

Austrian National Report 2009

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

Executive Summary

A.) National level

1. National coordination agency

Federal Ministry for European and International Affairs
Vienna, Austria

2. National point of contact

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3. Legislation, regulations, administrative procedures

i) What national laws, regulations and administrative procedures exist to exercise effective control over SALW in the following areas? (II.2)

- production
- export
- import
- transit
- retransfer

National Laws, Regulations and Decrees		
Area:	Law/ Regulation/ Decree	Date
Production	Gewerbeordnung	2002
	Trade and Industrial Code	
	In Austria the manufacture, processing, repair, trade, brokering of the purchase and sale of arms, particularly small arms and light weapons, are subject to authorization by the competent authority pursuant to the Trade and Industrial Code.	
	Businesses authorized to manufacture, process or repair or to trade small arms and light weapons must keep records (“arms books”) which show, among others, when arms were received, sold or returned. There is no time limit as to how long such arms books must be kept. They must either be	

	<p>returned to the authority after expiry of a business license or may be returned to the authority after expiry of ten years after the last entry.</p> <p>As regards the manufacture of small arms and light weapons, violations of the Austrian Trade and Industrial Code are punishable pursuant to general criminal law.</p> <p>http://www.bmwfj.gv.at/.../Gewerbeordnung.pdf</p>		
Export	<table border="1" data-bbox="357 384 1451 420"> <tr> <td data-bbox="357 384 1299 420">Kriegsmaterialgesetz / Außenhandelsgesetz</td> <td data-bbox="1299 384 1451 420">2005</td> </tr> </table> <p data-bbox="357 420 1451 455">War Material Act / Foreign Trade Act</p> <p data-bbox="357 455 1451 661">The Austrian legislation distinguishes between war material (as listed in the War Material Regulation and governed by the War Material Act) and all other military items of the EU Common Military List, falling under the Foreign Trade Act. In addition, Austrian authorities are committed to assess any licence application against the criteria of the EU Code of Conduct on Arms Exports.</p> <p data-bbox="357 699 1451 1451">The War Material Act requires an authorization for the import, export, transit, brokering as well as re-import and re-export of war material. In the authorisation procedure, account needs to be taken of the fact, among others, that the import, export, brokering or transit of war material, including specific small arms and light weapons, do not contravene the international commitments or foreign policy interests of the Republic of Austria; that war material is not to be exported to or transited through an area where an armed conflict is taking place or threatens to take place or where other dangerous tensions exist; that war material is not to be exported to or transited through a country where, due to serious and repeated human rights violations, there is a risk that the supplied war material will be used to suppress human rights; that embargo decisions of the UN Security Council are duly taken into account; or that there are no concerns in terms of security or defence policy opposing the import, export or transit of war material. The authorization may also be made dependent on the submission of a so-called “end user certificate”, always requested in case of official end-users. An authorization must be revoked if the conditions for granting it no longer apply. The permission can also be subject to time limits and provisions concerning the means of transportation, safety measures, itinerary and border crossing. Furthermore, the transport can be monitored on federal territory, if justified by security concerns.</p> <p data-bbox="357 1488 1451 1967">The Austrian Foreign Trade Act 2005 (“Außenhandelsgesetz”) brought regulations into accordance with recent EU decisions. It harmonised definitions of brokering activities and brokers both in the Foreign Trade Act and the War Material Act with Council Common Position 2003/468/CFSP on the control of arms brokering. On the one hand it adapted existing law to obligations under international law and politics and on the other hand regulated new areas. The criteria that have to be fulfilled for authorisation of an export were aligned to the eight criteria used in the EU Code of Conduct on Arms Exports. Under the new law the items of the EU Common Military List are subject to a license requirement in export, transit and brokering. Intra-community trade with goods from the EU Common Military List is - with certain exceptions - subject to a monitoring procedure. Technical assistance in connection with the development, production, handling, operation, maintenance or other servicing, stockpiling, testing or</p>	Kriegsmaterialgesetz / Außenhandelsgesetz	2005
Kriegsmaterialgesetz / Außenhandelsgesetz	2005		

