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3

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Legal Controls on Small Arms and Light Weapons in Southeast Asia

Katherine Kramer



A joint publication
of the Small Arms Survey
and Nonviolence International
Southeast Asia

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July 2001



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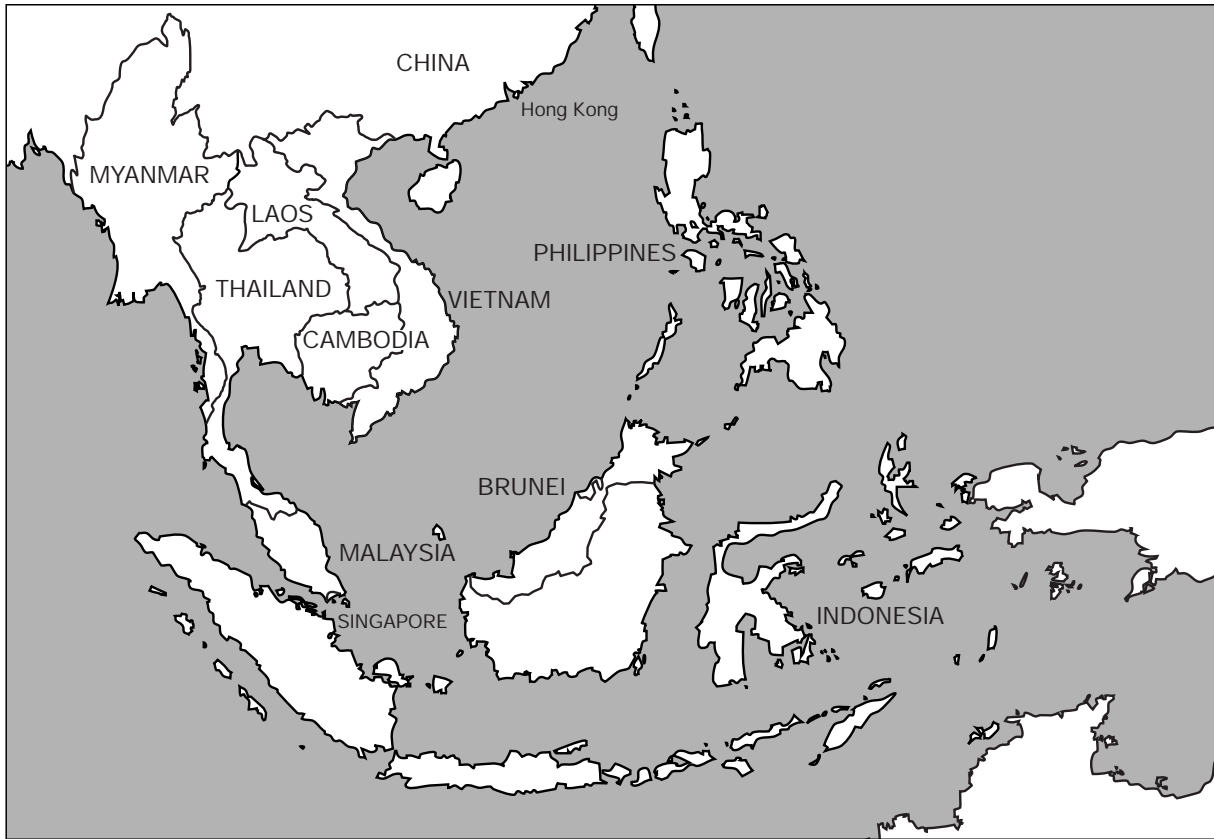
Summary

The uncontrolled proliferation of small arms and light weapons in Southeast Asia threatens the security of both people and states, retards development, and contributes to increasing levels of violent crime. Porous borders coupled with weak and uncoordinated enforcement efforts ensure that the problems caused by small arms in one state are felt in neighbouring ones. Despite these effects, there is no accurate information regarding the number of legal and illegal small arms flowing into and out of the region, nor how many weapons are circulating internally.

Domestic controls are essential to combating the small arms problem. Most weapons are legally produced and/or imported, and then at some point diverted to illicit circuits. By studying national arms control laws, the weaknesses that facilitate this movement can be revealed and potentially addressed—limiting the extent to which legal small arms enter illicit markets.

The member countries of the Association of Southeast Asian Nations have only recently begun to focus on the issue of small arms proliferation. This paper represents a first attempt at reviewing and comparing domestic arms control laws in the region. While the information presented here is not exhaustive, it gives some indication of the current state of legislation in each country and across the region as a whole.

Southeast Asia



The Association of Southeast Asian Nations (ASEAN)

Brunei
Cambodia
Indonesia
Laos
Malaysia
Myanmar
Philippines
Singapore
Thailand
Vietnam

I. Introduction

The uncontrolled proliferation of small arms and light weapons in Southeast Asia threatens peoples, communities, states, and the region as a whole. Among other effects, small arms undermine human and state security, impair development, and exacerbate conflict and crime. While there is no accurate information regarding the number of legal and illegal small arms flowing into and out of the region, nor how many weapons are circulating internally, it is clear that no state in the region remains unaffected by the problem. Although a few Southeast Asian countries do not have widespread ownership or criminal use of weapons, many countries are involved in the production of small arms or are used as conduits for the financing and trafficking of illicit arms. Porous borders coupled with weak and uncoordinated enforcement efforts ensure that the problems caused by small arms in one state are felt in neighbouring ones.

Southeast Asia comprises ten countries (Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam), all of which are members of the Association of Southeast Asian Nations (ASEAN). The organization was established in 1967 to consolidate the region's peace, stability, and development through economic, political, and security co-operation. ASEAN allows members to maintain their diverse political systems while building regional solidarity. ASEAN is currently the only forum that can address the small arms issue at the regional level.

ASEAN has little formal power as a policy-making body. Its member states have preferred bilateral agreements to broader regional instruments. For example, five member states have bilateral extradition agreements, but no multilateral agreement has been negotiated through ASEAN. ASEAN's commitment to regional policy by consensus is constrained by the aversion its members have to interference in their internal affairs by other member states and the international community as a whole.

II. ASEAN's response to small arms proliferation in the region

The issue of small arms and light weapons was first raised within ASEAN at the 1997 ASEAN ministerial meeting held in Malaysia. The meeting set the tone for ASEAN's current approach to small arms by emphasizing the need for regional co-operation in combating transnational crime. Small arms and the smuggling of small arms were recognized as an integral part of terrorism, drug trafficking, money laundering, trafficking of persons, and piracy. Later that year, the ASEAN Ministers of Interior and Home Affairs adopted the *ASEAN Declaration on Transnational Crime*. The declaration reflected ASEAN's resolve to confront the problem of transnational crime and included agreement in principle to increase regional co-operation and explore ways in which member countries could work more closely with relevant international agencies and organizations.

At the 1998 ASEAN Summit in Hanoi, ASEAN heads of state reiterated their calls to strengthen regional capacity to deal with transnational crime in the *Hanoi Plan of Action*. This was followed by the adoption of the *ASEAN Plan of Action to Combat Transnational Crime* in 1999. In brief, the plan outlined a regional strategy to prevent, control, and neutralize transnational crime through such activities as information exchange, co-operation in legal and law enforcement matters, institutional capacity building, training, and extra-regional co-operation. Thus far, ASEAN initiatives in this area, aimed primarily at criminal syndicates operating across borders, have involved verbal and written agreements—as opposed to concrete action.

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The first time that ASEAN addressed small arms as a distinct topic was in May 2000 at the *Jakarta Regional Seminar on Illicit Trafficking in Small Arms and Light Weapons*, sponsored by the United Nations (UN) Department for Disarmament Affairs, the UN Regional Centre for Peace and Disarmament in Asia and the Pacific, and the Governments of Japan and Indonesia. All ASEAN member states attended with the exception of Vietnam. Collectively, ASEAN kept to its narrow perspective, as the member states 'urged that the analysis be framed in the context of transnational crime'. ASEAN members supported strengthening law enforcement, intelligence-sharing, and border and customs controls, as well as increasing co-operation and exchange of information for the purpose of addressing small arms trafficking within the region. Other measures suggested at the meeting included post-conflict disarmament, addressing the 'root causes' or underlying conditions that promote the illicit trafficking of small arms, and improving national controls on these weapons with a view to preventing their leakage into the illicit market (UN, 2000).

