
Introduction

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THE 1990S WERE A DECADE OF STRUCTURAL DISARMAMENT. Millions of weapons, from strategic nuclear warheads to heavy conventional weapons and small arms and light weapons, became redundant in the industrialised countries when the Cold War came to an end. Some of them were stored, others were destroyed, and the rest were transferred to other users, often abroad. The problems associated with their disposal¹ have put surplus weapons on the international political agenda. In this report, we are concerned specifically with the way governments dispose of surplus stocks of small arms and light weapons (SALW).

Largely anecdotal evidence suggests that governments on both sides of the Cold War divide sold or gifted large quantities of redundant arms, including SALW, to states and non-state actors in the developing world. With the military demand for small arms diminishing at home, manufacturers doubled their efforts to export their products. The Small Arms Survey estimates the annual volume of the legal international traffic in small arms today, both new and used, including ammunition, to be about US\$4 billion.²

The combined effect of the export booms during and immediately after the East-West conflict created a flood of SALW that tended to destabilise peaceful countries, exacerbate latent conflicts, and prolong wars. Many of these SALW were exported as surplus weapons.³

In the mid-1990s the international community began to show a growing concern about the spread and misuse of SALW. A flurry of international conferences and workshops culminated in the UN Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, adopted in 2001. Some of the progress achieved at the 2001 New York conference that produced the UN Program of Action was made possible by the work of the Organisation for Security and Co-operation in Europe (OSCE).

¹ There are only five generic methods of disposal for SALW. These are: dumping at sea (prohibited by many nations under the Oslo Conventions), sale, gift, increased use in training and destruction.

² *Small Arms Survey*, Geneva, 2003, pp 97, 100.

³ *Conversion Survey 1997. Global disarmament and disposal of surplus weapons*. Bonn International Center for Conversion, Bonn, 1997, chapter 2.

The OSCE Document (2000)

On 24 November 2000, the 55 states participating in the OSCE adopted the OSCE Document on Small Arms and Light Weapons, one of the strongest international agreements meant to combat the proliferation of small arms. In the OSCE Document, as it is commonly called, OSCE member states resolved to develop and implement norms, principles and measures to halt the accumulation and spread of small arms, and to exchange information annually on national policies and practices related to SALW. The Document includes provisions on the following areas: procedures for the control over manufacture of small arms, marking systems, arms export laws and practices, controls over international arms-brokering, stockpile management, and SALW destruction.

Surplus stocks

A key objective of the OSCE Document⁴ is to “reduce the global surplus of small arms, coupled with proper management and security of national stockpiles” (Section IV Introduction). The agreement acknowledges that “it is for each participating State to assess in accordance with its legitimate security needs whether its holdings include a surplus” (IV A 1). It then goes on to list indicators for the existence of a surplus. To the best of our knowledge, this was the first time an international document addressed the issue of surplus stocks of SALW and provided guidelines on how to identify and deal with such stocks. The Document goes on to say that “participating States should carry out regular reviews” (IV A 3) of their holdings in order to “effect reductions where applicable” (IV Introduction).

It further advocates the improvement of national stockpile management and security measures through the adoption of “proper national inventory accounting and control procedures” (IV B 1).

As to the disposal of surplus SALW stocks, it states that “any small arms identified as surplus to a national requirement should, by preference, be destroyed” (IV C 1). The same applies to confiscated illegal weapons. If, however, the arms are disposed of in another way, especially if they are exported, the Document stipulates that this must meet the criteria that govern exports of SALW, as laid down in its Section III A (ibid).

To promote transparency, the participating States agreed to “share available information... on the category, subcategory of small arms that have been identified as surplus and/or seized and destroyed on their territory...” (IV E 1). They would also “exchange information of a general nature about their national stockpile management and security procedures” (IV E 2) on an annual basis. Furthermore, the participating States would “exchange information... on the techniques and procedures for the destruction of small arms.” Meanwhile, the OSCE’s Forum for Security Co-operation was to “consider developing a best practice handbook on small arms” (V F 1).⁵

A significant document

There can be no doubt that this is a significant document. It reaches further than most international agreements that promise to curb the proliferation and misuse of small arms. Unlike the UN Program of Action that followed it, and took inspiration from it in many ways, the OSCE Document laid down criteria for participating governments to use to assess applications for the export of small arms and related technology (III A).⁶ The inclusion of technology is important, as a growing number of countries are manufacturing small arms. The OSCE Document also deals with the issue of how to dispose of surplus weapons in greater detail than any other international agreement.

⁴ Sections III and IV of the OSCE Document are reproduced in Appendix II of this report.

⁵ See below in this introduction and Appendix III. Meanwhile, the Handbook of Best Practices has been produced by the OSCE’s Forum for Security Co-operation and became publicly available in December 2003.

⁶ These are nearly identical to the OSCE Criteria on Conventional Arms Transfers adopted in November 1993 and printed in the Forum for Security Co-operation Journal, no 49, 24 November 1993.

