•	•	•	ns
Covers stockpile management of parts and components	-	•	•	•	-	ns

ns: not specified.

Table 3 Comparative overview of stockpile management measures in relevant instruments

Instrument	PoA/ITI	Nairobi Protocol ^a	ECOWAS Convention	Kinshasa Convention	Khartoum Declaration	ATT
Appropriate locations	•	-	•	•	-	-
Physical security measures	•	-	•	•	• ^b	-
Control of access to stocks	•	-	-	-	-	-
Inventory management	•	•	•	•	-	-
Staff training	•	-	•	•	• ^c	-
Secure transportation	•	-	•	•	-	-
Procedures and sanctions for theft or loss	•	-	•	-	-	-
Marking of state-held weapons	•	•	-	•	-	-
Identification of surplus	•	•	•	- ^d	-	-
Disposal of surplus	•	•	•	•	-	-
International and/or regional assistance	-	-	-	-	-	•

^a Table 3 reflects the provisions of the Nairobi Protocol only. As discussed above, the Best Practice Guidelines for the Nairobi Protocol include more detailed stockpile management measures as part of its recommendations. These are not reflected in the table.

^b Paragraph 2 of the Khartoum Declaration refers to strengthening national capacities and institutions with respect to small arms control strategies, 'including physical stockpile management (PSSM) of State-held SALW [small arms and light weapons] and ammunition, in accordance with international standards'. This suggests that state signatories of the declaration have committed to improving physical stockpile security measures in accordance with international standards.

^c Under paragraph 11 of the Khartoum Declaration signatory states have agreed to develop organizational structures for small arms control supported by technical specialists, including experts on the 'management of weapons', suggesting that some training on the issue is contemplated.

^d Article 15(1) of the Kinshasa Convention requires states parties to conduct semi-annual inspections to evaluate and inventory stockpiles and storage conditions. It does not specifically state that this should include the identification of surplus stocks, but it is implied and, in practice, presumably it does.



Unsecured stockpiles of weapons and munitions increase the risk of diversion; as well as the danger of catastrophic unplanned explosions at munitions sites. Photo: Gwenn Dubourthoumieu / MAG

arms and light weapons and the management of ammunition, and some of the various procedures applicable to the management of ammunition are not reflected.⁵⁵

As Table 3 illustrates, the stockpile management measures listed in the instruments under review vary, with the PoA, ECOWAS Convention, and Kinshasa Convention including the most comprehensive array of measures and being largely complementary. In other words, there is extensive overlap in the nature of stockpile management measures that the instruments require or recommend that states implement. Since the undertakings and commitments in the instruments are general in nature rather than prescriptive, there are few identifiable inconsistencies or contradictions among states' obligations under the various instruments. So, for exam-

ple, all the instruments—other than the Khartoum Declaration and ATT—require states to establish procedures for inventory management, but do not describe or define the nature of the inventory management processes that should be adopted (e.g. whether the information should be stored electronically, how weapons should be classified, how often they should be accounted for, etc.).

A notable exception arises in the context of surplus where an inconsistency arises with respect to what states are encouraged or required to do with identified surplus stocks under the various instruments. Under the PoA, for example, there is a preference for *destroying* surplus rather than disposing of it in some other way (e.g. retransfer).⁵⁶ The Kinshasa Convention contains even stronger language, requiring states parties to 'systemati-

cally destroy' surplus stocks and giving no other option for disposal.⁵⁷ The other instruments that include specific provisions on the issue—the Nairobi Protocol and the ECOWAS Convention—do not express a preference, although they do mention destruction as an option.⁵⁸ Therefore, states that are states parties to both the Kinshasa Convention and the Nairobi Protocol have an obligation under one instrument to destroy surplus stocks without a corresponding obligation under the other instrument. Arguably, the legal obligation imposed by the most recent instrument prevails, which would mean the requirement to destroy surplus under the Kinshasa Convention should be followed. However, the Kinshasa Convention is not yet in force (although signatories to it are still obliged to act according to its objectives and purpose). In practice,

states should be encouraged to implement and apply the provisions that are most consistent with emerging standards and best practices, and in this context the destruction of surplus stocks should be the favoured choice.⁵⁹

Another minor discrepancy exists with respect to the requirement to review stocks in order to identify surplus. Most of the instruments do not specify the frequency with which states should inspect stocks; they simply note it should be done 'regularly'⁶⁰ and leave it to states' discretion. The Kinshasa Convention, however, requires states parties to conduct 'semi-annual inspections' of stockpiles that (implicitly) involve the identification of surplus stocks.⁶¹ Accordingly, states parties to the Kinshasa Convention must inspect stockpiles *at least* once every six months, while under other instruments they have the discretion to determine how 'regularly' they will do so.

In summary, in a few instances states' obligations under one instrument may be broader in scope (because they extend to securing stocks of ammunition and parts and components, not just small arms and light weapons, or because they require a state to ensure the security of stocks held by manufacturers, distributors, and repairers); and in other instances states may have additional obligations under one instrument because its provisions are more comprehensive and detailed. But for the most part states' undertakings and commitments under the relevant instruments with respect to stockpile management are consistent and complementary, with the most notable exception being whether (and how) to dispose of surplus stocks.

Diversion

What is diversion?