	proliferation of conventional weapons systems with military capability is not granted in the following cases: if such assistance contradicts restrictive measures on the basis of EU Common Positions or EU Common Actions, OSCE Resolutions or binding resolutions of the United Nations Security Council.	
	http://www.bmi.gv.at/downloadarea/kunsttexte/Kriegsmaterialgesetz.pdf http://www.bmwfj.gv.at/NR/rdonlyres/E61937F7-82AC-4BB6-AF03-F74B0872873D/0/AuHG.pdf	
Import	Kriegsmaterialgesetz/Außenhandelsgesetz	
	War Material Act/Foreign Trade Act	
	See above	
	http://www.bmi.gv.at/downloadarea/kunsttexte/Kriegsmaterialgesetz.pdf http://www.bmwfj.gv.at/NR/rdonlyres/E61937F7-82AC-4BB6-AF03-F74B0872873D/0/AuHG.pdf	
Transit	Kriegsmaterialgesetz/Außenhandelsgesetz	
	War Material Act/Foreign Trade Act	
	See above	
	http://www.bmi.gv.at/downloadarea/kunsttexte/Kriegsmaterialgesetz.pdf http://www.bmwfj.gv.at/NR/rdonlyres/E61937F7-82AC-4BB6-AF03-F74B0872873D/0/AuHG.pdf	
Retransfer	Kriegsmaterialgesetz/Außenhandelsgesetz	
	War Material Act/Foreign Trade Act	
	See above	
	http://www.bmi.gv.at/downloadarea/kunsttexte/Kriegsmaterialgesetz.pdf http://www.bmwfj.gv.at/NR/rdonlyres/E61937F7-82AC-4BB6-AF03-F74B0872873D/0/AuHG.pdf	

Administrative Procedures		
<i>Area:</i>	<i>Administrative Procedures</i>	<i>In place since</i>
Production	Trade and Industrial Code (Gewerbeordnung)	
	http://www.bmwfj.gv.at/.../Gewerbeordnung.pdf	
Export Import Transit Retransfer	War Material Act/Foreign Trade Act	
	Licensing authority for applications under the War Material Act is the Ministry of the Interior, the Ministry for European and International Affairs has to approve. Licensing authority for applications under the Foreign Trade Act is the Ministry for Economics, Family and Youth. The Ministry for European and International Affairs and other relevant Ministries present their views.	
	http://www.bmi.gv.at/downloadarea/kunsttexte/Kriegsmaterialgesetz.pdf http://www.bmwfj.gv.at/NR/rdonlyres/E61937F7-82AC-4BB6-AF03-F74B0872873D/0/AuHG.pdf	

ii) What national measures exist to prevent the manufacture, stockpiling, transfer and possession of unmarked or inadequately marked SALW? How have these been implemented? (II.8)

Measures are contained in the Trade and Industrial Code and the Arms Act.

iii) Please describe how national laws, regulations and procedures that impact on the prevention, combating and eradication of the illicit trade in SALW in all its aspects are made public. (II.23)

National laws and regulations are published in the Federal Law Gazette and are together with descriptions of the procedures to be found on the websites of the respective Ministries.

4. Law enforcement/criminalization

i) What national legislative or other measures exist to make the illegal manufacture, possession, stockpiling and trade of SALW criminal offences under domestic law? How have these measures been implemented? (II.3)

National criminal offences relating to illicit SALW		
<i>Area:</i>	<i>Law / other measure</i>	<i>Date</i>
Manufacture	Gewerbeordnung	
	Trade and Industrial Code	
	Short description, including details of penalties	
	http://www.bmwfj.gv.at/.../NovellederGewerbeor2723/Gewerbeordnung.pdf	
Possession Trade	Kriegsmaterialgesetz/Waffengesetz/Außenhandelsgesetz	
	War Material Act/Arms Act/Foreign Trade Act	
	The illegal possession of prohibited weapons, war material and arms which require permission and the illegal import, export, transfer and brokering of war material is punished by court with up to two years of imprisonment.	
	http://www.bmi.gv.at/downloadarea/kunsttexte/Kriegsmaterialgesetz.pdf http://www.bmwfj.gv.at/NR/rdonlyres/E61937F7-82AC-4BB6-AF03-F74B0872873D/0/AuHG.pdf	
Stockpiling	Title in original language	
	Title in English translation (and short form)	
	Short description, including details of penalties	
	Web link	

ii) Have those groups and individuals engaged in the illegal manufacture, trade, stockpiling, transfer, possession, as well as financing for acquisition, of illicit SALW been identified, where applicable? What action has been taken under appropriate national law against such groups and individuals? (II.6)

