

**UNITED NATIONS  
INTER-AGENCY SMALL  
ARMS CONTROL STANDARDS  
DEVELOPMENT:  
A CASE STUDY IN TROUBLED  
TRANSNATIONAL  
GUN CONTROL &  
CIVIL DISARMAMENT  
POLICYMAKING?**

**By Jeff Moran\***

The Arms Trade Treaty (ATT) is recognized within the UN system as a gateway instrument for the progressive and transnational development of conventional arms control and disarmament. A valuable input to this process will likely be the United Nations' (UN) International Small Arms Control Standards (ISACS). This draft paper examines the purpose, scope, approach, history, players, process, controversy, and selected normative implications of the UN's ISACS project.

The paper makes use of various primary source documents including the initial ISACS project kick-off document, a follow-on funding proposal to the Government of Australia, draft standards on national small arms control, and interviews and public statements from the ISACS project coordinator, a contracted lead-author, influential diplomats and legal scholars, and stakeholders from non-traditional civil society groups within the United Nations context. The paper uses this material to review the execution of the ISACS project and its deliverables in light of its goal to produce internationally accepted and validated standards.

The review found evidence of the project being in systematic variance with two of the four basic principles of international standards development promoted by the International Organization of Standardization (ISO). The implications for the normative value of ISACS project deliverables are mixed. While some States may choose to adopt them in whole or part into national legal systems, specially-affected states such as the United States might not because the deliverables came from a process characterized by a favored stakeholder engagement approach and an opaque and exclusive governance model, are therefore not bona-fide standards a la the ISO method and of minimal normative validity.

A key element of the paper is an explanation of how the ISACS project and some of its deliverables on national small arms control are an example of troubled 21st century transnational gun control policy making. The paper illustrates how one draft standard in particular presents adverse implications for non-traditional segments of global civil society as represented by non-profit and charitable trade, collecting, sporting, and “pro-gun” human rights / civil rights groups in exceptional developed national jurisdictions such as the United States. Among other things the paper reports feedback on how the execution of the project has seriously eroded confidence among these specially-affected non-traditional stakeholders, stakeholders who would otherwise support the project’s admirable humanitarian aims.

The paper ends with the observation that, for all the good ISACS may do for normatively underdeveloped states, the ISACS project is instructive to developers and advocates of international law for its flaws. One lesson is perhaps that normative ambitions in UN project settings can and do compromise accepted principles of international standards development and undermine confidence among stakeholders, and that this can have predictable political consequences with potentially wide-ranging implications.

Ultimately, the apparent infidelity of the ISACS development process with respect to the ISO standards development principles, among other things, may precipitate a crisis of confidence that precipitates disruptive political blow-back that could reverse official American support for the ATT and undermine other efforts at conventional arms control and disarmament.

## INTRODUCTION

The Arms Trade Treaty (ATT) was approved by the UN General Assembly on April 2nd 2013 and since this time new energy has been coalescing internationally on how to quickly bring this treaty into force and to move towards practical implementation.<sup>1</sup>

This energy was evident on June 20th during a public briefing in Geneva aimed at taking stock of the process to date, looking at the context into which the ATT is inserted, and exploring the immediate next steps required for the Treaty to enter into force.<sup>2</sup> The presenters included Ambassador Peter Woolcott, the President of the 2013 Final Conference on the UN ATT; Ambassador Roberto Moritán, the President of the 2012 Conference on the UN ATT and Chairman of the pre-negotiations Preparatory Committee process; Sarah Parker from the Small Arms Survey;<sup>3</sup> and Dr. Paul Holtom of the Stockholm International Peace Research Institute (SIPRI).<sup>4</sup>

Ambassador Moritán spoke first and set the frame and tone for the speakers that followed. He explained, among other things, that the ATT should not be seen as a static or stand-alone treaty, like others within the traditional arms control and disarmament field (on Landmines, Cluster Munitions, etc.).<sup>5</sup> Instead, the ATT must be viewed as a continual process, a framework, and one that must be dynamic and expandable through amendments and additional protocols as States Parties see fit. Ambassador Woolcott added that while consensus seeking was and should remain a priority with respect to the ATT discussions, the treaty does provide for an “off ramp” from the road of consensus seeking. This comes in the “elaborate” form of an amendment approval process requiring a simpler three-fourths majority at meetings of States Parties no earlier than six years from when the treaty enters into force and then every third year thereafter.<sup>6</sup> To Woolcott, this formula makes the ATT “a living document.” It was in this context that Ambassador Moritán clarified that the current “scope,” “parameters,” and “criteria” within the existing ATT “need additional negotiation” and then concluded by stating:

“The ATT process has to lead to negotiations in conventional weapons. Negotiations of conventional weapons cannot continue to be a taboo in the United Nations.”<sup>7</sup>

It was understood by the room that perhaps the most important changes desired will be on the small arms and light weapons issue. Sarah Parker of the Small Arm Survey then presented a PowerPoint version of a report she published a few weeks earlier called: “The Arms Trade Treaty: A Step Forward in Small Arms Control?”

Ms. Parker made the point both in her report and her presentation that while “the ATT has contributed several missing pieces to the framework of controls governing the international transfer of small arms,” it nonetheless has “provisions that are, in many cases, weaker than existing commitments on small arms transfers agreed more than a decade ago.”<sup>8</sup> She confirmed to those present that deliverables from a separate UN project to write and promulgate International Small Arms Control Standards (ISACS) would be “of value” in future discussions to amend the ATT.<sup>9</sup>

Three take-aways from the briefing with respect to small arms: the ATT needs more work with respect to controlling and documenting international small arms transfers at the very least, and the UN ISACS are likely to be valuable tools for transforming the ATT into a more robust binding instrument of small arms control going forward.