Definition

There is no internationally agreed definition of the term 'diversion', nor is it defined in any of the instruments under review. The term derives from the word 'divert', which means to cause to change course or take a different route or reallocate to a different purpose.⁶² In the context of arms, it has been defined as follows:

*Arms diversion is the process by which holdings or transfers of arms that are authorized by relevant states (and are subject to their legal controls) are delivered to unauthorized end-users, or are put to unauthorized end-uses by authorized end-users.*⁶³

And in the context of arms *transfers*, arms transfer diversion has been defined as:

*The transfer of controlled items authorized for export to one end user, but delivered to an unauthorized end user or used by the authorized end user in unauthorized ways.*⁶⁴

In the context of ammunition, the IATG defines the term as follows:

diversion
*the shifting of weapons, ammunition or explosives from the legal market or owner to an illegal market or owner as a result of losses, theft, leakage or proliferation from a stockpile or other source.*⁶⁵

Aim

One of the central aims of all the instruments under review is to control small arms and light weapons so as prevent their diversion, i.e. to prevent them entering the illicit market, being used for unauthorized uses or by unauthorized users, or being re-exported without the consent of the original exporting state. Accordingly,

most of the small arms control measures listed in the instruments—manufacturing regulations, civilian possession regulations, marking, record keeping, tracing, brokering controls, border controls, and stockpile management provisions—constitute diversion prevention measures, even if they are not explicitly described as such.

UN Programme of Action and International Tracing Instrument

The PoA includes a comprehensive range of small arms control measures aimed at diversion prevention, although it does not label them as such. These include provisions governing criminalization (para. II.3),⁶⁶ marking (PoA, paras. II.7 and II.8; ITI, Part III); record keeping (PoA, para. II.9; ITI, Part IV); tracing⁶⁷ (PoA, para. II.10; ITI, Part V); manufacture (para. II.2); transfer (paras. II.2, II.11, II.12, and II.13); end-user certification (para. II.12); brokering (para. II.14); the destruction of confiscated, seized, or collected weapons (para. II.16); stockpile management (para. II.17); surplus identification and disposal (paras. II.18 and II.19); public awareness and confidence-building programmes (para. II.20); information exchange (paras. II.23, II.33, III.9, III.11, and III.12); and DDR programmes (paras. II.21 and II.22).

The PoA includes a specific undertaking on the part of UN member states to assess applications for export authorizations according to strict national regulations and procedures, 'taking into account in particular the risk of diversion of these weapons into the illegal trade'.⁶⁸ The commitment to assess the risk of diversion does not extend to other forms of transfer and there is no obligation to deny the export if such a risk is detected, although arguably this is implied.

Arms Trade Treaty

The ATT includes an entire article dedicated to diversion (art. 11) and, on the surface, has the most detailed requirements on diversion of all the instruments under review, although notably it does not define the term⁶⁹ and, since the ATT is about the *international trade* in conventional arms, it relates to the diversion of arms transferred internationally. States parties' obligations under the ATT with respect to diversion include the following:

- **general obligation:** each state party involved in the transfer of conventional arms must take measures to prevent their diversion;⁷⁰
- **to assess the risk of diversion prior to export:** an exporting state party must assess the risk of diversion before authorizing an export of arms and must consider establishing mitigation measures to reduce any detected risk of diversion 'such as confidence-building measures or jointly developed and agreed programmes by the exporting and importing States'.⁷¹ Other prevention measures may include examining parties involved in the export; requiring additional documentation, certificates, and assurances; and considering *not* authorizing the export;⁷²
- **to cooperate and exchange information:** importing, transit, transshipment, and exporting states parties must cooperate and exchange information to mitigate the risk of diversion of the transfer of arms;⁷³
- **to take action:** if a state party detects a diversion of transferred arms, it must take measures to address this;⁷⁴
- **to exchange information:** states parties are encouraged to share relevant information with one another on effective measures to address diversion;⁷⁵ and
- **to report on diversion:** states parties are encouraged to report on measures taken to address diver-

sion⁷⁶ and on measures that have proved to be effective in addressing the diversion of transferred arms.⁷⁷

The ATT provides some examples of steps states may take to prevent the diversion of exported arms, including examining the parties involved in the export; requiring additional documentation, certificates, and assurances; and not authorizing the export,⁷⁸ but it does not prescribe the measures that states should take to prevent diversion; this is left to the discretion of implementing states.

Nairobi Protocol

The Nairobi Protocol includes a comprehensive range of small arms control measures aimed at diversion prevention, although it does not label them as such. These include provisions governing criminalization (arts. 3(a) and 3(b)); civilian possession (arts. 3(c)(i)–(iii), 3(c)(viii)–(xi), and 5); manufacture (arts. 3(iv) and 3(v)); marking (arts. 3(vi) and 7); record keeping (art. 7); tracing (art. 7); seizure, confiscation, and forfeiture (arts. 3(vii) and 9); collection (art. 12); brokering (arts. 3(xii) and 11); strengthen-

Table 4 Comparative overview of small arms control/diversion prevention measures in relevant instruments

Instrument	PoA/ITI	Nairobi Protocol ^a	ECOWAS Convention	Kinshasa Convention	Khartoum Declaration	ATT
Manufacture	•	•	•	•	-	-
Civilian possession	-	•	•	•	-	-
Marking	•	•	•	•	-	-
Record keeping	•	•	•	•	-	-
Tracing	•	•	•	•	-	-
Criminalization	•	•	•	•	-	-
International transfer	•	•	•	•	-	•
Assess risk of 'diversion'	•	-	•	•	-	•
End-user certification	•	• ^b	• ^c	•	-	•
Brokering	•	•	•	•	-	•
Stockpile management	•	•	•	•	•	-
Identification of surplus	•	•	•	- ^d	-	-
Disposal of surplus	•	•	•	•	-	-
Collection, seizure, confiscation	•	•	•	•	•	-
Border controls	•	-	•	•	•	-
Information exchange (e.g. reporting)	•	•	•	•	•	•
Public awareness	•	•	•	•	•	-
DDR programmes	•	-	-	-	• ^e	-
Corruption	-	•	•	•	-	-

^a Table 3 reflects the provisions of the Nairobi Protocol only, not the Best Practice Guidelines for the Nairobi Protocol.