The outcome of the regional conference was not surprising. With few exceptions, ASEAN members' national positions on small arms proliferation have been reactive rather than proactive. There have been few resources committed to analysing the small arms situation within ASEAN. This can be attributed to the fact that small arms have only recently been viewed as an issue of national security. In addition, each country is affected by small arms in a different way and to a different degree. Currently, the only point of agreement is that small arms are intertwined with other cross-border crimes. However, when the small arms issue is absorbed into the agenda of combating transnational crime, other pressing issues, such as drug trafficking and human trafficking, often overshadow it. This limited view of the small arms problem sidesteps any consideration of the ways in which arms move from legal production, transfer, and acquisition to the illegal market. It also largely ignores the destabilizing effects small arms have outside the context of transnational crime, such as increased societal violence. In addition, by portraying the problem as criminal, it contributes to the avoidance of political/diplomatic solutions to over 30 different armed insurgencies within the region.

III. Research objectives and constraints

A comprehensive approach, including both national and regional initiatives, is essential to deal with the problems associated with small arms proliferation. The illicit trafficking of small arms is an extremely complex issue that encompasses both illegal and legal aspects; it is therefore necessary to take into account licensed civilian possession, use, and trade, as well as regulations governing manufacture, exports, imports, and internal movement.

A review of current legal arms controls in Southeast Asia is needed given the problem of diversion of arms from legal sources to illicit markets and uses. This study is the first attempt to consider the region's national legal controls on small arms. While it provides a review and comparison of domestic arms control legislation, it does not include an analysis of their effectiveness or enforcement.

In order to understand domestic arms control laws in Southeast Asia, it is important to note that the rule of law has developed unevenly throughout the region. In some countries, the authorities rule by decree, while in others the legal system is well developed. The quality and quantity of arms control laws varies considerably among states within the region. As a result of overburdened law-making structures in some countries, arms control regulations may exist solely as administrative directives, proclamations, or decrees rather than as formal legislation.

Access to legal texts and regulations differs from country to country. In some countries, acquiring arms control legislation only requires a visit to a university or national library; in others, it is necessary to apply directly to the relevant ministry. Related regulations may be dispersed throughout the legal system, although laws dealing with firearms are usually collected under one main heading covering arms and explosives. As a result, it is difficult to review and compare laws across countries. This study gathered as many of the relevant laws and regulations as possible between February and July 2000. Much of the legislation that was found concerns civilian possession, use, trade, and manufacture and may not reflect norms pertaining to the military or other government entities. Some of these texts are unofficial translations of the originals. Legal texts were supplemented with information gained from interviews with government officials and informed observers, as well as official government correspondence. The governments of all ASEAN countries were given the opportunity to comment on earlier drafts of this study.

There are several areas where the data and information on current arms control legislation is incomplete. This report should therefore be seen as a preliminary effort to review and compare national arms control legislation in ASEAN countries with the aim of promoting dialogue about the process of regional harmonization of legislation. While every attempt has been made to find the most up-to-date and relevant documents, gaps exist. The Small Arms Survey welcomes any feedback, supplementary data, or corrections to the findings presented here.

IV. Definitions

Currently, there is no regionally agreed definition as to what constitutes a small arm, light weapon, or ammunition.

The problem of precisely defining what constitutes a small arm or light weapon, much less ammunition, is not unique to Southeast Asia—it has been debated extensively at the international level. It is more than an issue of semantics—it often determines the scope or applicability of particular legislation. The legal definition of what constitutes a small arm or light weapon varies considerably from country to country and even within countries between different sectors (civilian and military).

Generally, small arms and light weapons (including ammunition) can be carried by an individual, two or more people, or a pack animal. For purposes of this report, we recognize the definition developed in 1997 by the UN Panel of Governmental Experts on Small Arms:

- *Small arms*: revolvers and self-loading pistols, rifles and carbines, assault rifles, sub-machine guns, and light machine guns.
- *Light weapons*: heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-tank and anti-aircraft guns, recoilless rifles, portable launchers of anti-tank and anti-aircraft missile systems, and mortars of less than 100mm calibre.
- *Ammunition and explosives*: cartridges (rounds) for small arms, shells and missiles for light weapons, mobile containers with missiles or shells for single-action anti-aircraft and anti-tank systems, anti-personnel and anti-tank hand grenades, landmines, explosives (UN, 1997, para. 26).

Explosives were further defined in the United Nations *Report of the Group of Experts on the Problem of Ammunition and Explosives*. The Group focused mainly on military high explosives, industrial explosives (including those used in the mining industry), improvised or ‘home-made’ explosives, and explosive initiators or detonators (blasting caps) (UN, 1999a, para. 16).

The UN definitions have yet to be universally accepted or applied. Even the question of the scope of the 2001 *United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*,¹ the first global conference to tackle this issue, has proved controversial. As of February 2001, it had not been decided whether the conference would focus solely on military weapons or include the myriad of firearms typically used by civilians, such as pistols and hunting rifles, which in some regions pose a greater threat to human security than military-style arms.

It is therefore no surprise that the approach taken to legally define what constitutes a small arm, light weapon, ammunition, or explosive varies widely among Southeast Asian countries. Even the terminology used to refer to these items differs. In some countries, they are called ‘war weapons’ or simply ‘weapons’, while in others the term ‘firearms’ or ‘arms’ is used. Just as the terms vary, so do their meanings—which is more crucial as this determines the scope of the relevant law. Definitions often include items that are not always considered small arms or light weapons, such as knives or imitation arms.

Various definitions of arms, ammunition, and explosives, as set out in the national legislation of ASEAN member states, are listed in Tables 1 and 2. Some definitions are extremely basic, with a list of items covered under the law, while others offer much more detailed, sometimes technical, descriptions. Some definitions are quite comprehensive, yet others have gaps that could be exploited.

Table 1. Definition of an arm

Brunei	<i>Definition unavailable.</i>
Cambodia	A 'weapon' is defined as including: all types of firearms and pistols; firearms which cause watery eyes, fainting, or poisoning; all types of automatic or semi-automatic firearms; soundless firearms or soundless equipment; all types of rockets; all types of chemical weapons; all types of biological weapons; all types of electrical shock sticks; all types of grenades and mines; all types of explosive substances; and all types of bullets (Cambodia, 1999c, art. 2).
Indonesia	<i>Definition unavailable.</i>
Laos	'War weapon' <i>Definition unavailable.</i>
Malaysia	'Arm means any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged, or which can be adapted for the discharge of any such shot, bullet or other missile, and any weapon of whatever description designed or adapted or which can be adapted for the discharge of any noxious liquid, gas or other thing, and includes an air gun, air pistol, automatic gun, pistol and any component parts of any such weapon, and any accessory to those weapons designed or adapted to diminish the noise or flash caused by firing the weapon' (Malaysia, 1960a, sec. 2).
Myanmar	'Arms' include firearms, knives, bayonets, swords, daggers, spears, spear-heads, bows and arrows, cannons, as well as parts of arms and machinery for manufacturing arms (Myanmar, 1878, sec. 4).
Philippines	The term 'firearm' or 'arm' covers rifles, muskets, carbines, shotguns, revolvers, pistols, and all other deadly weapons from which a bullet, ball, shot, shell, or other missile may be discharged by means of gunpowder or other explosives. The term also includes air rifles except those which, being of small calibre and limited range, are used as toys. The barrel of any firearm is also considered a complete firearm for purposes of the law (Philippines, 1987c, sec. 877).
Singapore	'Arms includes firearms, air-guns, air-pistols, automatic guns, automatic pistols, and guns or any other kind of gun from which any shot, bullet or other missile can be discharged or noxious fumes can be emitted and any component part of any such arms, and bayonets, swords, daggers, spears and spearheads' (Singapore, 1913a, sec. 2).
Thailand	'Firearms includes all arms which send a projectile by means of an explosion, pressure of gas or compressed air or by mechanical contrivance depending on the force of energy and parts thereof held by the Minister to be important and listed in a Ministerial Regulation' (Thailand, 1958a, sec. 3(1)).
Vietnam	<i>Definition unavailable.</i>

Table 2. Definition of ammunition and explosives

Brunei	<i>Definition unavailable.</i>
Cambodia	All types of bullets. All types of explosive substances (Cambodia, 1999c, art. 2).
Indonesia	<i>Definition unavailable.</i>
Laos	<i>Definition unavailable.</i>
Malaysia	'Ammunition means ammunition (including blank ammunition) for any arm as hereinafter defined, and includes grenades, bombs and other like missiles, whether capable of use with arms or not, and any ammunition containing, or designed or adapted to contain, any noxious liquid, gas or other thing' (Malaysia, 1960a, sec. 2(1)).