There is currently no knowledge about criminal activities/organized crime in this sector (apart from single perpetrators).

iii) What national measures have been taken, including legal or administrative means, against activity that violates a United Nations Security Council arms embargo in accordance with the Charter of the United Nations? (II.15)

National measures for the enforcement of UN Security Council arms embargoes		
<i>Area:</i>	<i>Legal means</i>	<i>Date</i>
Enforcement of UN arms embargoes	Kriegsmaterialgesetz/Außenhandelsgesetz	
	War Material Act/Foreign Trade Act	
	With regard to individual UN arms embargoes, see the relevant EU Common Positions and respective regulations.	
	http://www.bmi.gv.at/downloadarea/kunsttexte/Kriegsmaterialgesetz.pdf ; http://consilium.europa.eu/cms3_fo/showPage.asp?id=408&lang=en (Security related export controls)	

National measures for the enforcement of UN Security Council arms embargoes		
<i>Area:</i>	<i>Administrative means</i>	<i>In place since</i>
Enforcement of UN arms embargoes	Short description of the procedure(s) used to prevent/punish violations	
	Web link	

5. Stockpile management and security

i) What national standards and procedures exist for the management and security of SALW stocks held by armed forces, police or other authorized bodies? (II.17)

National standards and procedures for stockpile management and security		
<i>Group:</i>	<i>Standards / procedures</i>	<i>Date</i>
Armed forces	This matter is governed by law gazette I No. 149/1999, dated 22 October 1999. This legal regulation is designed to contribute to the safe and orderly manner of the use of weapons and ammunition in the Austrian Armed Forces, to the enhancement of military security and to the personal protection of personnel involved. In addition, the Arms Act, amended in July 2001, deals with material of war or other weapons which are no longer in use with the Austrian Armed Forces	1999
Police	All small arms and light weapons stockpiled by the police are registered by serial number. One distinguishes between weapons personally assigned to an official and those in the holding of the authority. There are small numbers of weapons for replacement contained in the stockpiles. The disposal of small arms and light weapons as well as their single main elements depend on permission of the Ministry of the Interior. The destruction needs to be supervised by a commission.	

Other authorized bodies	Name and briefly describe	
	Web link	

ii) How often are stocks of SALW held by armed forces, police and other authorized bodies reviewed? (II.18)

Stocks are being reviewed annually. An additional review takes place during the regular technical maintenance every three years and on an annual basis for special units.

A separate data sheet exists for each individual weapon, informing about services, changes or repairs and keeping a track record of all consecutive owners.

iii) How are those stocks of SALW held by armed forces, police and other authorized bodies that are surplus to requirements identified? (II.18)

In order to determine whether weapons stocks meet or exceed requirements, stocktaking results are being compared against a table of material requirements. Stocks identified as surplus are being given a stock number different from those weapons in use.

6. Collection and disposal

i) Please give details of any national programmes that have been established and implemented for the responsible disposal of surplus stocks of SALW held by armed forces, police and other authorized bodies. (II.18)

The disposal of complete SALW as well as of their main parts requires permission by the Ministry of the Interior. Any SALW designated for destruction is subject to a mechanical shredding process. Serial numbers are being recorded.

In general, SALW should be destroyed under supervision of a commission. It is forbidden to auction war material or forbidden SALW. In exceptional cases, the Ministry of Finance can grant permission to auction civilian fire arms.

To mention one example for a disposal of surplus stocks, Austria destroyed 81.481 pieces of 7,62mm Assault Rifles, StG58 in 2006 and 771 pieces of 7,65mm Pistol, Walther PPK, in 2006.

ii) Is destruction the means used to dispose of such stocks? (II.18)

Yes (see above).