^b Under Article 16(g) of the Nairobi Protocol states parties undertake to 'establish a sub-regional system to harmonise relevant import, export and transfer documents and end-user certificates', indicating that end-user certificates are contemplated as part of an effective transfer control system.

^c Article 9(e)(i) of the ECOWAS Convention obliges member states to keep records of certain information pertaining to transactions on the national register or database, including information on the end-user certificate, indicating that end-user certificates are contemplated as part of an effective transfer control system.

^d Article 15(1) of the Kinshasa Convention requires states parties to conduct semi-annual inspections to evaluate and inventory stockpiles and storage conditions. It does not specifically state that this should include the identification of surplus stocks, but it is implied and, in practice, presumably it does.

^e Khartoum Declaration (para. 11).

ing law enforcement and border controls (arts. 4 and 15); stockpile management (arts. 6 and 8); transfer (art. 10); public education and awareness (art. 13); transparency and information exchange (art. 16); and addressing corruption (art. 17).

There is no explicit reference to diversion in the Nairobi Protocol and, unlike the PoA, ECOWAS Convention, Kinshasa Convention, and ATT, there is no specific obligation on the part of states parties to assess the risk of diversion prior to authorizing a transfer of small arms, light weapons, ammunition, or parts and components.

ECOWAS Convention

The ECOWAS Convention includes a comprehensive range of small arms control measures aimed at diversion prevention, although it does not label them as such. These include provisions governing transfers of small arms and light weapons (arts. 3–6), manufacture (arts. 7 and 8), transparency and information exchange (arts. 9–13), civilian possession (arts. 14 and 15), stockpile management and security (art. 16), collection and destruction (art. 17), marking (art. 18), record keeping (arts. 9–11), corruption (art. 13), tracing (art. 19), brokering (art. 20), criminalization (art. 21), border controls (art. 22), and public education and awareness (art. 23).

The only explicit reference to diversion occurs in Article 6(5), under which a transfer must not be authorized if it is ‘likely’ to be ‘diverted’ within the transit or importing country or be re-exported to unauthorized users or into the illicit trade. In other words, member states are required to assess the risk of diversion when transferring⁷⁹ small arms, light weapons, ammunition or parts and components, and must deny the transfer of the items if they are ‘likely’ to be diverted.

Table 5 Comparative overview of requirement to assess risk of diversion in relevant instruments

Instrument	PoA/ ITI	Nairobi Protocol ^a	ECOWAS Convention	Kinshasa Convention	Khartoum Declaration	ATT
Is there an obligation to assess risk of diversion?	•	-	•	•	-	•
Does the obligation extend to:						
- exports?	•	-	•	•	-	•
- imports?	-	-	•	•	-	-
- transit or transshipment?	-	-	-	•	-	-
- transportation?	-	-	-	•	-	-
- other movement?	-	-	-	•	-	-
Does the obligation extend to exports/transfers of:						
- small arms and light weapons?	•	-	•	•	-	•
- ammunition?	-	-	•	•	-	-
- parts and components?	-	-	•	•	-	-
What is the risk threshold?	ns	-	‘likely’ to be diverted	‘possibility’ items ‘might’ be diverted	-	ns ^b
If a risk of diversion is detected, what action must be taken?	ns	-	‘shall not be authorized’	‘shall be denied’	-	‘may’ not authorize the export

ns: not specified.

^a Table 5 reflects the provisions of the Nairobi Protocol only, not the Best Practice Guidelines for the Nairobi Protocol.

^b Article 11(2) of the ATT does not specify the threshold of the risk to be assessed, but merely stipulates that states parties must assess the risk of diversion. In practice, however, states parties to the ATT may apply the same threshold as applies to other transfer criteria in the treaty in Article 7(3), i.e. they may deny the export if there is an ‘overriding risk’ of diversion. But they are not obliged to apply the same threshold.

Kinshasa Convention

The Kinshasa Convention includes a comprehensive range of small arms control measures aimed at diversion prevention, although it does not label them as such. These include provisions governing transfers to states (art. 4); a prohibition on transfers to non-state actors (art. 5); end-user certification (art. 6); civilian possession (arts. 7–10); manufacture, distribution, and repair (arts. 11 and 12); brokering (art. 13); marking and tracing (art. 14); record keeping (art. 20); registration, collection, and destruction (art. 15); stockpile management (art. 16); border controls (arts. 17 and 18); public awareness (art. 19); information exchange (art. 24); criminalization (art. 25); and corruption (art. 26).

The only specific reference to diversion occurs in Article 5(5)(a), under which states parties agree that a

transfer authorization shall be denied if ‘there is a possibility’ that the small arms, light weapons, ammunition, or parts and components being transferred ‘might be diverted in the importing or transit State, to unauthorized use or users or to illicit trade, or even re-exported’. In other words, states parties are required to assess the risk of diversion when transferring⁸⁰ small arms, ammunition, or parts and components, and must deny the transfer of the items if there is a ‘possibility’ that they ‘might’ be diverted.