Table 2. (Continued)

	<p>'Ammunition means an explosive of any kind enclosed in any case or contrivance or otherwise adapted so as to form a cartridge or charge for small arms, cannon or any other weapon, or for blasting, or to form any safety or other fuse for blasting, or for shells, or to form any tube for firing explosives, or to form a percussion cap, a detonator, a fog signal, a shell, a torpedo, a war rocket, a submarine mine, a land mine, or other contrivance other than a firework' (Malaysia, 1923, part 1).</p> <p>'Explosive means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance used or manufactured for the purpose of producing a practical effect by explosion or a pyrotechnic effect and includes fog-signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive, any material for making any explosive and any apparatus, machine, implement or material used or intended to be used or adapted for causing or aiding in causing any explosion in or with any explosive and any part of any such apparatus, machine or implement' (Malaysia, 1957, sec. 2).</p> <p>'Explosive substance shall be deemed to include any materials for making any explosive substance and any bomb, grenade, apparatus, machine, implement or material used or intended to be used or adapted for causing or aiding in causing any explosion in or with any explosive substance and any part of such bomb, grenade, apparatus, machine or implement' (Malaysia, 1958, sec. 2).</p>
Myanmar	'Ammunition includes also all articles specially designed for torpedo service and submarine mining, rockets, gun-cotton, dynamite, lithofracteu and other explosive or fulminating material, gun flint, gun-wads, percussion-caps, fuses and friction-tubes, all parts of ammunition and all machinery for manufacturing ammunition, but does not include lead, sulphur or saltpetre' (Myanmar, 1878, sec. 4).
Philippines	<i>Definition unavailable.</i>
Singapore	<p>'Explosive —</p> <p>(a) means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powder, fulminate of mercury or of other metals, coloured fires and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to producing a practical effect by explosion or a pyrotechnic effect;</p> <p>(b) includes fog signals, fireworks, fuses, rockets, percussion-caps, detonators, cartridges and ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined; and</p> <p>(c) includes sand crackers, and any substance declared to be deemed an explosive by notification under section 5(1)(a)' (Singapore, 1913a, sec. 2(1)).</p> <p>'Explosive substance shall be deemed to include any materials for making any explosive substance and any bomb, grenade, apparatus, machine, implement or material used or intended to be used or adapted for causing or aiding in causing any explosion in or with any explosive substance and any part of such bomb, grenade, apparatus, machine or implement' (Singapore, 1963b, sec. 2).</p>
Thailand	<p>'Ammunition includes single bullets, buck shot, shrapnel, explosive shells, torpedoes, mines, and rockets of all kinds whether with or without acid, gas, fuel, germs, poison gas, fog or smoke, or explosive shells, torpedoes, mines and rockets of similar characteristics or instruments or things to compress, make, or use in connection with ammunition' (Thailand, 1958a, sec. 3(2)).</p> <p>'Explosives, i.e. substances capable of exerting a strong and sudden pressure on their surroundings by explosion when appropriately touched off or by the destruction of the explosive substance itself giving rise to a destructive or killing force and includes fulminating substances or any other similar substance used or made to give rise to an explosion as may be specified by the Minister in the Government Gazette' (Thailand, 1958a, sec. 3(3)).</p>
Vietnam	<i>Definition unavailable.</i>

V. Private possession, carrying, and use

Every ASEAN country has a law or regulation governing the private ownership of small arms.

It is estimated that at least 55 per cent of the total number of small arms in circulation worldwide (550 million) are privately licensed firearms (Small Arms Survey, 2001). The ease with which the civilian population can obtain small arms, coupled with the quantity of arms legally dispersed, can exacerbate national and regional proliferation problems. It is therefore essential to consider legal controls on privately licensed firearms as an aspect of the problem of small arms proliferation. Within Southeast Asia, every country has either a law or regulation governing the licensing of small arms for personal use to individuals residing within the country's territory.

A two-step process determines the eligibility of applicants for a firearm licence. First, applicants must satisfy the general criteria—preconditions that must be met before they can apply for a licence. Secondly, those persons who meet the general criteria must also pass a set of requirements at the individual level. The Philippines is the only country that seems to have no general requirements to be met prior to the application process, except that the applicant must be over 21 (UN, 1999c). All other countries in the region maintain certain general preconditions.

In Thailand, one may only apply for a licence where the purpose is defence of person or property, hunting, sports, or collection, and if the applicant is at least 20 (Thailand, 1947a, secs. 9, 11; 2001). In Myanmar and Singapore, individuals must prove to the licensing authority that they justifiably fear their security is threatened in order to apply for a licence for self-protection (Myanmar, 2000; Singapore, 2000). Similarly, Malaysia restricts the application process to those individuals who can show 'very good reasons' (as determined by the licensing authorities) for possessing a firearm (Malaysia, 2000a). Both Malaysia and Singapore also issue licences to members of shooting clubs, though the arms must be kept in the club's armoury. In Indonesia, licences are granted for private possession only to individuals who have reached a high-level position within their occupation, whether civilian, civil servants, or those serving in the military or police (Indonesia, 2000). Similar rules apply in Cambodia and Laos, though in Cambodia no civilians are allowed to possess arms for any reason, thus leaving possession open only to upper-level civil servants and members of the military and police who have reached the rank of general or higher (Cambodia, 1999c, arts. 12–13; Laos, 2000a; 2000b). In Brunei, private possession licences are only granted to members of the military or police for 'good reason', which includes sport shooting and collecting (UN, 1999c). Vietnam issues licences only for hunting (UN, 1999c). Laws in Brunei, Cambodia, Indonesia, Myanmar, and Thailand also specifically state that licences will not be issued to non-citizens. A policy comparison is given in Table 3.

Ownership licences are granted by the licensing authority following an application process. Individual requirements for being granted a licence vary from country to country (see Table 4). According to the *United Nations International Study on Firearm Regulation* (1998), as part of the application process, the majority of countries around the world require proof of identity, references, training certification, the payment of a fee, a photograph, a mental health exam, and information on proposed storage, as well as a background check for a criminal or domestic violence record. These requirements could thus be considered as norms for domestic licensing procedures worldwide. ASEAN countries often diverge from the international norm by having more complex requirements. For example, in Thailand, persons having 'no means of living or income', 'no fixed habitation', or who are 'of such grossly bad character as to constitute a danger to public peace' are ineligible (Thailand, 1947a, secs. 13(7), 13(9)). In addition to other conditions, Malaysia requires applicants to produce a bank statement and documents on land/property ownership in support of their application (Malaysia, 2001a).

Table 3. General preconditions for licence applications

	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
'Good reason'										
Self-defence										
Hunting										
Sport shooting										
Collection										
Must be a citizen										
Civilians										
Civil servants										
Military/police										
Age requirement			Under 65		Over 18	Over 18	Over 21		20 or over	Over 18

 national requirement

Laws relating to licensing for civilian possession often contain ambiguities subject to the interpretation and discretion of the licensing agencies. In most cases, this occurs in countries where the notions of public order and national security overlap. In Myanmar, individuals applying for a firearms licence must be 'loyal citizens to the State' and the authorities must be satisfied that the issuing of the licence would 'not be detrimental to ... the State's security, regional security, prevalence of law and order and the observance of discipline' (Myanmar, 2000). In a similar vein, Malaysian law states that individuals can be granted an arms licence only where this is 'without danger to the public safety or the public interest' (Malaysia, 1960a, sec. 4(2)).