## **WHAT ARE UN ISACS?**

The UN ISACS project has been in collaborative development since 2008 led by the UN’s Development Program (UNDP) and Office of Disarmament Affairs (ODA). A few of the ISACS were publicly released last year and the balance are to be published later this year.<sup>10</sup> According to the project’s public website, the ISACS are the goal of an “ambitious initiative”<sup>11</sup> and are designed to:

“[F]it within the global framework created by the UN Programme of Action (PoA), the International Tracing Instrument (ITI) and the UN Firearms Protocol; and build upon best practices elaborated at regional and sub-regional levels.”<sup>12</sup>

As such, ISACS are a means to develop and harden parts of the non-binding PoA as well as add normative value to the existing global framework on small arms controls. Hardening is the process of taking soft-law and making it legally binding. A major criticism of the PoA among its supporters is that it hasn't been as effective as it could be and that this was due to its political or non-legally binding nature. This framework now includes ATT. The key international instruments comprising the current global small arm controls framework, including ISACS, are illustrated in Exhibit 1.

## **WHAT IS THE COALITION AND MOTIVATION BEHIND THE UN ISACS?**

The ISACS project has been coordinated by Dr. Patrick McCarthy since kicking-off in 2008. His duties have been to work with the UNDP and ODA, and coordinate with what is now a coalition of 23 UN agencies. This coalition of supporting agencies is known as the Coordinating Activity on Small Arms (CASA).<sup>13</sup> CASA agencies are part of the growing ISACS partner list.

The ISACS partners list includes these CASA members, plus 19 member states, 17 other international organizations, and over 30 humanitarian civil society groups.<sup>14</sup> None of the permanent UN Security Council member states are partners with ISACS, but Australia is. See Exhibit 2 for a table of the ISACS partners. Of note, the Australian Department of Foreign Affairs is a listed ISACS partner and was the employer of the 2013 UN ATT Conference President Ambassador Woolcott, and sponsored the services of the Small Arms Survey's Sarah Parker, an Australian herself, as an ATT delegation advisor. Ms. Parker, incidentally, is also a lead author of one ISACS on national controls of small arms manufacturing.

Also technically part of the partnership base has been a small but shrinking number of non-voting and non-traditional representatives of global civil society: non-profit and charitable trade, collecting, sporting, and "pro-gun" human rights / civil rights groups from developed national jurisdictions. These groups have been involved as members of an expert reference group with giving advice and feedback on certain standards where permitted, but their input does

not have to be considered or reflected if the lead author or ISAC project coordinator so decide.

According to the original ISACS project kick-off document, the reason to launch the ISACS project was because the UN agencies sponsoring it believe “the time has come to develop a set of internationally accepted and validated standards providing comprehensive guidance on [Small Arms and Light Weapons] control to practitioners and policy makers.”<sup>15</sup> According to another project document, a main benefit of ISACS is to “provide a basis for the development of national small arms control standards.”<sup>16</sup>

## **HOW HAS THE CASA AND ISACS WORKED**

Dr. McCarthy, who has been on contracts to the UNDP for a project cost of approximately \$229,781/year,<sup>17</sup> has relied heavily on subcontracted consultant lead authors and voluntary input from a growing non-voting expert reference group to help flesh out standards based on various existing instruments. He has managed the project in a virtual and distributed manner using specialized groupware technologies and UN video conferences with occasional physical meetings.

According to a 2010 phase 2 project proposal to the Government of Australia, the ISACS development reportedly involves eleven steps:<sup>18</sup>

1. First draft by Consultant
2. Draft reviewed by Expert Reference Group
3. Draft revised by Consultant
4. Draft edited by Coordinator
5. Draft reviewed by CASA working group
6. Draft cleared by CASA as ‘consultation draft’
7. Second round of consultations
8. Draft revised by Coordinator (& Consultant)
9. Draft reviewed by CASA

10. Draft finalized by Coordinator

11. Draft formally adopted by CASA principals as an official ISACS

Steps three through eleven have excluded partnering non-traditional civil society groups and these steps have not even been fully defined or explained, and the individuals responsible for voting decisions have not been identified to them. What's more, the nature of the relationship with these groups is formally a subordinate and exclusive one, where Dr. McCarthy, as "Coordinator," has a one-way or directive or "management" relationship but no formal reporting and communication relationship. In essence the ISACS project was envisioned from the beginning so that Dr. McCarthy would not report information to those that provide input to him. See the illustration in Exhibit 3 to better understand the ISACS project structure and key relationships among the Consultant, Expert Reference Group, CASA, UNDP, and the UN's Office of Disarmament Affairs.<sup>19</sup>

What little is publicly known about lead authors/consultants to the ISACS project is that it includes international small arms control advocates or researchers like Dr. Ed Laurance,<sup>20</sup> a former strategic planner for IANSA. IANSA stands for the International Action Network on Small Arms, which, according to page three of its foundation document, is committed to "reducing the availability of weapons to civilians in all societies."<sup>21</sup>

## **WHAT IS MEANT BY "INTERNATIONAL STANDARD"**

The ISACS project document borrows its definition of international standard from the International Organization for Standardization (ISO), defining a standard to be a:

"document, established by consensus and approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for activities or their results, aimed at the achievement of the optimum degree of order in a given context."<sup>22</sup>

The ISACS project document also suggest the project has also followed "to the extent possible, the Rules for the Structure and

Drafting of International Standards developed by the [ISO].” What is not mentioned in the project document are the fundamental principles of international standards development that must underpin any ISO standards development initiative. According to the ISO itself, there are four principles of international standards development:<sup>23</sup>