A small amount of SALW might be modified for different purposes (simulations/fulminating arms etc.)

iii) What national measures exist to safeguard such stocks prior to their disposal? (II.18)

SALW stocks are being stored in depots of the Ministry of Defence and are under constant guard.

iv) Subject to the exceptions set out in paragraph II.16 of the UN Programme of Action, are all confiscated, seized or collected SALW destroyed? (II.16)

According to Para 42 a of the Arms Act, SALW with historic or scientific value may be entrusted to museums or state collections as objects for display. Such weapons are demilitarized when displayed outside of museums.

v) What methods has your country used to destroy surplus stocks of SALW designated for destruction? (If appropriate, please make reference to the report of the UN Secretary-General (S/2000/1092) of 15 November 2000.) (II.19)

Mechanical shredding is the preferred method.

vi) Please give details of any information on SALW confiscated or destroyed within your jurisdiction that is submitted to relevant regional and international organizations. (II.23)

Information on SALW identified as surplus and/or seized and destroyed is being reported annually to the Armed Forces Command / Center for International Cooperation / Verification / Regional Arms Control, according to the agreement on SALW.

7. Export controls

i) Please describe the system of export and import licensing or authorization, as well as measures on international transit, used by your country for the transfer of all SALW. (II.11)

See above under legislation/regulations/administrative procedures.

ii) Please describe the national laws, regulations and administrative procedures used by your country to ensure effective control over the export and transit of SALW. How are these measures implemented? (II.12)

National laws, regulations and administrative procedures used to ensure effective control over SALW export and transit		
<i>Area:</i>	<i>Laws / regulations / procedures</i>	<i>Date</i>
Export Transit	Title in the original language	
	Title in English translation (and short form)	
	See above under legislation/regulations/administrative procedures.	
	Web link	

iii) Does your country use authenticated end-user certificates for this purpose? (II.12)

EUC are generally required for exports to official end-users. Authentication is required on a case by case basis.

iv) Does your country notify the original exporting State when re-exporting or retransferring previously imported SALW? (II.13)

This depends on specific re-export clauses in the original documents.

8. Brokering

i) What national legislation or administrative procedures exist to regulate the activities of those who engage in SALW brokering within national jurisdiction and control? (e.g. registration of brokers, licensing or authorization of brokering transactions and appropriate penalties) (II.14)

In line with the EU Common Position on Brokering, both the Foreign Trade Act and the War Material Act contain specific provisions.

9. Marking, record keeping and tracing

i) Does your country require licensed manufacturers of SALW to apply an appropriate and reliable marking on each weapon as an integral part of the production process? (II.7)

In Austria the marking of weapons is governed by the *Trade and Industrial Code*. The provisions of Section 145 of this Code relate to various military and non-military weapons, including different categories of small arms and light weapons. Such arms and weapons must be marked with the sign of the manufacturer and a serial number in order to be sold commercially in Austria. If such weapons were manufactured in other countries, they may be sold in Austria on a commercial basis only if they also bear the sign of the Austrian business that has sold the weapon in Austria for the first time.

ii) Is this marking unique? (II.7)

Yes.

iii) Does this marking identify the country of manufacture? (II.7)

Yes. In the course of the proof firing test, the marks are checked. In this context, the competent Austrian Proof Houses have to examine whether the following marks are placed in a visible and permanent manner on at least one of the heavy-duty parts of the small arms:

1. name, firm or officially known identifying mark of the manufacturer or applicant,

2. serial number or repair number,

3. bore size (e.g. 7x64, .243 Win, 12/70) on each barrel.

Arms that have been subjected to this test bear a proof mark if no weakness has been found. Such proof marks must be placed on the tested heavy-duty parts of small arms in a clearly visible manner. Moreover, the month and year must visibly be indicated once beside the proof mark on each small arm, on each barrel submitted and in the case of revolvers on the frame.

iv) How does this marking otherwise allow concerned authorities to identify and trace the relevant weapon? (II.7)

v) How long are records kept on the manufacture, holding and transfer of SALW under your jurisdiction? (II.9)

Businesses authorized to manufacture, process or repair or to trade small arms and light weapons must keep records (“arms books”) which show, among others, when arms were received, sold or returned. There is no time limit as to how long such arms books must be kept. They must either be returned to the authority after expiry of a business license or may be returned to the authority after expiry of ten years after the last entry.

