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The G8: global arms exporters

Failing to prevent
irresponsible arms
transfers



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Introduction

The international arms trade lacks effective control. Irresponsible arms transfers continue to fuel armed violence. They contribute to violations of human rights and international humanitarian law and they undermine development. The uncontrolled proliferation of conventional arms, particularly small arms and light weapons¹ (hereafter referred to as small arms), has taken a terrible toll on communities worldwide. The cost in lost lives, lost livelihoods and lost opportunities to escape poverty is incalculable. Arms deliveries were worth some US\$28.7 billion² worldwide in 2003 – a paltry sum compared to the human, security and development costs.

Yet, contrary to their responsibilities and legal obligations, the G8 countries - Canada, France, Germany, Italy, Japan, the Russian Federation, the UK and the USA - are still supplying weapons and munitions to irresponsible end users. Six of the eight G8 countries are among the top 10 largest global arms exporters, and all of the eight export large amounts of major conventional weapons or small arms. So the G8 has a particular responsibility to help create an effective system of global control of arms transfers.

As these tables show, the G8 countries are among the world's leading arms suppliers, exporters of major conventional weapons, and exporters of small arms.

This table shows the leading arms suppliers compared and the value of all arms deliveries to the world (in millions of current US dollars)³ between 1996 and 2003.

<i>Country</i>	USA	UK	France	Russia	Germany	Italy	Canada	Japan
<i>Ranking</i>	1	2	3	4	5	10	No ranking or value for arms deliveries is provided by the Congressional Research Service Report for Canada and Japan	
<i>Arms deliveries worldwide between 1996 and 2003 in millions of current US dollars</i>	151,867	43,000	30,200	26,200	10,800	2,700		

This table provides an indication of the volume of major conventional weapons supplies by the G8 countries in 2003 according to SIPRI.⁴

<i>Country</i>	Russia	USA	France	Germany	Canada	UK	Italy	Japan
<i>Major conventional weapons export, by volume, in 2003 in US\$ million.</i>	6,980	4,385	1,753	1,549	556	525	277	No data is provided by SIPRI for Japan

Please note that the SIPRI values are an indicator of the volume of international arms transfers and not the actual money values of such transfers. These figures can not be compared with others.

The value of **small arms exports in 2001** by the G8 countries.⁵

<i>Country</i>	USA	Italy	Germany	Japan	Canada	UK	Russia	France
<i>Small arms exports in 2001 in US\$ million</i>	741.4	298.7	156.7	70.3	53.6	44.8	42.2	33.7

The data included in this report is the latest comprehensive data available. Please note the figures are pulled from different sources, as shown by the above tables, which use different methods of calculation so care should be taken when making comparisons.

Each of the G8 governments has a particular responsibility to control arms and to respect and ensure respect for human rights and international humanitarian law. However, as this report shows, inadequate controls and poor practice in implementing and enforcing those laws and regulations which do exist mean that arms are still being exported from the G8 to groups and governments that persistently abuse human rights and which exacerbate human suffering.

Excessive or inappropriate arms purchases are also a drain on social and economic resources. In some developing countries the result is that badly needed resources are diverted away from the fight against poverty. Many of the G8 countries are large donors to aid programmes in Africa and Asia. However, continuing arms transfers to developing countries undermine their pledges to relieve debt, combat AIDS, alleviate poverty, tackle corruption and promote good governance.

The transfer of arms and related military assistance also impedes development when the items are transferred to unaccountable and poorly trained military forces that are used to suppress human rights, democracy and socio-economic development. Such arms transfers can facilitate brutal resource exploitation, and environmental degradation. They can contribute to an increase in violence against civilians. The presence of guns in society has a particular impact on women's lives. Large numbers of women and girls are at risk of armed violence, whether they are directly involved in the fighting or dealing with the emotional, social and economic consequences of the loss of male relatives who have been killed or injured by gun violence. Given the effects of weapons misuse, it is shocking how few governments give serious thought to the impact on development and human rights of their arms exports. And for the few that do, it has yet to become a genuine priority.