1. ISO standards respond to a need in the market
2. ISO standards are based on global expert opinion
3. ISO standards are developed through a multi-stakeholder process
4. ISO standards are based on a consensus

### **WHAT IS THE POTENTIAL NORMATIVE IMPACT OF ISACS?**

According to the ISACS website, the purpose of all the standards modules “is to provide clear, practical and comprehensive guidance to practitioners and policymakers on fundamental aspects of small arms and light weapons control.” However, in reality, ISACS is much more than about providing practical guidance...it is about international or, more accurately, transnational lawmaking by other means. To understand this, one need only refer to the 2012 speech titled “Twenty-first Century International Lawmaking” by former U.S. State Department Legal Advisor Harold Koh. Formerly the Dean and now a returning Professor at Yale Law School, Professor Koh, says twenty-first century international lawmaking is better called “transnational legal process.” He elaborates in his speech:

...International law is primarily enforced not by coercion, but by a process of internalized compliance. Nations tend to obey international law, because their government bureaucracies adopt standard operating procedures and other internal mechanisms that foster default patterns of habitual compliance with international legal rules...

...[W]e now develop international law more and more through “diplomatic law talk” — dialogue within epistemic communities of international lawyers working for diverse governments and nongovernmental institutions. Perhaps someday these norms

will crystallize and, if necessary and advisable, become a basis for a multilateral treaty negotiation...

... [But even if a treaty negotiation doesn't formally materialize, "diplomatic law talk" ] creates a record of state practice and builds a process of generating *opinio juris*, the notion that states engage in those practices out of a sense of legal obligation. So even when their meetings don't involve drafting and concluding agreement language, government lawyers find themselves contributing to the development and application of international law [customary law in particular].

...[In the end] twenty-first century international lawmaking has become a swirling interactive process whereby norms get "uploaded" [from one country or international organization] into the international system, and then "downloaded" elsewhere into another country's laws or even a private actor's internal rules.<sup>24</sup>

Professor Koh's views are consistent with the writings and teachings of other legal scholars such as Dr. José Alvarez of the New York Law School. According to Dr. Alvarez' 2005 research thesis, international organizations, like the ones sponsoring the UN ISACS project, have been increasingly taking on delegated authority by member states. What's more, they are increasingly assuming lawmaking and regulatory roles on matters traditionally thought to be within the exclusive jurisdiction of national legislatures and executive regulatory agencies.<sup>25</sup> In his view, international organizations are now international lawmakers in many domains. In a 2008 lecture posted online through the UN's library, Dr. Alvarez explains why it is important to all stakeholders to get serious about the phenomena of international organizations as lawmakers.<sup>26</sup>

Clearly the UNDP and ODA took this lesson to heart with their ISACS initiative starting up about the same time at Dr. Alvarez's ideas were published through the UN library online. Privately, Geneva-based small arms process legal specialists and researchers acknowledge that international lawmaking is a valid description for what ISACS is all about, even if it is only non-binding standards or soft law at this early point.<sup>27</sup>

The legal aspiration by many in the UN “small arms process”<sup>28</sup> is that ISACS harden into legally binding international law. And that this could be made reality if they were translated into future amendments or additional protocols to the ATT. This could also be made reality on a slower track to the extent they crystallize as or are seen as reflecting customary international law, which would make them globally legally binding on all States whether or not a state ratified or acceded to the ATT.

## **WHAT DOES ISACS ENTAIL?**

ISACS covers a full range of topic areas related to small arms and the policy challenges they present from the point of view of UN agencies, a relatively small group of “angelic” developed states and small arms afflicted developing states, and a range of other humanitarian civil society groups that have been also pushing the hardest for the ATT.

The ISACS are framed as a six-part series and further organized into 24 sub modules. The six series to the ISACS are summarized below, with the corresponding 24 modules listed in Exhibit 4:<sup>29</sup>

Series 1 is basically an introduction to the ISACS framework.

Series 2 entails controls designed for various contexts like for preventing armed violence.

Series 3 is about national controls over things such as civilian access to small arms.

Series 4 is about designing and managing national plans to implement ISACS.

Series 5 is about standards that relate to operational support to the UN in the field.

Series 6 is about standards pertaining to cross-cutting women’s and children’s issues

In reviewing the six series above and the various modules listed in Exhibit 4, some of the ISACS modules could be most helpful where basic national rules are grossly deficient or non-existent. For example, ISACS probably would do much good in fragile and post-

conflict states like Burundi, where humanitarian advocacy groups have made the case a hand grenade can cost less than a pint of beer, and government and civil society still struggle with stocks of government weapons in the hands of civilians and criminals the aftermath of two genocidal conflicts since 1972.<sup>30</sup>

This being said, ISACS will likely present serious democratic sovereignty and civil if not natural human rights challenges to the extent some ISACS “uploaded” to the international system are at variance with constitutional and governing norms where “downloaded.” The prospect of such normative dissonance has already become a source of elevated political concern among American stakeholders in particular. The outputs of this project would be troublesome in that they will initially conflict with but may become persuasive if not controlling within in domestic judicial and regulatory contexts over time, even if the ISACS are rejected formally as ATT amendments by the United States.