Khartoum Declaration

The Khartoum Declaration includes undertakings by signatory states with respect to the following small arms control measures that constitute diversion prevention measures: strengthening national capacities and institutions to develop and implement

comprehensive small arms control strategies, including national action plans and stockpile management (para. 2); promoting joint border security initiatives and strengthening joint law enforcement agencies (para. 7); establishing national databases and creating information sharing at the regional and bilateral levels (para. 8); developing joint training programmes to improve the capabilities and capacities of law enforcement agencies (para. 9); improving national laws regulating small arms (para. 10); creating and developing organizational structures for small arms control, such as DDR commissions (para. 11); supporting public information and awareness-raising efforts (paras. 12 and 13); and (eventually) encouraging weapons collection and destruction (para. 12).

However, the Khartoum Declaration makes no specific reference to diversion and, unlike the PoA, ECOWAS Convention, Kinshasa Convention, and ATT, there is no specific obligation on the part of states parties to assess the risk of diversion prior to authorizing a transfer of small arms, light weapons, ammunition, or parts and components.

Summary of findings

Table 4 provides a summary of the small arms control measures in the relevant instruments that constitute diversion prevention measures, as discussed in greater detail above.

As is illustrated in Table 4, although the ATT includes a clear obligation on the part of states parties to take measures to prevent diversion, the examples of diversion prevention measures they may take are limited to the context of international transfers. The other instruments under consideration, however, include a detailed array of diversion prevention measures covering the life of a weapon. They also complement the ATT by providing more detailed examples of the diversion prevention measures states could and should take to prevent the diversion of transferred arms.

Table 5 provides an overview of the requirement to assess the risk of diversion of an export or transfer prior to authorization, as it appears in the various instruments.

As illustrated by Table 5, the ECOWAS Convention and Kinshasa Convention both contain a stronger, broader commitment to assess the risk of diversion before authorizing a transfer of arms than the ATT. The commitment in these conventions is stronger than that which exists in the ATT for several reasons:

- Under the ATT states parties are only required to assess the risk of diversion with respect to *exports*, whereas member states of the ECOWAS Convention and states parties to the Kinshasa Convention must assess the risk of diversion associated with *all* types of transfers (including import, transit, transshipment, transportation, or any other movement⁸¹).
- Under the ATT states parties are only obliged to assess the risk of diversion associated with exports of conventional arms (including small arms and light weapons, but excluding ammunition, parts, and components), whereas member states of the ECOWAS Convention and states parties to the Kinshasa Convention must assess the risk of diversion associated with any transfer of small arms, light weapons, ammunition, and parts and components.
- States parties to the ATT are not obliged to deny an export if they detect a risk of diversion (although they *may* do so), whereas member states of the ECOWAS Convention *must* ('shall') deny the export if the transfer is 'likely' to be diverted and states parties to the Kinshasa Convention *must* ('shall') deny the export if there is a mere 'possibility' that diversion 'might' occur.

Accordingly, member states of the ECOWAS Convention and states parties to the Kinshasa Convention should apply the diversion risk crite-

ria as it appears in these instruments, thus ensuring that they adhere to the higher standard to which they have committed at the regional level.

Notes

- 1 The instruments discussed are listed here, together with their abbreviations and, in an endnote, their publishing information. The latter is given in full in the References section at the end of the paper. Subsequent references to these instruments use the abbreviation, while other documents that are referred to below use the conventional referencing method of author and date, as given in the References.
- 2 UN (2001).
- 3 UN (2005).
- 4 UN (2013).
- 5 ECOWAS (2006).
- 6 Nairobi Protocol (2004).
- 7 Kinshasa Convention (2010).
- 8 Khartoum Declaration (2012).
- 9 CASA (2012, p. v).
- 10 PoA (para. II.17).
- 11 Kinshasa Convention (art. 2(v)). In turn, 'national stockpile' is defined as: 'all the small arms and light weapons, their ammunition and all parts and components that can be used for the their manufacture, repair and assembly held by a country, including those in the possession of the armed forces, security forces and manufacturing firms working for the State' (art. 2(u)).
- 12 RECSA (2005, para. 1.1, p. 6).
- 13 UN (2011, para. 3.265).
- 14 CASA (2012, p. 1). Another aim of stockpile management is to ensure that appropriate and adequate stocks are available to meet operational needs.
- 15 PoA (para. II.17); ECOWAS Convention (art. 16); Kinshasa Convention (arts. 15 and 16); RECSA (2005); CASA (2012).
- 16 The PoA and ITI are closely related instruments and process-related meetings are held simultaneously, hence they are considered together.
- 17 PoA (para. II.17).
- 18 There is a requirement under paragraph II.2 of the PoA for UN member states to exercise effective control over manufacturers, which could arguably extend to a requirement that manufacturers secure their stocks, but this is not explicitly contemplated. In addition, there are provisions in the PoA requiring UN member states to criminalize illegal stockpiling and to take action against those involved in such activities (PoA, para. II.3), but it does not go so far as to define 'illegal