The significance of the OSCE Document is also enhanced by the fact that it unites all countries belonging to NATO and the former Warsaw Pact, as well as several others.

Finally, and most importantly, the OSCE Document is not a dead letter. Several mechanisms are being used to monitor and promote the implementation and further development of the 2000 agreement. These include the establishment of national contact points, the use of the OSCE's Conflict Prevention Center in Vienna for co-ordination, the drawing up of guidelines for best practice⁷ and the annual exchange of information between participating states. These have subsequently been incorporated into the SEESAC Regional Micro-Disarmament Standards (RMDS), thereby allowing their use at the operational and technical level.

Disputed scope

Of course, the OSCE Document also has some limitations. Most importantly, it binds the participating States only in a political sense, not legally.

A less obvious problem concerns the scope of the OSCE Document. Some of its provisions are not meant for general use, but only for use between participating States, and in several instances, there is disagreement about whether the provisions are meant to apply generally or only in relations between OSCE countries. No one disputes that the aims and objectives formulated in Section I are for general use. It is also clear that the transparency measures announced in the OSCE Document only apply between OSCE states. Section IV E says that participating States will “share” and “exchange” information.⁸ However, the scope of other parts of the OSCE Document is disputed.

Some Central and Eastern European governments reportedly argue that the provisions of the OSCE Document (except for Section I) in principle apply only between OSCE states. This restrictive approach affects such areas as SALW exports and imports, the brokering of small arms deals, international co-operation in law enforcement, early warning, crisis prevention and international assistance for post-conflict rehabilitation and other areas.

We find little to support this restrictive interpretation, and much that speaks against it, in the OSCE Document. For instance, the stated aim of the OSCE Document is not to curb the proliferation of SALW within the OSCE area, but rather to adopt a comprehensive approach to this task (Section I, paragraphs 1 and 2). To the best of our knowledge, the restrictive interpretation of the OSCE Document's scope is unfounded. Many OSCE governments oppose it, but so far it has caused little debate outside diplomatic circles.

Definition problems: ammunition and police guns

The definition of SALW⁹ used in the OSCE Document is also problematic in our opinion. The OSCE Document follows the influential list that was proposed by the UN Panel of Governmental Experts (A/52/298, section III) of 1997 and has since been used widely throughout the UN, but leaves out the part on ammunition and explosives.

We believe this is unfortunate. Bullets, grenades and other explosive charges are a part of an SALW system that kills, and the size of ammunition stocks, apart from the number of guns available, determines the capability of an army, militia or criminal gang to exercise violence. In our view, no serious attempt to curb the proliferation of SALW

⁷ OSCE Handbook of Best Practices on Small Arms and Light Weapons, Vienna, 2003.

⁸ Apparently, it would have been impossible to agree on the OSCE Document if the exchange of information had not been restricted to the governments of the participating States.

⁹ “For the purposes of this document, small arms and light weapons are man-portable weapons made or modified to military specifications for use as lethal instruments of war. Small arms are broadly categorized as those weapons intended for use by individual members of armed or security forces. They include revolvers and self-loading pistols; rifles and carbines; sub-machine-guns; assault rifles; and light machine-guns. Light weapons are broadly categorized as those weapons intended for use by several members of armed or security forces serving as a crew. They include heavy machine-guns; hand-held under-barrel and mounted grenade launchers; portable anti-aircraft guns; portable anti-tank guns; recoilless rifles; portable launchers of anti-tank missile and rocket systems; portable launchers of anti-aircraft missile systems; and mortars of calibres less than 100 mm.”

can afford to ignore the spread of SALW ammunition. However, several OSCE governments were unwilling to disclose data on their stocks of small arms ammunition, as they considered these highly sensitive.¹⁰

On 19 November 2003, the OSCE's Forum for Security Co-operation adopted the OSCE Document on Stockpiles of Conventional Ammunition, which also covers ammunition and explosives in the SALW category. This Document focuses entirely on the safe and secure management of stockpiles. It does not deal with issues of legal exports or several other areas covered by the OSCE Document.

The other problem with the definition in the OSCE Document on SALW is ambiguity. Besides providing a technical description of the types of weapons that it intends to cover (eg "revolvers and self-loading pistols"), the definition makes reference to the purpose for which the arms are designed, or the context in which they are used. It does this in several ways and in doing so introduces inconsistencies. In its first sentence, it makes reference to "weapons made or modified to military specifications as lethal instruments of war," while in the second, it speaks of "weapons intended for use by individual members of armed or security forces". This makes it very difficult to determine whether some kinds of guns, for example revolvers and self-loading pistols designed for police use, fall under the OSCE definition of SALW. If we go by the first sentence of the definition, the answer is probably no, but if we go by the second, the answer could very well be yes.

We consider this lack of clarity regrettable. Police-type handguns are widely used by law enforcement agencies, which often possess large stocks, and are equally sought after by criminals. These 'police' weapons need to be controlled just as much as military-type revolvers and pistols.