## **WHAT ISACS COULD BE PARTICULARLY PROBLEMATIC**

For American non-profit and charitable groups representing trade, collecting, sporting, and pro-gun human / civil rights groups, perhaps the most controversial national control standard now in final review is the one authored by Dr. Ed. Laurance, mentioned above. He was the lead author for ISACS module 03.30 addressing national civilian access controls to firearms. The full title for this standard is “National Controls Over the Access of Civilians to Small Arms and Light Weapons.”<sup>31</sup> This particular ISACS is one of several that are controversial because its central purpose clearly crosses the United States’ previous red line about no language on civilian possession during the ATT negotiations process and could be seen as a back-door domestic gun control that dangerously encroaches on Federal and state constitutional arrangements there. Here are 10 problematic provisions included in his draft standard which have been variously validated by former American ATT conference delegates and others representing non-traditional segments of civil society:

1. Prohibitions on civilians owning weapons manufactured and configured according to specifications set by a military armed service of a State
2. National registration of all firearms
3. National individual possession and purchasing licenses for single firearms based on specific, demonstrated, and “legitimate” need
4. Licenses that specify where a given firearm is stored
5. License restrictions by category, for example:
  - Category 1:* Rimfire rifles (not semi-automatic); shotguns (not pump-action or semi-automatic)
  - Category 2:* Centerfire rifles (not semi-automatic)
  - Category 3:* Rimfire rifles (semi-automatic); shotguns (pump-action or semi-automatic capable of holding up to 5 rounds of ammunition)
  - Category 4:* Centerfire rifles (semi-automatic); shotguns (pump-action or semi-automatic capable of holding more than 5 rounds of ammunition)
  - Category 5:* Handguns (semi-automatic, e.g. revolvers and pistols)
6. Limits on the number of firearms one may possess
7. Mandatory 7 day waiting periods
8. Mandatory use of gun safes or locks
9. Periodic home inspections for compliance with safe storage requirements
10. Minimum age for licensed possession and use set to 18 years old.

## **WHY HAVE SO FEW TRADE, COLLECTING, SPORTING, AND PRO-GUN RIGHTS GROUPS BEEN ENGAGED?**

In short, they report a lack of confidence because ISACS standards and the process producing them appear biased, arbitrary, and capricious. For American groups, many ISACS are viewed as extremely more restrictive than existing federal and state arrangements permit. This mainly is because these groups have been kept at a distance, basically on the outside of the standards development process.

The perception to these groups is that the process and people involved in ISACS decision making are not open nor transparent and have a Eurocentric policy bias. These groups report their ISACS experiences convince them the UNDP and ODA are not serious about their commitment to the ISO standards development as much as they are normatively ambitious since the ISACS development process has excluded them even though they are specially affected stakeholders. The result: conflict, protests, and withdrawal.

For example, the Small Arms and Ammunition Manufacturer's Institute (SAAMI), a bona fide American Nation Standards Institute affiliated organization, actually withdrew from ISACS in March 2012 in protest. They assert there is a clear anti-firearms bias build into the ISACS process.<sup>32</sup> They explained their views in a nine page minority report of protest and withdrawal.<sup>33</sup>

SAAMI's minority report explains that while participating in the ISACS process, its representatives had witnessed, objected to, and seen "significant breaches in standard-setting protocols." The statement proceeded to list various examples to evidence each of the five specific types of breaches below (listed verbatim):

1. Unwillingness to credit all input equally, resulting in refusal to consider opposing views.
2. Stating universal rules for the inclusion of input but failing to employ those rules on an even-handed (namely, if the result did not support the small arms control stipulation being sought) basis.

3. Revealing unsubstantiated and provocative editorial bias during the drafting process that impairs the integrity of the process and is thus likely to hinder serious, balanced discussion.
4. Where objections were made that were accommodated by changes in text, such a change was often made by simply converting a mandatory requirement into a discretionary one without rescinding the unjustified or false premise upon which the original stipulation was based.
5. The comment periods provided after release of each complex, extensive and multi-page Module were often so time-constrained as to appear to have been staged purposefully in order to avoid careful analysis and input. In all, 22 ISACS modules totaling more than 791 pages have been released (sometimes in multiple versions per draft) in the past year and a half for comment in this manner.

Independent interviews with other industry group representatives still connected to the ISACS process revealed the voting and approval processes are essentially closed and undefined, and the individuals responsible for approving standards unknown. What's more, the clear perception is that the key reason for this that non-traditional civil society groups happen to have more positive assumptions about the value of firearms in civil society than those drafting the ISACS and championing the overall process.

To this day, the ISACS approval process, according to trade, collecting, sporting, and pro-gun civil/human rights groups is a mystery, unless you are aligned with groups like IANSA, the Small Arms Survey, or are on a contract or salary with a UN organization sponsoring the ISACS project. This has resulted in a growing sense that ISACS and the exclusive UN inter-agency process that produced them could become reason enough to mobilize against the United States becoming a party to the ATT and to even push for the United States to withdraw from the PoA altogether.

## **SO, ARE ISACS CREDIBLE AS TRUE ISO STANDARDS?**

It would not appear so. This probably will not limit their normative value to those states partnering with ISACS however, since some states view the ISACS process as a way to outsource their national policy-making and will likely adopt the standards wholesale in some fashion or another. Knight from participating in this felony that led to murder. This said, if the ISACS project follows any kind of consensus decision making, it seems clearly limited to consensus-seeking within the exclusive UN CASA community. So as a result, some ISACS may be dismissed completely and encounter serious implementation issues and political consequences in other national jurisdictions. The reason for this, among others, is the project's apparent exclusionary approach seems clearly at variance with the third and fourth principles of ISO standards development.

The ISO principles call for what is essentially an inclusive multi-stakeholder negotiation process by consensus decision rules. But what the ISACS project appears to have done is clearly exclude entire segments of civil society in developed states on account of their neutral if not positive assumptions about the value of small arms in their domestic civil society context.