- stockpiling' as including the poor management of stocks.
- 19 PoA (para. II.21).
- 20 PoA (para. II.17).
- 21 PoA (para. II.18). The PoA (para. II.19) also gives guidance to UN member states on methods to destroy small arms and light weapons, urging them to take into account, among other things, the report of the UN secretary-general on destruction methods for small arms, light weapons, ammunition, and explosives (UNSC, 2000).
- 22 Most of the instruments under review mention marking as a small arms control measure. Only where the instrument contains a commitment specific to the marking of *state-held weapons* is it noted in this paper.
- 23 ITI (Part III.8(d)).
- 24 As with marking, most of the instruments under review mention tracing as a small arms control measure. Only where the instrument contains a commitment specific to the tracing of *state-held weapons* is it noted in this paper.
- 25 PoA (para. II.10).
- 26 PoA (para. II.21).
- 27 PoA (paras. III.6 and III.8).
- 28 PoA (para. II.29).
- 29 ATT (art. 16(1)).
- 30 Attempts to include stockpile management obligations in the ATT during the negotiations were ultimately rejected on the basis that stockpile management is a domestic control issue rather than an international transfer issue.
- 31 ATT (art. 11(2)).
- 32 ATT (art. 11(4)).
- 33 Nairobi Protocol (art. 6(a)).
- 34 Nairobi Protocol (art. 3(c)(viii)).
- 35 Nairobi Protocol (art. 1).
- 36 Nairobi Protocol (art. 7(c)).
- 37 Nairobi Protocol (art. 8(b)).
- 38 RECSA (2005, para. 1.1.3, pp. 8–10).
- 39 RECSA (2005, paras. 1.3.1 and 1.4).
- 40 ECOWAS Convention (art. 16).
- 41 ECOWAS Convention (art. 16(2)).
- 42 ECOWAS Convention (arts. 16(4) and 17(1)(a)).
- 43 ECOWAS Convention (art. 19(2)(c)).
- 44 Kinshasa Convention (art. 12(3)). See also Article 9(3).
- 45 Kinshasa Convention (arts. 16(1) and (2)).
- 46 Kinshasa Convention (art. 16(4)).
- 47 Kinshasa Convention (art. 16(3)).
- 48 Kinshasa Convention (art. 15(1)).
- 49 Kinshasa Convention (arts. 15(2) and 15(3)).
- 50 Kinshasa Convention (art. 15(4)).
- 51 Kinshasa Convention (art. 14(5)(f)).
- 52 Usually the abbreviation 'PSSM' refers to 'physical security stockpile management' rather than 'physical stockpile security management'.
- 53 Khartoum Declaration (operative para. 2).
- 54 Libya is the only signatory to the Khartoum Declaration that is not a member of or party to another regional instrument under review.
- 55 E.g. fire safety procedures and separation distances (see IATG).
- 56 PoA (para. II.18).
- 57 Kinshasa Convention (art. 15(3)).
- 58 The Nairobi Protocol stipulates that surplus stocks should be 'destroyed or disposed of in a way that prevents them from entering the illicit market or flowing into regions in conflict or any other destination that is not fully consistent with agreed criteria for restraint' (art. 8(b)), while the ECOWAS Convention notes that surplus stocks should be collected and 'securely stored and/or destroyed' (art. 17(2)).
- 59 See CASA (2012, para. 12.1(e)).
- 60 PoA (para. II.18); ECOWAS Convention (art. 16(4)); RECSA (2005, para. 1.3.1).
- 61 Kinshasa Convention (art. 15(1)).
- 62 *Oxford English Dictionary*.
- 63 Greene and Kirkham (2009, p. 9).
- 64 Schroeder (2008, p. 114).
- 65 UN (2011, para. 3.83).
- 66 Unless the ITI is specifically referred to, the paragraphs in question are from the PoA.
- 67 Although the main aim of tracing is to investigate, prosecute, and potentially disrupt illicit trafficking rather than prevent diversion, successful prosecutions could deter illicit activities.
- 68 PoA (para. II.11).
- 69 Although paragraph 3 of the Preamble notes the need to prevent the diversion of conventional arms 'to the illicit market, or for unauthorized end use and end users'.
- 70 ATT (arts. 11(1) and 11(2)).
- 71 ATT (art. 11(2)).
- 72 ATT (art. 11(2)).
- 73 ATT (art. 11(3)).
- 74 ATT (art. 11(4)).
- 75 ATT (art. 11(5)).
- 76 ATT (art. 11(6)).
- 77 ATT (art. 13(2)).
- 78 ATT (art. 11(2)).
- 79 The term 'transfer' is defined to include the 'import, export, transit, transshipment and transport or any other movement whatsoever of small arms and light weapons, ammunition and other related materials from or through the territory of a State' (art. 1(9)).
- 80 The term 'transfer' is defined to include the 'import, export, transit, transshipment and transport or other movement to, across and from the territory of on State Party' (art. 2(e)).
- 81 Notably, this would include the movement of small arms, light weapons, ammunition, or parts and components belonging to states and being moved for *their own use*, e.g. for peacekeeping operations. Such transfers are excluded from the application of the ATT provided that the items stay under the state's ownership (art. 2(3)).

List of abbreviations

ATT	Arms Trade Treaty	Kinshasa Convention	Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition and All Parts and Components that Can Be Used for Their Manufacture, Repair and Assembly
DDR	Disarmament, demobilization, and reintegration	Nairobi Protocol	Nairobi Protocol for the Prevention, Control, and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa
ECCAS	Economic Community of Central African States	PoA	Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
ECOWAS Convention	ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials	RECSA	Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States
IATG	International Ammunition Technical Guideline	UN	United Nations
ISACS	International Small Arms Control Standards		
ITI	International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons		
Khartoum Declaration	Khartoum Declaration on the Control of Small Arms and Light Weapons across the Neighbouring Countries of Western Sudan		

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Annex A. Stockpile management provisions in the relevant instruments