The challenge to the G8 governments is clear. They must co-operate to control and limit the flow of arms. These most powerful governments need to establish a global system of controlling

international arms transfers through an Arms Trade Treaty. Such a Treaty would create legally binding arms controls on all international arms transfers and ensure that all governments control arms in line with the same basic international standards including human rights and humanitarian law. This Treaty would be applied equally to the broadest possible range of weapons, munitions and equipment for use in military operations and law enforcement, including their components, technologies, and technical assistance and material resources for training to make use of such weapons, munitions and equipment. It would help stop such arms falling into the hands of those who use them to attack civilians, to launch indiscriminate attacks and to perpetrate a wide range of other human rights abuses.

This report uses case studies to illustrate the scope of shortcomings common across the G8 and other countries. The report focuses on loopholes and weaknesses in arms exports controls and their implementation. Many of the problems highlighted in relation to one country also apply to others. For example, both France and Germany have exported arms to countries subject to a European Union (EU) arms embargo, such as Myanmar (Burma), China and Sudan. The failure to enforce controls on the transfer of equipment that can be used for torture and ill-treatment applies not only to the French government, but also to the German, Russian, UK and US, governments. The continued transfer of weapons, including small arms, to countries where they may be used to facilitate human rights abuses is highlighted using examples from Italy and Japan, and the increasing concern over the lack of control on the transfer of dual-use technology and components is illustrated using cases from Germany, Japan, and the UK. Thus, the examples included in the report have been selected because they show why a tough, comprehensive, enforceable Arms Trade Treaty is urgently needed. This may have helped to prevent many of the violations of human rights and international humanitarian law illustrated by the cases cited in this report.

On 23 and 24 June 2005, Foreign Ministers from each of the G8 countries will meet to discuss the UK Foreign Secretary's proposal for a legally binding Arms Trade Treaty covering all conventional weapons including small arms and light weapons, and including provisions to address particular loopholes. Two weeks later the G8 Heads of States will take part in a Summit focusing on Africa.

Control Arms Campaign partners -- Amnesty International (AI), Oxfam International and the International Action Network on Small Arms (IANSA) -- are urging the Foreign Ministers and Heads of State of the G8 countries to actively support the UK proposal and join the call for a global Arms Trade Treaty.

Canada

In 2003, Canada exported US\$556 million of major conventional weapons including aircraft, warships, artillery, armoured vehicles, missiles and target acquisition and radar systems. Canada is also a major exporter of small arms and light weapons, including ammunition. In 2001, it exported small arms worth US\$53.6 million.

Responsible arms exporter?

In 2002, Canada exported military equipment to several countries involved in armed conflict and/or human rights violations including light armoured vehicles and helicopters to Saudi Arabia (see the box below), and firearms to Turkey,⁶ where in 2002 dozens of killings by security forces were reported.⁷ According to the UN commodity trade database (UN Comtrade) data, in 2002, Canada transferred small arms ammunition to India, Israel and Saudi Arabia.⁸

According to official Canadian policy, the government closely controls arms exports to countries in conflict and to governments with persistent records of human rights violations.⁹ However, such sales beg the question of how exactly human rights abuses are weighed up by Canadian officials and ministers when deciding whether to authorize an export.

The Canadian government assesses licence applications on an individual case-by-case basis.¹⁰ It also appears that the Minister of International Trade personally reviews applications “involving potential exports of offensive military goods and technologies, unless they are going to a NATO ally or to a small group of other countries with which Canada has similarly close relations.”¹¹

Sales to Saudi Arabia

Saudi Arabia was the largest recipient of Canadian weapons in 2004. According to official data submitted to the UN commodity trade database (UN Comtrade), Canada in 2004 exported equipment included within the category “Tanks and other armored fighting vehicles, motorized, parts, not elsewhere specified.” to Saudi Arabia worth US\$179 million.¹²

Gross human rights violations have been carried out in Saudi Arabia for many years. In the Amnesty International Report 2005, AI stated that killings by the security forces and armed groups escalated in 2004. Most killings by security forces took place in Riyadh, Makkah and Jeddah. Some took place during clashes with armed groups and gunmen wanted by the authorities. However, most took place following car or street chases and house raids by the security forces. Dozens of people were killed by armed groups in different parts of the country. The killings were carried out during armed attacks and following hostage-taking operations.