So instead of the ISACS standards development process being an ideal demonstration of transparent consensus seeking among all affected stakeholders globally, evidence suggest ISACS is more accurately seen as a case example of overtly biased and secretive consensus seeking among Eurocentric like minds. Such deficiencies of the ISACS standards development process will likely lead to further controversy in future ATT implementation talks and most certainly to the extent any problematic ISACS are proposed as amendments or additional protocols within the ATT's binding legal framework.

## **WHAT OTHER ISACS MIGHT BE PROBLEMATIC?**

Generally, for American trade, collecting, sporting, and pro-gun civil rights / human rights groups, the most controversial standards being finalized this year relate to national controls and regulations

in general, those found under Series three of the ISACS framework. The concern fundamentally is that these could become persuasive if not controlling in domestic federal and state judicial and regulatory contexts even if they are rejected formally by the United States as amendments to the ATT. National small arms controls standards under series three of the ISACS framework are as follows:

03.10 National controls over the manufacture of small arms and light weapons. *Lead Author: Ms. Sarah Parker of Small Arms Survey.*<sup>34</sup>

03.20 National controls over the international transfer of small arms and light weapons.<sup>35</sup> *Lead Author: Stockholm International Peace Research Institute.*<sup>36</sup>

03.21 National controls over the end-user and end-use of internationally transferred small arms and light weapons.<sup>37</sup> *Lead Author: Group on Research and Information on Peace and Security - Belgium.*<sup>38</sup>

03.30 National controls over the access of civilians to small arms and light weapons.<sup>39</sup> *Lead Author: Dr. Ed Laurance of the Monterrey Institute of International Studies.*<sup>37</sup>

03.40 National coordinating mechanisms on small arms and light weapons control.<sup>40</sup> *Lead Author: Institute of Security Studies in South Africa.*<sup>41</sup>

03.50 International legal cooperation, criminal offences and investigations. *Lead Author: Unknown.*

## INITIAL CONCLUSIONS & LESSONS LEARNED

The ATT is, among other things, a gateway instrument for the progressive development of binding international small arms controls. And the UN's ISACS are expected by its lead authors and diplomats to serve as valuable inputs to the ATT amendment and implementation processes. Within context, the development of the ISACS exhibits unambiguous indicators of transnational gun control policy development and the broader pursuit of global governance.

On the one hand the formula of ATT + ISACS could result in enormously favorable impacts for civil society in developing

states grappling post-conflict realities such as lack of rule of law, corruption, poor controls over official inventories of small arms.<sup>42</sup> Obviously, some degree of standardized small arms controls are appropriate for comparably deficient legal jurisdictions such as fragile or post-conflict states without effective control over stocks of military weapons. Introducing small arms control standards in these legal contexts would surely make the work of post-conflict disarmament, demobilization, reintegration, and peace-monitoring easier and safer for UN agencies, in addition to making civil society better off in general.

But on the other hand the ATT + ISACS formula will certainly present trouble for large segments of civil society in states with well-developed legal protections respecting professional and hobby collecting, modern competitive shooting, and firearms hunting. This trouble would be most acute in the exceptional case of the United States, which is a federal system with national and subnational constitutional and other legal protections providing for not only a citizen's civil if not natural human right to armed self-defense with arms suitable for such purposes, but also the right to carry arms concealed in public, and also the right to collect and lawfully use, with appropriately approved federal transfer application, of arms and other destructive devices normally restricted to military and law enforcement organizations in other countries.

Rightly understood, the essence of the ISACS project is about international lawmaking by other means and its execution may serve as a contemporary case study in fraught transnational legal process within the UN inter-agency system. Four reasons would make this case clear:

1. There appears to be strong evidence of favored stakeholder engagement.
2. The process and deliverables produced exhibit signs of exclusionary and biased practice among like-minds.
3. The governance process and selected deliverables do not demonstrate any obvious margin of appreciation for the constitutional, political, and cultural sensitivities of the United States or of non-traditional segments civil society as

represented by trade, collecting, sporting, and pro-gun civil / human rights groups there and elsewhere.

4. The ISACS development process has compromised on the core ISO principles of truly inclusive multi-stakeholder engagement and consensus decision making.

Perhaps more importantly, the apparent consequence ISACS project scope, approach, and stakeholder engagement strategy has created a profound lack of confidence among non-traditional civil society stakeholders within the ongoing UN small arms and ATT related processes. For them, there doesn't seem to be much if any reason to trust that what lies ahead is going to be anything other than a zero-sum game of humanitarian normative chauvinism and transnational global governance. And this may catalyze a new era of more direct and intensive transnational activism and advocacy.

This being said, if the ISACS project can teach a lesson for students and practitioners of international law, it may be about the importance of confidence-building within UN inter-agency project settings. While the importance of confidence building measures in treaty making is well established, the ISACS experience suggests appreciation for confidence building in UN inter-agency projects with transnational legal implications can be quite seriously lacking.

Ultimately, the execution of the ISACS project could be seen as both an example of troubled transnational gun control and policy making and an example of UN inter-agency normative ambition trumping accepted principles of international standards development. As such, it may lead to an erosion of American support for the UN's PoA and undermine other efforts at conventional arms control and disarmament. Perhaps it may even put in jeopardy the United States signature on the ATT or eventually prompt an "unsigning" of the treaty as happened with the Rome Statue on the International Criminal Court.<sup>43</sup>

## EXHIBIT 1: EXISTING GLOBAL SMALL ARMS CONTROL FRAMEWORK

GLOBAL SMALL ARMS CONTROL FRAMEWORK							
International Instrument	Date Adopted	Legally Binding	Scope				
			Small Arms	Light Weapons	Ammunition	Parts	Components
Firearms Protocol	2-Jun-01	X	X	X	X	X	X
PoA	20-Jul-01		X	X			
ITI	8-Dec-05		X	X			
ATT	2-Apr-13	X	X	X	X*	X*	X*
ISACS	Rolling **	***	X	X	X	X	X

Notes: Prepared by Jeff Moran. Adapted from a framework published in the Small Arms Survey Research Note 30, June 2013.