PoA

II. Preventing, combating and eradicating the illicit trade in small arms and light weapons in all its aspects

At the national level

8. To adopt where they do not exist and enforce, all the necessary measures to prevent the manufacture, stockpiling, transfer and possession of any unmarked or inadequately marked small arms and light weapons.
10. To ensure responsibility for all small arms and light weapons held and issued by the State and effective measures for tracing such weapons.
17. To ensure, subject to the respective constitutional and legal systems of States, that the armed forces, police or any other body authorized to hold small arms and light weapons establish adequate and detailed standards and procedures relating to the management and security of their stocks of these weapons. These standards and procedures should, inter alia, relate to: appropriate locations for stockpiles; physical security measures; control of access to stocks; inventory management and accounting control; staff training; security, accounting and control of small arms and light weapons held or transported by operational units or authorized personnel; and procedures and sanctions in the event of thefts or loss.
18. To regularly review, as appropriate, subject to the respective constitutional and legal systems of States, the stocks of small arms and light weapons held by armed forces, police and other authorized bodies and to ensure that such stocks declared by competent national authorities to be surplus to requirements are clearly identified, that programmes for the responsible disposal, preferably through destruction, of such stocks are established and implemented and that such stocks are adequately safeguarded until disposal.

At the regional level

29. To encourage States to promote safe, effective stockpile management and security, in particular physical security measures, for small arms and light weapons, and to implement, where appropriate, regional

and subregional mechanisms in this regard.

III. Implementation, international cooperation and assistance

6. With a view to facilitating implementation of the Programme of Action, States and international and regional organizations should seriously consider assisting interested States, upon request, in building capacities in areas including the development of appropriate legislation and regulations, law enforcement, tracing and marking, stockpile management and security, destruction of small arms and light weapons and the collection and exchange of information.
8. Regional and international programmes for specialist training on small arms stockpile management and security should be developed. Upon request, States and appropriate international or regional organizations in a position to do so should support these programmes. The United Nations, within existing resources, and other appropriate international or regional organizations should consider developing capacity for training in this area.
14. Upon request, States and appropriate international or regional organizations in a position to do so should provide assistance in the destruction or other responsible disposal of surplus stocks or unmarked or inadequately marked small arms and light weapons.

ITI

III. Marking

8. For the purpose of identifying and tracing illicit small arms and light weapons, States will:
 - (d) Take all necessary measures to ensure that all small arms and light weapons in the possession of government armed and security forces for their own use at the time of adoption of this instrument are duly marked. Markings on these small arms and light weapons do not necessarily have to meet the requirements of subparagraph 8 (a) above;

ATT

Article 16. International assistance

1. In implementing this Treaty, each State Party may seek assistance including legal or legislative assistance, institutional capacity-building, and technical, material or financial assistance. Such assistance may include stockpile management, dis-

armament, demobilization and reintegration programmes, model legislation, and effective practices for implementation. Each State Party in a position to do so shall provide such assistance, upon request.

Nairobi Protocol

Article 6. Control and accountability of state-owned small arms and light weapons

States Parties undertake to:

- (a) establish and maintain complete national inventories of small arms and light weapons held by security forces and other state bodies, to enhance their capacity to manage and maintain secure storage of state-owned small arms and light weapons;
- (b) ensure strict national accountability and the effective tracing of all small arms and light weapons owned and distributed by the state.

Article 7. Marking and tracing of small arms and light weapons and record-keeping

States Parties undertake to:

- (c) ensure that all small arms and light weapons in the possession of the state are marked with a unique mark.

Article 8. Disposal of state-owned small arms and light weapons

States Parties undertake to identify and adopt effective programmes for the collection, safe-storage, destruction and responsible disposal of small arms and light weapons rendered surplus, redundant or obsolete, in accordance with domestic laws, through, inter alia, peace agreements, demobilisation or (re-)integration of excombatants, or re-equipment of armed forces or other armed state bodies. States Parties shall accordingly:

- (a) develop and implement, where they do not exist, national programmes for the identification of surplus, obsolete and seized stocks of small arms and light weapons in possession of the state;
- (b) ensure that small arms and light weapons rendered surplus, redundant or obsolete through the implementation of a peace process, the re-equipment or reorganization of armed forces and/ or other state bodies are securely stored, destroyed or disposed of in a way that prevents them from entering the illicit market or flowing into regions in conflict or any other destination that is not fully consistent with agreed criteria for restraint.

ECOWAS Convention

Article 16. Management and security of stockpiles

1. Member States shall take the necessary measures to ensure the safe and effective management, storage and security of their national stocks of small arms and light weapons;
2. To this effect, Member States shall establish effective standards and procedures for stockpile management, storage and security. These standards and procedures shall include:
 - a) appropriate site;
 - b) physical security measures of storage facilities;
 - c) inventory management and record keeping;
 - d) staff training;
 - e) security during manufacture and transportation;
 - f) sanctions in case of theft or loss.
3. Member States shall ensure that stockpiles of small arms and light weapons by manufacturers, dealers as well as individuals are securely stored in accordance with the appropriate standards and procedures;
4. Member States shall undertake to regularly review, in accordance with national laws and standards, the storage facilities and conditions of small arms and light weapons held by their armed and security forces and other authorised bodies in order to identify, for disposal, surplus and obsolete stocks;
5. The Executive Secretary shall ensure, in collaboration with Member States, that effective standards and procedures for stockpile management of weapons collected in the context of peace operations are duly observed.

Article 17. Collection and destruction of small arms and light weapons

1. Member States shall undertake to collect and/ or destroy:
 - a) the arms which are surplus to the national needs or have become obsolete;
2. All weapons so collected must be registered and securely stored and or destroyed.