Table 4. Criteria for being issued a licence

	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Shooting test					If over age 60					
Medical exam					If over age 60			If over age 60		
Medical history										
Mental health exam										
Good behaviour										
Background check										
No criminal record										
No history of domestic violence										
Fee										
Proof of Identity										
Photograph										
References										
c.v.										
Waiting period										
Approved storage arrangements										

 situation unknown  required  not required

Table 5. Categories of arms licensed for private possession

Brunei	<i>Not available.</i>
Cambodia	Pistols can be licensed to senior civil servants (Cambodia, 1999c, art. 12).
Indonesia	Only arms which are non-Indonesian military standard (i.e., .32 calibre or less) can be licensed for personal use. '[I]f it is necessary ... certain government officials' can be licensed to own and/or use military standard firearms and ammunition, which are 'temporarily borrowed' from the Department of Defence and Security (Indonesia, 1977, art. 5).
Laos	Licences are issued for hunting guns as well as 'war weapons' (Laos, 2000a).
Malaysia	'No arms licence shall be granted or renewed for—(a) a pump or repeating shot gun of any kind, unless the magazine of the gun is so constructed or permanently plugged as to render it incapable of firing more than one cartridge at each pressure of the trigger or, in the case of a double-barrelled gun, one cartridge from each barrel; (b) an arm that is so designed or adapted that if pressure is applied to the trigger missiles continue to be discharged until pressure is removed from the trigger or the magazine containing the missiles is empty; (c) any arm of any description designed or adapted for the discharge of any noxious liquid, gas or other thing; (d) any grenade or bomb or other like missile; (e) any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing' (Malaysia, 1960a, sec. 5(1)).
Myanmar	The categories of firearms that can be licensed are: revolvers of .38 bore and less; pistols of .38 bore or 9mm and less; smooth barrel weapons of 12 bore and less; rifles of .22 bore; hunting rifles of large bore; and air-guns (Myanmar, 2000).
Philippines	Licences are issued for: .25 to .38 calibre pistols or revolvers; .45 calibre pistols or revolvers; high-powered or military-type rifles; .22 calibre pistols or revolvers; other .22 calibre firearms; low-powered rifles; and shotguns (Philippines, 1987c, sec. 887).
Singapore	Licences are granted for pistols up to .32 calibre only (Singapore, 2001).
Thailand	Categories of firearms that can be licensed to civilians are: firearms with rifled bores (less than 11.14mm calibre); firearms with smooth bores (less than 20mm calibre/shotgun); semi-automatic guns and revolvers (barrel length less than 160mm /shotgun/ .22 rimfire); firearms without silencers; and firearms which do not use ammunition containing chemical, biological, fuel, and radiation substances (Thailand, 2001; 1979).
Vietnam	Only shotguns are allowed for personal use (UN, 1999c).

Most countries in the region specify that only certain types of arms can be licensed for private possession (see Table 5). In general, pistols, rifles, and shotguns up to a certain calibre can be licensed. Philippine law determines who may possess a given type and calibre of firearm on the basis of occupation, social standing, and income level (Philippines, 1987c, sec. 887). Thailand allows civilians to possess only certain types of pistols and rifles (Thailand, 2001). Indonesia permits private ownership of non-Indonesian military standard arms—specifically anything below .32 calibre—whereas Myanmar's criterion is .38 calibre or less (Indonesia, 1977, arts. 1(c), 5(a)(2); Myanmar, 2000). Malaysia specifies that only single-shot arms can be licensed (Malaysia, 1960a, sec. 5). Laos grants licences for any type of non-military or military standard weapon. This includes the licences issued to Laotian military and police personnel for carrying such arms as required for duty (Laos, 2000a; 2000b). Cambodia has a similar licensing process for their police and military personnel. However, it is further stipulated that

members of the Royal Cambodian Armed Forces, Gendarmerie, and National Police must have mission and authorization papers for their weapons. Upon completion of an operation, the weapons must be returned and kept at the concerned unit (Cambodia, 1999c, art. 14). Indonesian law requires those government agencies authorized to perform security and/or public order functions to have licences for their weapons (Indonesia, 1977, art. 3).

For purposes of private collection, Indonesia and Thailand require that the relevant arm should be non-operational (Indonesia, 1977, art. 5(c)(2); Thailand, 1947a, sec. 11). Thai law specifically prohibits the discharge of firearms that have been licensed as antiques (Thailand, 1947a, sec. 12).

In most countries, the licence to possess an arm also specifies the conditions and restrictions under which it may be carried and/or used. Cambodia, Malaysia, Myanmar, the Philippines, and Thailand require additional permits to carry arms. For example, Myanmar law states that no person can carry an arm without a licence or in a manner contrary to the provisions of the licence (Myanmar, 1878, sec. 13). In the Philippines, a special law applies during election time prohibiting all individuals, including the police and the military, from carrying guns outside their residence or military barracks, except those specially appointed by the election committee to uphold law and order within specific areas (Philippine Free Press, 1992). Indonesia and Malaysia prohibit arms being discharged outside of designated shooting ranges, except in the protection of life and property or when hunting with express permission. Malaysia recognizes an additional exemption in favour of members of the armed forces and police officers engaged in the performance of their duties, along with individuals acting pursuant to authorization granted under wildlife protection laws (Indonesia, 2000; Malaysia, 1960a, sec. 39).

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The length of time for which a licence is valid differs. In Indonesia and Malaysia, licences are valid for one year (Indonesia, 1977, art. 10(b); Malaysia, 1960a, sec. 4(4)). Laos and Singapore require a renewal every two years (Laos, 2000a; Singapore, 1913b, rule 4), whereas licences in Thailand are valid for as long as the person owns the firearm, except in the case of permits authorizing the *carrying* of a firearm, which are valid for only one year (Thailand, 1947a, secs. 23(3), 23(7)). In the Philippines, licences are valid until the death or legal disability of the licensee (Philippines, 1987c, sec. 889).

VI. Identification and marking

Four out of ten ASEAN countries require licensed private small arms to have a unique, distinguishing mark.

The marking of small arms with a unique identifier, such as a serial number along with a country and/or manufacturer's code, is considered an essential element in controlling their proliferation. First, it facilitates inventory control. Second, it enables an illicit firearm to be traced to its original source, giving an indication of the process by which it moved from legal origin to illegal transfer and use. Only Indonesia, Malaysia, Singapore, and Thailand specifically state that a licence is granted for each arm and that this arm must be uniquely marked with either a distinguishing number or identifier (Indonesia, 2000; Malaysia, 1960a, sec. 4(6); Singapore, 1913b, rule 6; Thailand, 1947a, sec. 10; 1947b, art. 3). If a unique mark is not found, the licensing authority is entitled to make one that is permanent but does not damage the arm itself. Thailand further stipulates that all firearms must bear a mark indicating the province of the licensee and a registration number (Thailand, 1947b, art. 3).

VII. Ammunition and spare parts

Seven ASEAN countries either limit the amount of ammunition that an individual may possess at any time for their firearm and/or control spare parts.

According to the UN Group of Experts on the Problem of Ammunition and Explosives, ‘attempts to address small arms and light weapons would be incomplete if they did not include due regard for ammunition’ (UN, 1999a, para. 11). Without ammunition, a small arm is little more than a crude club. Limiting availability and access to ammunition could therefore reduce the physical danger posed by these weapons, though the perceived threat would remain. Just over half of Southeast Asian countries limit the amount of ammunition that people can have in their possession at any time. Thailand requires individuals to obtain a permit to purchase ammunition for their licensed firearm. They can only possess ammunition for the arm that is licensed to them. No ammunition can be held for collector’s items (Thailand, 1947a, sec. 12). In the Philippines as well, one must have a permit for the arm itself and obtain a separate permit to purchase ammunition for it. The accompanying chart indicates the amount of ammunition allowed at any time (Philippines, 1987c, sec. 887).