\* The ATT as adopted 2 April 2013 contains provisions for ammunition, parts, and components, but these are not consistently addressed within the treaty. These provisions can be changed through amendment.

\*\* There are plans to adopt 24 standards, 8 were published in 2012, with the remainder expected by 2013 year-end.

\*\*\*When published by UNDP and ODA, ISACS are a non-binding but of normative value. If provisions from an ISACS are amended to the ATT, the provision becomes legally binding on State Parties. Rules put forward in any ISACS could become binding on all countries (including non-signatories to the ATT) if and when a given rule becomes recognized as reflecting customary international law.

## EXHIBIT 3: ISACS PROJECT STRUCTURE AND RELATIONSHIPS

INTERNATIONAL SMALL ARMS CONTROL STANDARDS PROJECT PARTNERS, 2/13	
<b>Governments</b>	<ul style="list-style-type: none"> <li>Costa Rica</li> <li>Australia</li> <li>Canada</li> <li>Colombia</li> <li>Costa Rica</li> <li>Germany</li> <li>Guatemala</li> <li>Hungary</li> <li>Iraq</li> <li>Ireland</li> <li>Jamaica</li> <li>Mexico</li> <li>New Zealand</li> <li>Norway</li> <li>Papua New Guinea</li> <li>Romania</li> <li>Switzerland</li> <li>Switzerland and Tobago</li> </ul>
<b>Private Sector</b>	<ul style="list-style-type: none"> <li>Defence Small Arms Advisory Council (DSAAC)</li> <li>EPES Mandala Consulting</li> <li>Explosive Capabilities, Ltd.</li> <li>M&amp;B Consulting</li> <li>National Association of Sporting Firearms and Ammunition Manufacturers, Italy (ANFAM)</li> <li>Tisney Jacobs – Independent Technical Expert</li> <li>Traceability Solutions</li> </ul>
<b>International, Regional and Sub-Regional Organizations</b>	<ul style="list-style-type: none"> <li>Central American Project on the Control of Small Arms and Light Weapons (CAPAC)</li> <li>Economic Community of West African States (ECOWAS)</li> <li>Geneva International Centre for Humanitarian Demining (GICHD)</li> <li>International Committee of Museums of Arms and Military History (ICOMAH)</li> <li>International Committee of the Red Cross (ICRC)</li> <li>International Criminal Police Organization (INTERPOL)</li> <li>Kofi Annan International Peacekeeping Training Centre, Ghana</li> <li>League of Arab States</li> <li>NATO Support Agency (NSRA)</li> <li>Organization for Security and Co-operation in Europe (OSCE)</li> <li>Organization of American States (OAS)</li> <li>Pacific Islands Forum</li> <li>Parliamentary Forum on Small Arms and Light Weapons</li> <li>Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States (RECSA)</li> <li>South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEECSAC)</li> <li>Weapons Arrangement on Export Control for Conventional Arms and Dual-Use Goods and Technologies</li> <li>World Customs Organization</li> </ul>
<b>Academic and Research Organizations</b>	<ul style="list-style-type: none"> <li>Handicap International</li> <li>Institute for Security Studies (ISS)</li> <li>Mines Advisory Group (MAG)</li> <li>Monterey Institute of International Studies</li> <li>National Firearms Association of Canada</li> <li>Nonviolence International</li> <li>Oxfam</li> <li>Pacific Forum for the Advancement of Women</li> <li>People with Disabilities, Uganda</li> <li>Project Ploughshares</li> <li>Safaricom</li> <li>Small Arms Survey</li> <li>Stockholm International Peace Research Institute (SIPRI)</li> <li>United Foundation, Turkey</li> <li>University of Calgary, Canada</li> <li>West African Action Network on Small Arms</li> <li>Women in Alternative Action, Cameroon</li> </ul>