Article 19. Tracing

2. In the case of other small arms and light weapons, Member States shall exchange the following data on a regular basis:
 - c) on existing stockpiles (management, inventory, security, surplus, losses, theft, destruction).

Kinshasa Convention

Article 2. Definitions

- (u) National stockpile: all the small arms and light weapons, their ammunition and all parts and components that can be used for the [sic] their manufacture, repair and assembly held by a country, including those in the possession of the armed forces, security forces and manufacturing firms working for the State;
- (v) Management of the national stockpile: procedures and activities to ensure safe and secure storage, transport, handling, accounting and recording of small arms and light weapons, their ammunition and all parts and components that can be used for the manufacture, repair and assembly of such weapons.

Article 14. Marking and tracing

5. The marking of weapons under this Convention shall include, at a minimum, the following elements:
 - (f) The ministerial department or State body under whose responsibility the weapon falls.

Article 15. Registration, collection and destruction

1. The States Parties shall conduct semi-annual inspections to evaluate and inventory stockpiles and the conditions under which small arms and light weapons, their ammunition and all parts and components that can be used for their manufacture, repair and assembly in the possession of the armed and security forces and other authorized bodies are stored.
2. The States Parties shall collect, seize and register small arms and light weapons, their ammunition and all parts and components that can be used for their manufacture, repair and assembly that are surplus, obsolete or illicit.
3. The States Parties shall systematically destroy small arms and light weapons, their ammunition and all parts and components that can be used for their manufacture, repair and assembly that are surplus, obsolete or illicit and shall transmit the relevant information to the sub-regional database established by the Secretary-General of ECCAS.
4. The States Parties shall keep information concerning the destruction of small arms and light weapons, their ammunition and all parts and components that can be used for their manufacture, repair and assembly that are surplus, obsolete or illicit, in national electronic databases for a minimum of 30 years.

Article 16. Management and security of stockpiles

1. The States Parties shall maintain the security of depots and ensure the proper management of stockpiles of small arms and light weapons, their ammunition and all parts and components that can be used for their manufacture, repair and assembly at all times. For that purpose, they shall define and harmonize the necessary administrative measures and procedures for stockpile management, security and storage.
2. The administrative measures and procedures referred to in paragraph 1 of this article shall take into account, inter alia, determination of appropriate storage sites, establishment of physical security measures, definition of procedures for inventory management and recordkeeping, staff training and the identification of measures to ensure security during manufacture and transport.
3. The States Parties shall establish national inventories of small arms and light weapons, their ammunition and all parts and components that can be used for their manufacture, repair and assembly that are in the possession of the armed and security forces and any other competent State body.
4. The States Parties shall adopt the necessary administrative measures and procedures to strengthen the capacity to manage and secure stores of small arms and light weapons, their ammunition and all parts and components that can be used for their manufacture, repair and assembly belonging to the armed and security forces and any other competent State body.

Khartoum Declaration

2. Commit to strengthening national capacities and institutions to develop and implement comprehensive SALW control strategies, National Action Plans and interventions, including physical stockpile security (PSSM) of State-held SALW and ammunition, in accordance with international standards,
11. Urge to create or develop organizational structures for SALW control, supported by technical and administrative specialists in each country to achieve and consolidate peace and security; in particular coordination offices, national agencies, and experts on organization and management of weapons, and disarmament, demobilization and reintegration commissions.

Annex B. Diversion-specific provisions in the relevant instruments

PoA

II. Preventing, combating and eradicating the illicit trade in small arms and light weapons in all its aspects

At the national level

2. To put in place, where they do not exist, adequate laws, regulations and administrative procedures to exercise effective control over the production of small arms and light weapons within their areas of jurisdiction and over the export, import, transit or retransfer of such weapons, in order to prevent illegal manufacture of and illicit trafficking in small arms and light weapons, or their diversion to unauthorized recipients.
11. 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.

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ATT

Preamble

Underlining the need to prevent and eradicate the illicit trade in conventional arms and to prevent their diversion to the illicit market, or for unauthorized end use and end users, including in the commission of terrorist acts,

Principles

- The responsibility of all States, in accordance with their respective international obligations, to effectively regulate the international trade in conventional arms, and to prevent their diversion, as well as the primary responsibility of all States in establishing and implementing their respective national control systems;

Article 1. Object and purpose

The object of this Treaty is to:

- Prevent and eradicate the illicit trade in conventional arms and prevent their diversion;

Article 11. Diversion

1. Each State Party involved in the transfer of conventional arms covered under Article 2 (1) shall take measures to prevent their diversion.
2. The exporting State Party shall seek to prevent the diversion of the transfer of conventional arms covered under Article 2 (1) through its national control system, established in accordance with Article 5 (2), by assessing the risk of diversion of the export and considering the establishment of mitigation measures such as confidence-building measures or jointly developed and agreed programmes by the exporting and importing States. Other prevention measures may include, where appropriate: examining parties involved in the export, requiring additional documentation, certificates, assurances, not authorizing the export or other appropriate measures.
3. Importing, transit, trans-shipment and exporting States Parties shall cooperate and exchange information, pursuant to their national laws, where appropriate and feasible, in order to mitigate the risk of diversion of the transfer of conventional arms covered under Article 2 (1).
4. If a State Party detects a diversion of transferred conventional arms covered under Article 2 (1), the State Party shall take appropriate measures, pursuant to its national laws and in accordance with international law, to address such diversion. Such measures may include alerting potentially affected States Parties, examining diverted shipments of such conventional arms covered under Article 2 (1), and taking follow-up measures through investigation and law enforcement.
5. In order to better comprehend and prevent the diversion of transferred conventional arms covered under Article 2 (1), States Parties are encouraged to share relevant information with one another on effective measures to address diversion. Such information may include information on illicit activities including corruption, international trafficking routes, illicit brokers, sources of illicit supply, methods of concealment, common points of dispatch, or destinations used by organized groups engaged in diversion.
6. States Parties are encouraged to report to other States Parties, through the Secretariat, on measures taken in addressing the diversion of transferred conventional

arms covered under Article 2 (1).