In Malaysia, individuals may possess only 100 rounds of ammunition at any time per licence. The proportion of persons holding more than two types of licensed weapons is negligible (Malaysia, 2001a). Indonesia is similar, allowing individuals who have an arm for self-defence up to 50 live ammunition rounds per pistol and 100 live ammunition rounds per rifle. Members of a shooting club may purchase up to 200 rounds of live ammunition (Indonesia, 1977, arts. 5(a)(2), 5(b)(5); 2000). Singapore has the lowest ammunition limit (20 rounds) allowed per pistol licensed for self-protection (Singapore, 2001). In Cambodia, licences to possess firearms also stipulate how much ammunition is allowed to be held at any given time, as determined by the licensing authority (Cambodia, 1999c, art. 19). No country requires an accounting of how ammunition has been used.

Shotgun of any gauge	300 rounds
Low-powered rifles	600 rounds
Revolvers (.22 calibre)	300 rounds
Pistols (.22 calibre)	300 rounds
All other firearms	100 rounds

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Spare parts are another important aspect. With enough spare parts, a person can build or repair an arm for illicit purposes. Only Malaysia, Myanmar, and Singapore include spare parts in the legal definition of firearms, thus ensuring that components are controlled as if constituting a complete firearm. The Philippines is the only country that specifically requires anyone wishing to deal in spare parts to have a licence (Philippines, 1995, sec. 1(a)(3)).

VIII. Domestic transfers

Domestic arms regulations need to take into account several different kinds of transaction or transfer (see Table 6). The commercial business of buying and selling arms is conducted by *dealers*. In the private sphere, individuals licensed to own arms may want to *purchase* an arm, *exchange* one arm for another, or relinquish or *sell* their arm. Licensed owners may also want to *rent* out their arm, *lend* it to another individual, or *give* it to someone else (without remuneration). Finally, there is the question of what happens to legally owned arms/licences when the licensed owner or dealer dies; for example, can someone *inherit* an arm/licence?

Dealers are licensed in Indonesia, Malaysia, the Philippines, Singapore, and Thailand (Indonesia, 2000; Malaysia, 1960a, sec. 9; Philippines, 1987c, sec. 883; Singapore, 1913b, rule 13; Thailand, 1947a, sec. 24; UN, 1999c). Commercial sales must be to individuals licensed to possess arms. Dealers

are required by law to keep detailed records of their stock and any sales or exports. All records must be presented or made available for inspection. Trade licences in the Philippines further specify the number of firearms the dealer is allowed to keep in stock. If dealers wish to exceed that limit, they must apply for a new licence (Philippines, 1987c, secs. 883, 885). As well as requiring licences to sell and possess arms, Brunei, Malaysia, the Philippines, Singapore, and Thailand also require a licence to purchase arms or ammunition (UN, 1999c; Malaysia, 1960a, sec. 11; Philippines, 1987c, sec. 887; Singapore, 1913b, rule 23; Thailand, 1947a, sec. 7).

Some Southeast Asian countries, such as Cambodia, prohibit several types of domestic arms transfer (Cambodia, 1999c, art. 4). In Laos and Vietnam, private owners are prohibited from selling their firearms, though Laos permits licensed owners to transfer their weapons from one family member to another as long as no money is exchanged (Laos, 2000a; 2000b; UN, 1999c). In Indonesia, individual owners may sell their arms, no licence required; however, the arm must be kept at a police station until a transfer certificate is issued (Indonesia, 2000). In Myanmar, any person lawfully possessing an arm and/or ammunition may sell these to another authorized person. If they sell to someone who is not authorized, they must report the sale to the district magistrate (Myanmar, 1878, sec. 5). Malaysian law states that arms or ammunition can be sold or transferred to a holder of a valid licence once approval has been granted by the authorities (Malaysia, 2001a).

In some parts of Southeast Asia, especially in rural areas, it is quite common within large, often poor families for valuable goods or resources to be shared among family members. An arm would be considered an item of value and the owner would be expected to share it with the rest of the family. These social value systems appear to be reflected in national legislation; arms control laws in Cambodia, Thailand, and Vietnam specifically address the question of renting, lending, giving, and/or inheriting—either by expressly forbidding such transfers or by requiring a licence (Cambodia, 1999c, arts. 4, 18; Thailand, 1947a, sec. 64; 2001; UN, 1999c). Malaysia and Singapore prohibit these activities (Malaysia, 2001a; Singapore, 2001).

Table 6. Regulations on domestic transfers

	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Dealing										
Selling										
Purchasing										
Exchanging										
Renting										
Lending										
Giving										
Inheriting										

□ situation unknown □ allowed with a licence □ prohibited

IX. Manufacture and repair

The manufacture of small arms and light weapons without a licence is prohibited in all ASEAN countries.

Most countries in ASEAN, with the exception of Cambodia and Laos, legally produce small arms (Small Arms Survey, 2001). In addition, illicit manufacturing of small arms occurs in a number of countries (e.g. the Philippines). Manufacturing arms without a licence or other form of government permission is prohibited in every ASEAN country. The manufacturing of arms falls under the direct control of the Ministry of Defence, the police, or the Ministry of Interior, even if the factory is privately owned or operated. In the case of Malaysia, manufacturing firms are government owned, but operated by a private company set up by the government (Malaysia, 2001a). Malaysian law specifies that a government representative must be present at any meeting of the company's board. The manufacturing licence specifies the type and quantity of products that can be manufactured, as well as the security and safety measures that must be followed (Malaysia, 1960a, sec. 9).

Malaysia, Singapore, and Thailand specifically require that manufacturers and repairers keep records of stock and sales available for inspection (Malaysia, 1960a, sec. 9(10); Singapore, 1913b, rules 14, 15; Thailand, 1947b, art. 6). For example, Singapore requires the following information:

- the date the arm was taken into stock;
- the number of the import licence or the name of the person from whom the arm was purchased or received;
- a description of the arm;
- the number of each type of arm taken into stock;
- the date of sale;
- the number of the purchase or export licence; and
- the quantity of arms sold or exported (Singapore, 1913b, rule 15).

The Singaporean licensing authority maintains a similar record book. Inspections are required by law at least once per quarter (Singapore, 1913b, rules 17, 18). In Thailand, a monthly report must be submitted to the local registrar (Thailand, 2001).

Indonesia, Malaysia, Singapore, and Thailand also require licences for anyone wanting to repair arms (Indonesia, 2000; Malaysia, 1960a, sec. 9(2); Singapore, 1913a, sec. 8(1)(d); Thailand, 1947a, sec. 24). Owners must take their firearms to licensed repairers and, for the most part, the latter are allowed to accept only licensed arms. In Indonesia, those authorized to repair arms are the same individuals licensed to deal in arms (Indonesia, 2000). Malaysia and Myanmar prohibit any alteration or conversion of arms without a licence or written government permission (Malaysia, 1960a, sec. 38(1); Myanmar, 1878, sec. 5). This would include shortening a rifle barrel or converting an item not originally designed to be a firearm into one.

The duration of manufacturer's and repairer's licences varies by country. In Singapore, a licence is valid for two years, while in Malaysia the licence expires on the last day of the year (Singapore, 1913b, rule 13(2); Malaysia, 2001a).

X. Storage and packing

The regulation of the storage and packing of small arms, ammunition, and explosives is frequently overlooked.