EXHIBIT 2: ISACS PARTNERS

INTERNATIONAL SMALL ARMS CONTROL STANDARDS PROJECT PARTNERS, 7/13	
<b>Governments</b>	<b>Civil Society</b>
Australia	Action on Armed Violence
Canada	Action Sécurité Éthique Républicaine (ASER), France
Colombia	African Strategic and Peace Research Group (ASTRIRAG)
Ecuador	Bonn International Centre for Conversion (BICC)
Germany	British Shooting Sports Council
Guatemala	Burkina Faso Parliamentary Network on SALW
Hungary	Canadian Coalition for Gun Control
Iraq	Centre for the Study of Violence and Reconciliation (CSVr)
Ireland	Dan Church Aid
Jamaica	Danish Demining Group
Kenya	Eastern African sub-regional Support Initiative for the Advancement of Women (EASSI)
Mexico	Foundation for Security and Development in Africa (FOSDA)
New Zealand	Geneva Forum
Norway	Groupe de recherche et d'information sur la paix et la sécurité (GRIP)
Papua New Guinea	Halo Trust
Romania	Handicap International
Serbia	Institute for Security Studies (ISS)
Switzerland	International Action Network on Small Arms (IANSA)
Trinidad and Tobago	International Coalition for Women in Shooting and Hunting (WISH)
	Mines Advisory Group (MAG)
	Monterey Institute of International Studies
	National Firearms Association of Canada
	Nonviolence International
	Oxfam
	Pacific Forum for the Advancement of Women
	People with Disabilities, Uganda
	Project Ploeghishares
	Safeneworld
	Small Arms Survey
	Stockholm International Peace Research Institute (SIPRI)
	Unut Foundation, Turkey
	University of Calgary, Canada
	West African Action Network on Small Arms
	Women in Alternative Action, Cameroon
	<b>Private Sector</b>
	Défense Small Arms Advisory Council (DSAAC)
	EPES Mandela Consulting
	Explosive Capabilities, Ltd.
	MAB Consulting
	National Association of Sporting Firearms and Ammunition Manufacturers, Italy (ANPAM)
	Thierry Jacobs — Independent Technical Expert
	Traceability Solutions
	<b>International, Regional and Sub-Regional Organizations</b>
	Central American Project on the Control of Small Arms and Light Weapons (CASAC)
	Economic Community of West African States (ECOWAS)
	Geneva International Centre for Humanitarian Demining (GICHD)
	International Committee of Museums of Arms and Military History (ICOMAHM)
	International Committee of the Red Cross (ICRC)
	International Criminal Police Organization (INTERPOL)
	Kofi Annan International Peacekeeping Training Centre, Ghana
	League of Arab States
	NATO Support Agency (NSPA)
	Organisation for Security and Co-operation in Europe (OSCE)
	Organization of American States (OAS)
	Pacific Islands Forum
	Parliamentary Forum on Small Arms and Light Weapons
	Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States (RECSA)
	South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC)
	Wassenaar Arrangement on Export Control for Conventional Arms and Dual-Use Goods and Technologies
	World Customs Organization

## EXHIBIT 4: THE SIX SERIES AND 24 MODULES OF THE CURRENT ISACS FRAMEWORK

### SERIES 01 - Introduction to ISACS

01.10	Guide to the application of ISACS	Draft
01.20	Glossary of terms, definitions and abbreviations	Published

### SERIES 02 - Small arms and light weapons control in context

02.10	Small arms and light weapons control in the context of preventing armed violence	Draft
02.20	Small arms and light weapons control in the context of Security Sector Reform	Draft
02.30	Small arms and light weapons control in the context of Disarmament, Demobilization and Reintegration	Draft

### SERIES 03 - Legislative and regulatory

03.10	National controls over the manufacture of small arms and light weapons	Draft
03.20	National controls over the international transfer of small arms and light weapons	Draft
03.21	National controls over the end-user and end-use of internationally transferred small arms and light weapons	Draft
03.30	National controls over the access of civilians to small arms and light weapons	Draft
03.40	National coordinating mechanisms on small arms and light weapons control	Draft
03.50	International legal cooperation, criminal offences and investigations	Draft

### SERIES 04 - Design and Management

04.10	Designing and implementing National Action Plans	Draft
04.20	Designing and implementing community safety programming	Draft
04.30	Raising awareness of the need for small arms and light weapons control	Draft
04.40	Monitoring, evaluation and reporting	Draft

### SERIES 05 - Operational Support

05.10	Conducting small arms and light weapons surveys	Published
05.20	Stockpile management: Weapons	Published
05.30	Marking and recordkeeping	Published
05.31	Tracing illicit small arms and light weapons	Published
05.40	Collection of illicit and unwanted small arms and light weapons	Published
05.50	Destruction: Weapons	Published
05.60	Border controls and law enforcement cooperation	Published

### SERIES 06 - Crosscutting Issues

06.10	Women, gender and small arms and light weapons	Draft
06.20	Children, adolescents, youth and small arms and light weapons	Draft

## ENDNOTES

\* Jeff Moran studies international humanitarian law and human rights at The Geneva Academy in Switzerland. He plans to complete his executive LL.M. focused on international weapons law and lawmaking process in 2014. Mr. Moran is formerly a military diplomat, strategic marketing leader for a leading global aerospace/defense firm, and independent consultant to firearms and accessories manufactures, distributors and retailers. Currently Mr. Moran is a consultant specializing in the ethical and responsible development of the international defense, security, and shooting sports industries at TSM Worldwide LLC. Mr. Moran has a Bachelor of Science in Foreign Service from Georgetown University, an MBA from Emory University, and an Executive Master in International Negotiations & Policy Making from The Graduate Institute of International and Development Studies in Geneva. 1. The final and preceding drafts of the Arms Trade Treaty are available here: <http://tsmworldwide.com/?p=1434>

2. The author attended this public meeting. The agenda for this program is here: [http://tsmworldwide.com/wp-content/uploads/2013/06/Agenda\\_June20\\_Geneva.pdf](http://tsmworldwide.com/wp-content/uploads/2013/06/Agenda_June20_Geneva.pdf). A audio file for the first part of the briefing is available here: [http://tsmworldwide.com/?attachment\\_id=1807](http://tsmworldwide.com/?attachment_id=1807)

3. <http://smallarmssurvey.org/>

4. <http://www.sipri.org/>

5. One example of a treaty with many additional protocols is the 1980 Convention on Certain Conventional Weapons. For more on this treaty see: [http://www.unog.ch/80256EE600585943/\(httpPages\)/4F0DEF093B4860B4C1257180004B1B30?OpenDocument](http://www.unog.ch/80256EE600585943/(httpPages)/4F0DEF093B4860B4C1257180004B1B30?OpenDocument)

6. Amendments are specifically addressed in Article 20 of the ATT text. Amendments are not automatically binding on all signatories to the ATT, a State must sign and ratify amendments to be bound by them. To listen to Amb. Woolcot's remarks listen here: [http://tsmworldwide.com/?attachment\\_id=1807](http://tsmworldwide.com/?attachment_id=1807).