vi) What national measures exist for tracing SALW held and issued by the State? (II.10)

See above (Stockpile Management and Security)

vii) Please give details of any steps taken by your country to cooperate in tracing illicit SALW, including the strengthening of mechanisms based on the exchange of relevant information. (III.11)

10. Disarmament, demobilization and reintegration (DDR)

i) Please describe any disarmament, demobilization and reintegration (DDR) programmes your country has developed and implemented, including the effective collection, control, storage and destruction of SALW. (II.21)

ii) Please describe how your country has addressed the special needs of children affected by armed conflict, in particular the reunification with their family, their reintegration into civil society, and their appropriate rehabilitation. (II.22)

iii) Please describe any DDR programmes or activities that your country has supported. (II.30, 34)

11. Awareness-raising

i) Please describe any public awareness and confidence-building programmes on the problems and consequences of the illicit trade in SALW in all its aspects that your country has developed and implemented (including the public destruction of surplus weapons and the voluntary surrender of SALW). (II.20)

Austria raised public awareness on the problems of SALW during its “open day” in the Ministry for European and International Affairs on 24 October 2007. Posters and a documentary movie informed about the horrendous impact of the illicit trade in SALW in all its aspects.

Besides, the National Defence Academy (Institute for Peace Support and Conflict Management) published a report on SALW and organized a presentation.

ii) Please describe any education and public awareness programmes on the problems of the illicit trade in SALW in all its aspects that your country has encouraged. (II.41)

B.) Regional level

1. Legally binding instruments

i) Has your country been involved in negotiations for the conclusion of legally binding instruments aimed at preventing, combating and eradicating the illicit trade in SALW in all its aspects? (II.25)

Council Common Position 2008/944/CFSP (“EU Code of Conduct”)

ii) Where such instruments exist, please describe the steps your country has taken to ratify and fully implement them. (II.25)

2. Moratoria and action programmes

i) Please give details of any support your country has given moratoria or similar initiatives on the transfer and manufacture of SALW, and/or regional action programmes to prevent, combat and eradicate the illicit trade in SALW in all its aspects (including cooperation with States concerned in the implementation of these initiatives). (II.26)

3. Regional Cooperation

i) Please describe any involvement your country has had in the establishment of subregional or regional mechanisms with a view to preventing, combating and eradicating the illicit trade in SALW across borders (in particular trans-border customs cooperation and networks for information-sharing among law enforcement, border and customs control agencies). (II.27)

ii) Please describe any initiatives your country has undertaken to encourage regional and subregional action on illicit trade in SALW in all its aspects in order to, as appropriate, introduce, adhere, implement or strengthen relevant laws, regulations and administrative procedures. (II.28)

Active co-operation in the framework of OSCE, EU, EAPC and WA

C.) Global level

1. International instruments against terrorism and crime

i) What existing international legal instruments against terrorism and transnational organized crime has your country ratified or acceded to? (II.38)

Austria has ratified or acceded to the following international legal instruments against terrorism and transnational crime:

- **1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft**
- **1970 Convention for the Suppression of Unlawful Seizure of Aircraft**
- **1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation**
- **1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents**
- **1977 European Convention on the Suppression of Terrorism**
- **1979 International Convention against the Taking of Hostages**
- **1980 Convention on the Physical Protection of Nuclear Material**
- **1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation**
- **1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf**
- **1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation**
- **1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection**
- **1997 International Convention for the Suppression of Terrorist Bombings**
- **1999 International Convention for the Suppression of the Financing of Terrorism**
- **2000 United Nations Convention against Transnational Crime**
- **2001 Convention on Cyber Crime**
- **2003 United Nations Convention against Corruption**
- **2005 Amendment to the Convention on the Physical Protection of Nuclear Material**
- **2005 International Convention for the Suppression of Acts of Nuclear Terrorism**

2. International cooperation and assistance

i) Please give details of any assistance, including technical and financial assistance, your country has provided for purposes of supporting the implementation of the measures to prevent, combat and eradicate the illicit trade in SALW in all its aspects as contained in the UN Programme of Action. (III.3, 6, 10, 14)