The regulation of the storage and packing of small arms, ammunition, and explosives is important, not only for safety reasons, but also to ensure secure stockpile management. Inadequate stockpile management can result in theft, a loss of inventory due to corruption, and a lack of baseline data. This issue is frequently overlooked, as reflected in the fact that only seven of the ten ASEAN countries mention it in their laws, and then primarily in relation to non-governmental holdings (see Table 7). In fact, security regulations for governmental holdings of small arms and ammunition were found only for Malaysia.² Malaysia and Thailand are the sole countries found to have regulations on the packaging of firearms, ammunition, and explosives; Singapore has special requirements for the packaging of ammunition and explosives only (Malaysia, 1960a, sec. 16; Singapore, 1915, rules 20–25; Thailand, 1960, secs. 4, 6). Cambodia is the only country that prohibits the storage of arms, ammunition, or explosives by civilians (Cambodia, 1999c, art. 4). Brunei, Indonesia, Malaysia, and Myanmar regulate, to some degree, the storage of small arms, whereas Singapore and Thailand address only the question of the storage of ammunition and/or explosives (UN, 1999c; Indonesia, 2000; Malaysia, 1923, rules 7–20; 2001a; Myanmar, 1878, sec. 7; Singapore, 1915, rules 8–19; Thailand, 1947a, sec. 40). Thai law, in particular, prescribes the safe storage of material used in the production of weapons, as well as the place of storage for manufactured weapons (Thailand, 1977d). Thailand is also the only country that specifies that all arms and ammunition must be imported in ‘separate packages without any other goods contained therein’ and specially marked (Thailand, 1960, sec. 4). In Indonesia, all weapons licensed for the purposes of shooting and hunting must be kept at a shooting club and checked out for use (Indonesia, 2000).

Table 7. Regulations on storage and packing

	Storage	Packing
Brunei	F	
Cambodia	F A E	
Indonesia	F A	
Laos		
Malaysia	F A E	F A E
Myanmar	F A	
Philippines		
Singapore	A E	A E
Thailand	E	F A E
Vietnam		

situation unknown

F = Firearms

A = Ammunition

E = Explosives

XI. Domestic transport

Seven ASEAN countries regulate the internal movement of small arms.

Provisions for monitoring the internal movement of small arms and ensuring that adequate security measures are taken are important elements of small arms control. The majority of ASEAN countries have regulations governing the internal movement of small arms. For example, Thailand requires written authorization from the Ministry of Defence in order to ship firearms, ammunition, or explosives within the country (Thailand, 1947a, sec. 70; 2001). Myanmar law allows the government to prohibit the transport of arms and ammunition within the entire country or any part thereof (Myanmar, 1878, sec. 10). Vietnam restricts the movement of arms within the country (UN, 1999c). Cambodia places responsibility for the internal transport of arms, ammunition, and explosives fully with the offices of the Ministry of Interior or the Ministry of Defence (Cambodia, 1999c, art. 5). Similarly, arms or ammunition in the Philippines must be shipped from Manila to the Constabulary Unit or relevant Provincial Commander for delivery to the consignee (Philippines, 1987c, sec. 887). In Singapore, the movement of arms from the point of entry must be conducted under armed escort by a security firm, currently CISCO (Singapore, 2001). Additionally, the country has special rules governing the movement of explosives (Singapore, 1971). Malaysia also requires an escort to move arms, ammunition, or explosives from one place to another; these items must be packed and transported separately from all other items (Malaysia, 2001a).

Table 8. Regulations on domestic transport			
	Domestic transport		Domestic transport
Brunei		Myanmar	F A E
Cambodia	F A E	Philippines	F A
Indonesia		Singapore	F A E
Laos		Thailand	F A E
Malaysia	F A E	Vietnam	F

situation unknown
 F = Firearms
 A = Ammunition
 E = Explosives

XII. Import and export

All ASEAN countries have laws governing the import and export of small arms.

The importation of small arms can exacerbate the problems associated with their proliferation, especially in cases where the arms are diverted from intended legal end users or in cases where the country is already overflowing with arms. Adopting tight controls and making responsible decisions with respect to the import and export of small arms can help address the problem. All ASEAN countries regulate the import and export of small arms. In Vietnam, import and export by civilians are both prohibited (UN, 1999c). In Brunei, Malaysia, Myanmar, Singapore, and Thailand, import and export licences are issued to businesses or civilians (UN, 1999c; Malaysia, 1960a, sec. 15; Myanmar, 1878, sec. 6; Singapore, 1913a, sec. 8(b); Thailand, 1947a, secs. 15–20, 30–32). Thai law prohibits the export or transit by civilians of a wide range of designated arms, ammunition, and ‘war materials’ (Thailand, 1953b, sec. 3). In Indonesia and the Philippines, only licensed dealers may import weapons

(Indonesia, 1977, art. 7(b); Philippines, 1995, sec. 2(a)(1)). Indonesia law further specifies the ports at which import and export may occur, whereas Malaysian law merely empowers the government to impose such restrictions if it wishes (Indonesia, 1977, art. 7(f); Malaysia, 1960a, sec. 20).

Cambodian and Laotian law expressly prohibit the importation of arms by anyone other than the government (Cambodia, 1999c, art. 5; Laos, 2000b). In addition, Laos bars civilians from exporting arms (Laos, 2000b). Myanmar recognizes an exception to its normal requirement of an import/export licence where individuals import or export 'arms (other than cannon) or ammunition ... in reasonable quantities for ... private use' (Myanmar, 1878, sec. 6). Singapore, the largest arms producer in the region, tightly controls the import and export of arms. Singaporean companies must even have licences to import and export arms and ammunition to be displayed at trade shows (Singapore, 2000). Licensed dealers applying for a permit to import specific arms must indicate:

- their number;
- their description;
- their calibre;
- their manufacturer;
- the name of the vessel on which they will arrive;
- the probable arrival date of the vessel; and
- whether the arms are for stock or trans-shipment (Singapore, 1913b, rule 7).

Applications for export licences must contain similar information, including the country of destination (Singapore, 1913b, rule 11).

The validity of import/export licences also varies. In Singapore, an import licence is valid for 14 days after the arrival or unloading date (Singapore, 2001). In Indonesia, the licence is valid for six months, and in Thailand for one year (Indonesia, 1977, art. 10(a); Thailand, 1947a, sec. 36).

Table 9. Import/export regulations pertaining to civilians

	Import	Export
Brunei		
Cambodia		
Indonesia		
Laos		
Malaysia		
Myanmar		
Philippines		
Singapore		
Thailand		
Vietnam		

situation unknown
 allowed with a licence
 prohibited

XIII. International restrictions

Only three ASEAN countries refer to international restrictions on the transfer of small arms in their domestic arms control laws.

Currently, the only international restrictions governing small arms transfers that apply to Southeast Asian countries are UN arms embargoes. Compliance with international embargoes preventing the flow of arms to conflict areas is essential to their success and effectiveness. Often these measures are undertaken to dampen the level of conflict and its devastating impact on non-combatants. Countries that comply with UN arms embargoes demonstrate their willingness to meet international obligations and act responsibly. Laws in Malaysia, Singapore, and Thailand refer to international restrictions on small arms transfers.

In Malaysia:

- (1) The Minister may, from time to time, by notification in the *Gazette*, prohibit for a period to be specified in the notification ... the exportation of any arms or ammunition or parts of arms or of particular kinds of arms or ammunition or parts of arms without a special permit signed by himself.
- (2) Any such prohibition of exportation may either be absolute or may relate to such place or places as shall be specified in the notification; and any person who takes or sends any article out of Malaysia by sea, land or air with the intention that it shall ultimately reach a particular place either directly or indirectly shall, for the purposes of this section, be deemed to export the arms or ammunition to that place (Malaysia, 1960a, sec. 21).

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Thus, a notice by the Minister would appear in the *Gazette* (the legal journal where all laws and regulations are printed) prohibiting the export of arms or ammunition to a country facing a UN arms embargo. Singaporean law grants export licences subject to 'any conditions which may from time to time be imposed in respect to the export of guns or arms to other countries' (Singapore, 1913b, rule 12). The licensing authority in Singapore, the Arms and Explosives Branch, processes applications for export in consultation with the Ministry of Foreign Affairs and the Trade Development Board, which advise the licensing authority as to whether the requested export will adversely affect Singapore's foreign policy or if the destination country is under active UN embargo (Singapore, 2001). Thai law provides for the 'control' of the export and in-transit movement of arms 'for the purpose of safeguarding ... international peace and security' (Thailand, 1952, sec. 3).

XIV. Inspections and searches

Six ASEAN countries recognize in law the right of authorities to conduct searches/inspections if they have just cause.