7. For this and the other quoted comments above, see note 2 for audio.

8. See <http://tsmworldwide.com/wp-content/uploads/2013/06/SAS-Research-Note-30.pdf>

9. Author asked about this question in particular during the question period that followed. The response was noted in the author's personal briefing notes but was not recorded at the prior request of Ms. Parker.

10. This was confirmed to the author by ISACS Project Coordinator Patrick McCarthy in May 2013.

11. The ISACS website in June 2012 used the word “ambitious” to describe what the ISACS program goals were. For this see [http://tsmworldwide.com/wp-content/uploads/2013/07/ISACS\\_Website\\_06\\_2012.pdf](http://tsmworldwide.com/wp-content/uploads/2013/07/ISACS_Website_06_2012.pdf)

12. The official website is <http://smallarmsstandards.org/>. More information on the PoA here: <http://www.poa-iss.org/poa/poa.aspx>. More information on the ITI here: <http://www.poa-iss.org/InternationalTracing/InternationalTracing.aspx>. More information on the Firearms Protocol here: <http://www.poa-iss.org/FirearmsProtocol/FirearmsProtocol.aspx>.

13. See more on CASA here: <http://www.poa-iss.org/CASA/CASA.aspx>

14. See ISAC partners here: <http://smallarmsstandards.org/partners.html>.

15. See ISAC Project Document here: <http://tsmworldwide.com/wp-content/uploads/2013/06/ISACS-Project-Doc.pdf>

16. International Small Arms Control Standards Phase 2 Proposal, page 2. See here: <http://tsmworldwide.com/wp-content/uploads/2013/07/isacs-phase-2-prop.pdf>

17. Ibid, page 10.

18. Ibid, page 5.

19. See note 15page 14 for as source graphic for Exhibit 3.

20. See academic profile here: <http://tsmworldwide.com/wp-content/uploads/2013/06/Edward-J.pdf>

21. The IANSA website is here: <http://www.iansa.org/>. The foundation document is here: [http://tsmworldwide.com/wp-content/uploads/2013/06/IANSA\\_Founding\\_Document.pdf](http://tsmworldwide.com/wp-content/uploads/2013/06/IANSA_Founding_Document.pdf)

22. See note 15, page 5.

23. The ISO principles are here: [http://www.iso.org/iso/home/standards\\_development.htm](http://www.iso.org/iso/home/standards_development.htm)

24 Professor Koh’s speech may be read in its entirety here:

<http://tsmworldwide.com/wp-content/uploads/2013/06/Twenty-First-Century-International-Lawmaking.pdf>

25. The book may be bought at <http://www.amazon.com/International-Organizations-Law-makers-Jos%C3%A9-Alvarez/dp/0198765630>.

26 See lecture here along with downloadable handouts: [http://untreaty.un.org/cod/avl/ls/Alvarez\\_IO.html](http://untreaty.un.org/cod/avl/ls/Alvarez_IO.html)

27. Multiple interviews on a not for attribution basis, May and June 2013.
28. For more on what the UN small arms process is see: <http://tsmworldwide.com/wp-content/uploads/2013/06/SAS-HB2-Diplomats-Guide.pdf>
29. The full breakdown of the ISACS framework is here: <http://smallarmsstandards.org/isacs/>
30. Burundi was featured in an award winning promoted by Oxfam International call “Bang for Your Buck,” which reported that grenades costs less than a pint of beer. See a review of this firm here: <http://tsmworldwide.com/now-showing-misguided-humanitarianism/>
31. See this draft ISACS module here: <http://tsmworldwide.com/wp-content/uploads/2013/06/module-3.3.pdf>
32. See the minority report related to SAAMI’s withdrawal from ISACS here: <http://tsmworldwide.com/wp-content/uploads/2013/07/SAA-MIMinorityReportISACSFinal.pdf>
33. See SAAMI “Minority Report Submitted By The Sporting Arms And Ammunition Manufacturers’ Institute In Response To Draft International Small Arms Control Standards Promulgated By The United Nations Coordinating Action In Small Arms.” March 2012. <http://tsmworldwide.com/wp-content/uploads/2013/07/SAAMIMinorityReportISACSFinal.pdf>
34. See draft standard here: <http://tsmworldwide.com/wp-content/uploads/2013/06/module-3.10.pdf>
35. See draft standard here: <http://tsmworldwide.com/wp-content/uploads/2013/06/module-3.20.pdf>
36. More on Dr. Paul Holtom: [http://tsmworldwide.com/wp-content/uploads/2013/07/Dr-Paul-Holtom—www.sipri\\_.pdf](http://tsmworldwide.com/wp-content/uploads/2013/07/Dr-Paul-Holtom—www.sipri_.pdf)
37. See draft standard here: <http://tsmworldwide.com/wp-content/uploads/2013/06/module-3.21.pdf>
38. See GRIP website here: <http://archive.grip.org/en/siteweb/default.asp.html>
39. See draft standard here: <http://tsmworldwide.com/wp-content/uploads/2013/06/module-3.3.pdf>
40. See draft standard here: <http://tsmworldwide.com/wp-content/uploads/2013/06/module-3.40.pdf>
41. See website here: <http://www.issafrica.org/>

42. Settled research shows that these specific problems of small arms and light weapons are most acute for fragile or failed states. Owen Greene and Nicholas Marsh, eds. *Small Arms, Crime and Conflict: Global Governance and the Threat of Armed Violence*. Routledge: 2012. P. 90-91

43. President Bill Clinton signed the Rome Statue establishing the International Criminal Court on his last day in office in January 2001. His successor, President George Bush, effectively unsigned the treaty months shortly before the treaty came into force in July 2002 with a note delivered to the UN Secretary General.