Article 13. Reporting

2. States Parties are encouraged to report to other States Parties, through the Secretariat, information on measures taken that have been proven effective in addressing the diversion of transferred conventional arms covered under Article 2 (1).

Article 15. International cooperation

4. States Parties are encouraged to cooperate, pursuant to their national laws, in order to assist national implementation of the provisions of this Treaty, including through sharing information regarding illicit activities and actors and in order to prevent and eradicate diversion of conventional arms covered under Article 2 (1).

Nairobi Protocol

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ECOWAS Convention

Article 6. Cases for refusal of exemptions for transfers

5. A transfer shall not be authorised if it is likely to be diverted, within the transit or importing country or be re-exported, to unauthorized uses or users or into the illicit trade;

Kinshasa Convention

Article 5. Procedure and conditions for the issuance of transfer authorizations

5. ... a transfer authorization shall be denied by the competent national body if:
 - (a) There is a possibility that the small arms and light weapons, their ammunition and all parts and components that can be used for their manufacture, repair and assembly might be diverted, in the importing or transit State, to unauthorized use or users or to illicit trade, or even re-exported.

Khartoum Declaration

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Annex C. African states' membership of relevant instruments

	PoA	Nairobi Protocol		ECOWAS Convention		Kinshasa Convention		Khartoum Declaration	ATT	
		Signatory	State party ^a	Signatory	State party ^b	Signatory	State party ^c		Signatory	State party
Algeria	1									
Angola	1					1			1	
Benin	1			1	1				1	
Botswana	1									
Burkina Faso	1			1	1				1	1
Burundi	1	1	1			1			1	
Cameroon	1					1			1	
Cape Verde	1			1	1				1	
Central African Republic	1					1	1	1		
Chad	1					1	1	1	1	
Comoros	1								1	
Côte d'Ivoire	1			1					1	
Democratic Republic of the Congo	1	1	1			1		1		
Djibouti	1	1	1						1	
Egypt	1									
Equatorial Guinea	1					1				
Eritrea	1	1	1							
Ethiopia	1	1	1							
Gabon	1					1	1		1	
Gambia	1			1						
Ghana	1			1	1				1	
Guinea	1			1	1				1	1
Guinea-Bissau	1			1	1				1	
Kenya	1	1	1							
Lesotho	1								1	
Liberia	1			1	1				1	
Libya	1							1	1	
Madagascar	1								1	
Malawi	1								1	
Mali	1			1	1				1	1
Mauritania	1								1	
Mauritius	1									
Morocco	1									
Mozambique	1								1	
Namibia	1								1	
Niger	1			1	1				1	
Nigeria	1			1	1				1	1
Republic of the Congo	1					1	1		1	
Rwanda	1	1	1			1			1	
São Tomé and Príncipe	1					1				
Senegal	1			1	1				1	1
Seychelles	1	1							1	
Sierra Leone	1			1	1				1	1
Somalia ^d	1									

	PoA	Nairobi Protocol		ECOWAS Convention		Kinshasa Convention		Khartoum Declaration	ATT	
		Signatory	State party ^a	Signatory	State party ^b	Signatory	State party ^c		Signatory	State party
South Africa	1								1	
South Sudan	1									
Sudan	1	1	1					1		
Swaziland	1								1	
Tanzania	1	1	1						1	
Togo	1			1	1				1	
Tunisia	1									
Uganda	1	1	1							
Zambia	1								1	
Zimbabwe	1								1	
TOTAL	53	11	10	15	13	11	4	5	36	6

^a Information obtained from <<http://www.recsasec.org/index.php/ratifications-to-the-nairobi-protocol-on-salw>>. Although the Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States (RECSA) webpage does not indicate that Tanzania has ratified the Nairobi Protocol, in its statement to the UN during the First United Nations Conference to Review Progress Made in the Implementation of the PoA in 2006, Tanzania indicated that it ratified the Nairobi Protocol in 2005 (Tanzania, 2006, p. 2).

^b Information obtained from 2012 ECOWAS Annual Report annexes which indicates that Côte d'Ivoire, Gambia, and Ghana had not yet ratified the ECOWAS Convention (<http://events.ecowas.int/wp-content/uploads/2013/03/2012-Annual-Report_Annexes_English_final.pdf>). However, in its 2010 national report on the implementation of the PoA, Ghana indicates that it ratified the ECOWAS Convention on 5 March 2010 (p. 7). <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVI-7&chapter=26&lang=en>.

^c Somalia became the 12th RECSA member state in 2005 after it adopted the Nairobi Protocol.

About the Small Arms Survey

The Small Arms Survey serves as the principal international source of public information on all aspects of small arms and armed violence, and as a resource centre for governments, policy-makers, researchers, and activists. The Survey distributes its findings through Occasional Papers, Special Reports, a Book Series, and its annual flagship publication, the *Small Arms Survey*.

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