Several OSCE governments seem to agree. None of the governments we approached in this study objected to our questions about police weapons.¹¹ Indeed, Germany's submissions to the OSCE Information Exchange discuss in detail the stocks of SALW held by police and other special agencies.¹² The confusion about how to interpret the OSCE definition of SALW could be reduced if the items to be controlled were only defined by their own characteristics, not by the context in which they are used. Fortunately, the authors of the OSCE Document did not present their definition as the last word on the matter.¹³

The South Eastern Europe Clearinghouse for the Control of SALW (SEESAC) have also addressed this definitional problem. In the regional standards, that they project on behalf of the SALW community in the region, they have defined SALW as "all lethal conventional munitions that can be carried by an individual combatant or a light vehicle, that also do not require a substantial logistic and maintenance capability".

In this report, we have tried to include ammunition and police weapons in the data collected, and were partly successful in obtaining the co-operation of governments in this regard.

OSCE Information Exchanges on Small Arms (2001 and later)

The OSCE Document of 2000 introduced annual Information Exchanges on various subjects, starting in 2001. Allegedly, the reports submitted by participating States vary greatly in scope, content and quality. It appears some OSCE states did not submit reports at all. The reports are usually classified, which severely limits the transparency

¹⁰ For the same reason, the European Union Joint Action on small arms of 1998 (1999/34/CFSP) did not include ammunition in its definition. However, in 2002, the Joint Action was amended so that some of its provisions cover ammunition as well as the weapons themselves (2002/589/CFSP).

¹¹ By contrast, some refused to answer questions about ammunition, referring to the OSCE definition of SALW.

¹² http://www.auswaertiges-amt.de/www/en/infoservice/download/pdf/friedenspolitik/abruistung/klein_2003.pdf

¹³ "There is not yet an internationally agreed definition of small arms and light weapons. This document will apply to the following categories of weapons while not prejudging any future internationally agreed definition of small arms and light weapons. These categories may be subject to further clarification and will be reviewed in the light of any such future internationally agreed definition."

they provide. However, several participating governments have begun to lift this restriction. In 2002, Germany decided to publish its submission, and the United States decided to go public at the request of our project. Several other governments provided information from their submissions for inclusion in this publication. This openness is welcome, and we hope it will continue to grow.

The OSCE Best Practice Handbook (2003)

Acting on the OSCE Document, the OSCE's Forum for Security Co-operation has developed a Best Practice Handbook (see footnote 5) on SALW that is meant to "serve as a guide for national policy-making by participating States, and as a means to encourage higher common standards of practice among all participating States".¹⁴

Identification of surplus in the OSCE Handbook

Chapter Six of the Handbook, on the 'Definition and Indicators of a Surplus of SALW', was drafted by the German Government (see Appendix). It proposes general guidelines on how to determine the size and structure of military and security forces, how these forces should be equipped and how to determine which SALW are surplus to requirements. However, it deals only briefly with the question of disposal. In our view, it is unfortunate that the chapter does not provide any guidance on the disposal of surplus SALW beyond what the OSCE Document provides. It is therefore much less useful than it could have been. This is all the more regrettable because since 1990, Germany has gained considerable experience in disposing of surplus SALW.¹⁵

Following the OSCE Document, Chapter Six of the Best Practices Guide leaves SALW ammunition aside. It also avoids discussing police weapons and police stockpiles, which is somewhat surprising, because these subjects are discussed in Germany's national reports to the OSCE Information Exchange. The reason may be that Germany's extensive interpretation of the OSCE Document, which is more in evidence in its national reports than in its drafts for an international text such as the Best Practice Guide, is not fully shared by all OSCE partners.¹⁶

This chapter is part of a wider research study entitled *Disposal of surplus small arms* which examines the policies and practices of ten Organization for Security and Cooperation in Europe (OSCE) countries concerning surplus small arms. The report's ten case studies focus on stocks and determination of surpluses, as well as policies on exports, stockpile management and destruction. The report was initiated and co-ordinated by the Bonn International Center for Conversion (BICC) and carried out in close co-operation with the British American Security Information Council (BASIC), Saferworld and the Small Arms Survey.

To obtain a copy of the complete report contact bicc@bicc.de, basicuk@basicint.org, general@saferworld.org.uk or smallarm@hei.unige.ch

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¹⁴ OSCE, *Forum for Security Co-operation*, Decision no 11/02, Preparation of Best Practices Guides on SALW.

¹⁵ Detailed technical guidance on the destruction of weapons is provided by the SEESAC RMDS 05.20, whilst the International Mine Action Standards (IMAS) 11.10 and 11.20 (which are normative references within the RMDS) provide detailed guidelines on the destruction of ammunition.

¹⁶ This theory is supported by a statement on the first page of Chapter 6, which explains that while the chapter does not apply to non-military grade weapons and ammunition, as these are not covered by the OSCE Document, governments that wish to do so can choose to apply some of the chapter's recommendations to such items at a national level.