Provisions for inspections and searches are important in monitoring and enforcing stockpile management and domestic arms control laws. Regular inspections can decrease the probability of diversion of stocks into the illicit market and help ensure that licence holders are meeting their obligations. Malaysia, Singapore, and Thailand provide for the regular inspection of firearms and ammunition stocks held by manufacturers and dealers (Malaysia, 1960a, sec. 12(4); Singapore, 1913b, rule 14; Thailand, 1947a, sec. 28). Malaysian and Philippine law require annual inspections of privately held weapons (Malaysia, 2001a; Philippines, 1987c, sec. 897). The Cambodian Ministry of Interior and the

Ministry of Defence are responsible for inspecting all weapons and explosives within their jurisdiction (Cambodia, 1999c, ch. 2, arts. 6–7). Myanmar law stipulates that the authorities can conduct, at any time, a census on the number of firearms in any locality (Myanmar, 1878, sec. 32).

A few countries recognize in law the right of authorities to conduct searches if they have just cause. Thailand is one example (Thailand, 2001). In Malaysia, most searches and subsequent arrests must be made with a warrant. Exceptions include cases where an individual or vehicle is not on private property or where a person carrying arms or ammunition behaves suspiciously (Malaysia, 1960a, secs. 47–56). In Myanmar and Singapore, searches and subsequent arrests may be made without a warrant (Myanmar, 1878, sec. 25; Singapore, 1913a, secs. 31–39). In Malaysia and Myanmar, the law also permits citizen arrests in cases where the relevant individual is intent on using arms for an unlawful purpose (Malaysia, 1960a, sec. 54; Myanmar, 1878, sec. 12).

XV. Demobilization and reintegration

Without carefully planned post-conflict demobilization and reintegration, the risk of small arms remaining in circulation—whether in the possession of ex-combatants or in the black market—is high. Even though all countries in the region, with the exception of Singapore, are facing or have faced armed insurgencies, no laws or regulations pertaining to the demobilization and reintegration of ex-combatants were found.

XVI. Collection and destruction

Only four ASEAN countries have made provision for the collection and destruction of weapons.

Only four countries in the region (Cambodia, Malaysia, the Philippines, and Thailand) have made provision for the collection and destruction of weapons, whether with or without compensation. Thailand has offered a number of amnesties in which individuals in possession of unlicensed firearms could either licence their arms or turn them over without prosecution within 90 days of the act's entry into force (Thailand, 1948, sec. 3; 1958a, sec. 9; 1967, secs. 5–7; 1975, sec. 5). The most recent amnesty, in 1992, gave people 60 days to turn over firearms, ammunition, and explosives prohibited by law (Thailand, 2001). Through a 1980 Presidential Decree, the Philippines offered an amnesty in which unauthorized firearm holders could surrender their arms to the government without incurring criminal liability (Philippines, 1980, sec. 1). In a more recent endeavour, the Cambodian government established a Commission on the Control and Confiscation of Weapons for the purpose of launching mobile collection operations, confiscation, and other 'measures to prevent and to suppress free shooting' in Phnom Penh and the country's provinces and municipalities (Cambodia, 1999b). Both the Philippines and Cambodia provided compensation to individuals turning over weapons. A collection programme conducted in the state of Sarawak in Malaysia compensated owners for licensed arms handed over to the authorities (Malaysia, 2001a).

XVII. Registers

Six ASEAN countries keep national arms registers, of which four are computerized.

National registers are essential to keep track of licensed ownership, production, and trade, and are especially useful for tracing confiscated illicit weapons to their point of origin. Registers should be comprehensive and easily accessible. Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand keep national registers of all licences issued (UN, 1999c; Malaysia, 2001a; Singapore, 2000; Thailand, 2001); however, only Brunei, Singapore, and Thailand keep these records in computerized form. Malaysia has begun to establish a computerized national arms register. As of January 2001, 80 per cent of its arms licences had been computerized (Malaysia, 2001a).

XVIII. Exemptions

In order to ensure maximum effect and prevent possible loopholes for exploitation, exemptions to national arms control laws and regulations should be kept to a minimum. Exemptions provided for in ASEAN country legislation include: members of armed forces and police forces in the performance of their duties; licensed dealers, repairers, manufacturers, and traders of arms and ammunition and their employees, in the conduct of business; and the manufacture, possession, use, storage, sale, transport, import, or export of arms and explosives by government order.

XIX. Explosives

Most ASEAN countries address explosives in the same laws that deal with small arms and light weapons.

With the increased use in Southeast Asia of Improvised Explosive Devices (IED), including home-made bombs and landmines, the control of both military and industrial explosives has become critical. When controls are lax, explosive materials are easily obtained. Non-state actors can make these explosives into landmines or bombs, often with the intent of causing casualties and suffering among the civilian population. Cambodia, Myanmar, the Philippines, Singapore, and Thailand regulate explosives in the same laws in which they deal with small arms. Indonesia and Malaysia are the only countries that have separate laws regulating explosive substances (Indonesia, 2000; Malaysia, 1923; 1957). In Thailand, the Minister of the Interior and the Minister of Defence must approve licences to manufacture, import, and use explosives. The transport of explosives without written authorization is also prohibited (Thailand, 1947a, secs. 38, 43; 2001). Thailand also regulates the storage of explosives (Thailand, 2001). Indonesia, Malaysia, and Singapore have established special safety regulations for explosives manufacturing (Indonesia, 1910; 1927; 1970a; 1970b; 1972; 1994b; Malaysia, 1923; 1957; Singapore, 1915). In addition, Indonesia seeks to limit the environmental impact of explosives, for example in fisheries, and also requires manufacturers to submit to environmental testing (Indonesia, 1941, art. 5(3); 1985, art. 6, para. 1; 1994a). Singapore also makes special provision for the storage and movement of explosives within the country (Singapore, 1971). No information pertaining to explosives was found with respect to Brunei, Laos, and Vietnam.

Table 10. Specific laws regarding explosives

	Possess	Use	Buy/Sell	Import/Export	Manufacture	Store	Transport
Brunei							
Cambodia							
Indonesia							
Laos							
Malaysia							
Myanmar							
Philippines							
Singapore							
Thailand							
Vietnam							

situation unknown

Licence or official government authorization required

XX. Penalties

Penalties for infractions of arms control regulations vary widely and often reflect the country's history in dealing with insurgencies.

Penalties for infractions of arms control laws promote compliance with state regulations. Stiff penalties increase the opportunity cost for individuals otherwise inclined to break the law and, in the case of cross-border arms smuggling, often force the relevant business to move to areas where the risk is lower. Some ASEAN countries describe in detail the types of penalties to be imposed for particular infractions, while others are less specific. Table 11 provides a rough comparison. In the Philippines, the severity of punishment increases depending on the type of arm involved (Philippines, 1997b). Malaysia and Singapore, both known for their heavy penalties for arms control violations, also punish individuals found to be in association with persons committing firearms violations or other crimes involving a firearm (Malaysia, 1971, secs. 3(a), 9; Singapore, 1974, secs. 5, 7). It is also possible to apply more than one law or act in sentencing. This is especially true when the infraction is a violation of the *Penal Code* and involves a firearm. Hence, in the case of illegal firearms possession in Malaysia, the provisions of the *Internal Security Act 1960 (Act 82)* and the *Firearms (Increased Penalties) Act 1971 (Act 37)* could be applied (Malaysia, 2001a).

Penalties often reflect a country's history in dealing with insurgents. Most notorious in this respect were the penalties outlined in *Presidential Decree No. 1866* of the Philippines. For the unlawful manufacture, sale, acquisition, disposition, or possession of firearms or ammunition, the decree imposed a penalty of *reclusion temporal* (12–20 years imprisonment) or *reclusion perpetua* (30 years to life imprisonment). If, however, these infractions were committed in connection with 'crimes of rebellion, insurrection or subversion', it imposed the death penalty (Philippines, 1983, sec. 1).³

Thailand prohibits the manufacture, assembly, repair, transformation, importation, or possession of firearms, ammunition, or explosives without a licence. In case of a violation, the punishment is 1–10 years imprisonment and/or a fine not exceeding 20,000 baht. In cases exceeding the authority of the Registrar (i.e., concerning firearms that civilians cannot lawfully possess), offenders receive 2 years

to life imprisonment, or 20 years to life imprisonment if the case involves trading or selling. Further, if such firearms are used in violation of the *Penal Code*, offenders could be sentenced to life imprisonment or capital punishment (Thailand, 1947a, sec. 73; 2001). In Vietnam, penalties are more severe when the relevant action is conducted by or for a group (UN, 1999c).