In 2007, Austria financially supported the destruction of SALW in Albania via a NATO/NAMSA project. Furthermore, Austria made financial contributions to a project by UNODA titled “Regulating Small Arms Brokering in Africa”. Two more UNODA projects have been funded by Austria: one focuses on technical support to the ECOWAS Small Arms Unit and another one aims at elaborating a legal instrument for the control of SALW in Central Africa.

ii) Please describe any initiatives your country has undertaken to enhance mutual legal assistance and other forms of cooperation in order to assist investigations and prosecutions in relation to the illicit trade in SALW in all its aspects. (III.13)

Austria is involved in various international working groups (for example the European Firearms Experts) which fight against the criminal abuse of arms.

iii) Please give details of any assistance your country has provided to combat the illicit trade in SALW linked to drug trafficking, transnational organized crime and terrorism. (III.15)

iv) Please give details of your country's cooperation with Interpol for the purpose of identifying those groups and individuals engaged in the illicit trade in SALW in all its aspects. (II.37)

The Federal Criminal Police Office (*Bundeskriminalamt*) serves as the central contact to the Interpol Office Vienna. Requests for international police cooperation from foreign security organizations and departments concerning investigations on SALW are forwarded to the competent Austrian department, mostly the Federal Office for the Protection of the Constitution and counterterrorism.

According to national legislation, INTERPOL Vienna is responsible for the implementation of international warrants (such as warrants of arrest) in the context of SALW brokering.

v) Please give details of your country's use and support of Interpol's International Weapons and Explosives Tracking System database (including providing relevant information on the illicit trade in SALW). (III.9)

vi) Please give details of your country's cooperation with the UN system to ensure the effective implementation of arms embargoes decided by the UN Security Council in accordance with the UN Charter. (II.32)

Austria fully supports and implements embargoes imposed by the UN Security Council in accordance with the UN Charter. As outlined earlier, the Foreign Trade Act (section 5, paragraph 1) as well as the War Material Act (section 3, paragraph 1) stipulate that Austria takes embargoes into account in its national decision-making progress related to export and brokering control matters.

vii) Please describe any steps your country has taken in cooperation with other states, or regional or international organizations, to develop common understandings of the basic issues and the scope of the problems related to illicit brokering in SALW. (II.39)

3. Cooperation with civil society and NGOs

i) Please give details of cooperation with civil society and non-governmental organizations in activities related to the prevention, combat and eradication of the illicit trade in SALW in all its aspects, at the national, regional and global levels. (II.20, 40, 41; III.2, 18)

4. Information exchange

i) Please describe any steps taken by your country to exchange information on national marking systems on SALW. (III.12)

Within the framework of regional cooperation, Austria supplies the relevant information on SALW to the Organisation for Security and Co-operation in Europe (OSCE) and its member countries.

ii) Please give details of any information on, inter alia, SALW confiscated or destroyed within national jurisdiction, or other relevant information such as illicit trade routes and techniques of acquisition, that your country has submitted to relevant regional and international organizations. (II.23)

5. Training, capacity-building, research

i) Please describe any initiatives your country has undertaken to enhance cooperation and exchange of experience and training among competent officials, including customs, police, intelligence and arms control officials, at the national, regional and global levels in order to combat the illicit trade in SALW in all its aspects. (III.7)

There are regular inter-ministerial meetings, ensuring the coordination and cooperation between the competent ministries (including Ministry for European and International Affairs, Ministry of Defence, Ministry of Interior, Ministry of Justice).

ii) Please describe any regional and international programmes for specialist training on small arms stockpile management and security that your country has developed or supported. (III.8)

Furthermore Austria continues to build up special expertise in the field of Physical Security and Stockpile Management SALW/CA. Austria supports the two multinational SALW Training Courses conducted at the NATO School in Oberammergau with instructors and participants, including a practical exercise in an Austrian ammunition depot. Austria also participates with instructors in multinational Physical Security and Stockpile Management training Courses in Africa, Central Asia and on the Balkans.

iii) Please give details of any action-oriented research aimed at facilitating greater awareness and better understanding of the nature and scope of the problems associated with the illicit trade in SALW in all its aspects that your country has developed or supported. (III.18)