Table 11. Penalty comparison

Infraction	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
General penalty					max. 1 year and/or max. fine 2,000 RM	max. 1 month and/or fine				
Violation of licence	Fines up to USD 1,000				max. 7 years and/or max. 10,000 RM fine (possession); max. 25,000 RM fine (manufacture, individual); max. 100,000 RM fine (manufacture, company)	max. 6 months and/or fine			1–10 years and/or 2,000–20,000 B	
Illegal possession		1 month–5 years	max. 20 years, life, or death	6 months–5 years	max. 7 years and/or max. 10,000 RM fine		6 years and not less than P15,000, or 6 years+1 day and P30,000	5–10 years and 6 strokes canning	1–10 years and/or 2,000–20,000 B (2 years to life)	
Unauthorized carrying of arms				6 months–5 years	max. 7 years and/or max. 10,000 RM fine	max. 3 years and/or fine	1 month+1 day to 6 months	5–14 years and 6 strokes canning	1–5 years and/or 1,000–10,000 B	
Trading in arms/ammunition without a licence		1 month–5 years		6 months–10 years	life and min. 6 strokes whipping, or death		6 years and not less than P15,000, or 6 years+1 day and P30,000	life and 6 strokes canning, or death	2–20 years and/or 4,000–40,000 B (20 years to life)	1–20 years, life, or death
Providing/selling arms/ammunition to an unlicensed individual		1 month–5 years			max. 2 years and/or max. 2,000 RM fine	max. 6 months and/or fine			2–20 years and/or 4,000–40,000 B (20 years to life)	
Purchasing/accepting arms/ammunition without a licence		1 month–5 years	max. 20 years, life, or death	6 months–5 years	max. 2 years and/or max. 2,000 RM fine		6 years and not less than P15,000, or 6 years+1 day and P30,000		1–10 years and/or 2,000–20,000 B (2 years to life)	
Stealing arms/ammunition				2–10 years						
Manufacturing arms/ammunition		1–5 years	max. 20 years, life, or death	6 months–5 years	life and min. 6 strokes whipping or death (individual); max. 500,000 RM fine (company)	max. 3 years and/or fine	6 years and not less than P15,000, or 6 years+1 day and P30,000	life and 6 strokes canning, or death	2–20 years and/or 4,000–40,000 B (2 years to life)	1–20 years, life, or death
Repairing/transforming arms without a licence					max. 7 years and/or max. 10,000 RM fine				2–20 years and/or 4,000–40,000 B (2 years to life)	
Tampering, defacing, changing, or erasing the serial number/identification mark					max. 2 years and/or max. 2,000 RM fine		6 months+1 day to 6 years			

Importing/exporting without a licence		prison	max. 20 years, life, or death		max. 7 years and/or max. 10,000 RM fine	max. 3 years and/or fine		life and 6 strokes canning, or death	2-20 years and/or 4,000-40,000 B (2 years to life)	
Transporter of illegal shipment					max. 7 years and/or max. 10,000 RM fine	max. 3 years and/or fine			2-20 years and/or 4,000-40,000 B, or 10 years and fine of four times shipment value	
Use in violation of the Penal Code or scheduled offence		prison			life or max. 14 years (penal code); life and min. 6 strokes whipping (scheduled offence)	max. 7 years and/or fine	aggravating circumstance	death	life or death	
Injury without lawful excuse					max. 2 years and/or max. 5,000 RM fine					
In possession of an arm at time of committing a scheduled offence					life and min. 6 strokes whipping		aggravating circumstance	life and 6 strokes canning		
Concealing/keeping arms, ammunition, or explosives		prison		6 months-5 years	max. 7 years and/or max. fine 10,000 RM				fine of four times value	
Damage to government-owned arms/explosives by carelessness				3 months-3 years						
Drunk and disorderly conduct with an arm					max. 1 year and/or max. 1,000 RMI fine					
Loss or theft of licence or licensed weapon		deprived of licence and weapon (loss of licence)			max. 1 year and/or max. 1,000 RM fine					
Infraction	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam

situation unknown

In relation to Thailand, penalties in parentheses refer to offences committed with weapons that are not allowed to be licensed to civilians.

Sources: Cambodia, 1992b; 1999c; Indonesia, 1951; Laos, 1990; Malaysia, 1960a; 1971; 2001a; 2001c; Myanmar, 1878; Philippines, 1997b; Singapore, 1974; Thailand, 2001; UN, 1999c (with respect to Brunei and Vietnam).

XXI. Conclusion

Small arms proliferation in Southeast Asia has multiple effects: contributing to high levels of violent crime in Indonesia, Malaysia, the Philippines, and Thailand; fuelling insurgencies in Aceh, Mindanao, and Myanmar; intensifying communal conflict in the Moluccas; and impeding development in Cambodia. The impacts of small arms are wide-ranging, affecting not only human security, but extending also to the law enforcement and public health sectors. Porous borders ensure that these effects are felt and shared throughout the region. No state is untouched. Even if weapons do not originate in a particular country, they may be sold, financed, trafficked, or used there.

As the vast majority of illicit small arms originate from legal holdings, national arms controls are of paramount importance. Though the most basic control measures over civilian possession, domestic transfers, manufacture, repair, and the import and export of arms are provided for, to some degree, in national legislation, many important issues are overlooked (see Table 12). For example, with the exception of Malaysia (Malaysia, 2000b), no ASEAN country regulates the activities of arms brokers. Other areas which could be strengthened include controls on ammunition, spare parts and storage, as well as marking standards, computerized registers, and the collection and destruction of confiscated or surplus arms.

As seen in some of the legislation reviewed in this study, gaps and opportunities exist for the diversion of legal small arms to illicit circuits. These gaps could be addressed by reviewing existing national legislation, closing loopholes, and promoting greater harmonization at the regional level. A few countries in the region have begun this process, notably Cambodia and Indonesia. A minimum level of regional harmonization, drawing on best practice from other parts of the world—rather than a piecemeal approach—would greatly enhance small arms control across Southeast Asia.

The reform of national laws and regional harmonization need to be accompanied by a focus on the enforcement of existing arms control laws, with states identifying the equipment, human resources, and judicial infrastructure required for effective implementation. Opportunities for co-operation at a practical level could also be identified, with an emphasis on providing assistance to those countries lacking the necessary capacity to implement existing legislation.

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Table 12. Aspects of arms control regulated to some degree by ASEAN countries

	Private possession	Identification and marking	Ammunition	Spare parts	Domestic transfers	Manufacture and repair	Storage	Domestic transport	Import and export	Brokers	International restrictions	Inspections and searches	Demobilization and reintegration	Collection and destruction	Computerized registers	Explosives
Brunei																
Cambodia																
Indonesia																
Laos																
Malaysia																
Myanmar																
Philippines																
Singapore																
Thailand																
Vietnam																

situation unknown

Endnotes

- 1 <<http://www.un.org/Depts/dda/CAB/smallarms/about.htm>>
- 2 Details on Malaysia's security regulations on arms and ammunition can be found in the Inspector-General's (Police) Standing Order (IGSO) (Malaysia, 2001b).
- 3 Note that *Decree No. 1866* was later amended by the *Republic Act No. 8294* (Philippines, 1997b). For a list of penalties currently in force in the Philippines, see Table 11.

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(a) The notation 'BE' stands for 'Buddhist Era' and is used to designate the equivalent Thai year.

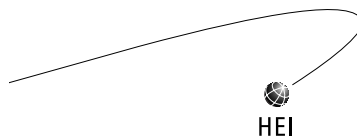
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