Considering the extensive nature of human rights violations¹³ in Saudi Arabia, it is surprising that Saudi Arabia is one of only 16 countries to which automatic firearms can be exported according to Canadian regulations.¹⁴

The other countries are Australia, Belgium, Botswana, Denmark, France, Germany, Greece, Italy, the Netherlands, New Zealand, Norway, Spain, Sweden, the UK and the USA. In March 2005, Finland, Latvia, Poland and Portugal were added to the list.

Exports to the Philippines

The Philippines is a regular recipient of transfers of Canadian military equipment. Canadian aircraft parts and engines as well as handguns worth US\$11.6 million in total, were transferred to the Philippines between 1990 and 2001.¹⁵

Aerial bombing by the Philippines armed forces had been reported for many years. In 2000, AI reported that periodic aerial bombardment of villages suspected of harbouring members of opposition groups had led to the mass displacement of civilians, particularly in Mindanao.¹⁶ In 2001 AI said that over 400,000 civilians in central Mindanao were internally displaced amid reports of apparently indiscriminate aerial bombardment of civilian areas suspected of containing forces of the Moro Islamic Liberation Front.¹⁷ Aircraft parts and aircraft engine parts continued to be transferred to the Philippines during 2000 and 2001.¹⁸

Sales to the USA: Canada's big loophole

More than half of Canada's arms sales are to the USA, which raises two major concerns.

Firstly, the Canadian government is unable to exercise sufficient oversight on the re-export of Canadian military items from the USA: the USA has re-transferred items to other countries where there were strong concerns the weapons would be used to commit violations of human rights and international humanitarian law. In contrast, the re-export of most military goods imported from the USA by Canada requires authorization from Washington to "ensure Canada is not used as a diversionary route to circumvent US embargoes".¹⁹

Secondly, military exports to the USA are not recorded in the Canadian government's annual report. Therefore there is almost no information available on these exports. Transparency is seriously lacking, and not even the Canadian Parliament can scrutinize and oversee these exports.

Because of the unique defence production agreements between Canada and the USA, arms exports by Canada to the USA are not subject to the same stringent controls as other countries – in fact, no export permits are required for Canadian arms exports to the USA. According to press reports, Canada has exported armoured vehicles, landing gear for fighter aircraft, and a host of components for US weapon systems which are frequently transferred by the USA to countries at war or to governments involved in human rights violations.

In April 2004, *Defense Daily*, the leading US military periodical, reported that the US government was on the verge of buying new military equipment on behalf of Pakistan. The equipment included Canadian-built Bell 412 helicopters, originating in Mirabel, Québec, the sole assembly site for the Bell 412 model in North America. The helicopters will be shipped as civilian aircraft, yet if these helicopters were classed as military aircraft then it is unlikely that the Canadian government would have approved an export permit for their shipment to Pakistan.²⁰

Canadian helicopters to Colombia

Between September 1998 and February 2000, the Canadian government sold over 40 surplus 'Huey' CH-135 helicopters to the US government. Thirty-three of these were upgraded in the USA and then redirected to the Colombian military as part of Plan Colombia, a mainly military aid package purportedly set up by the USA to dismantle the drugs trade.²¹

Although Canada would never have licensed these helicopters directly to Colombia, the loophole in its law that allows the re-export of upgraded equipment without Canadian consent means that military equipment and weapons can be transferred to sensitive destinations.

France

France was the third largest supplier of conventional arms, in terms of total value, in 2003.²² France is both a significant producer and exporter of major conventional armaments and a medium producer of small arms and light weapons.²³ In 2001, France small arms exports valued at US\$33.7 million.

Embargo busting?

France has continued to export military equipment to countries subject to EU arms embargoes, including Myanmar (Burma), Sudan and the People's Republic of China. This shows that successive French governments have not abided by their commitments to implement arms embargoes effectively, despite official policy requiring them to respect arms embargoes imposed by the EU.

French exports to Myanmar (Burma)

Since 1996, there has been an EU arms embargo on Myanmar (Burma). In April 2001 the EU extended the embargo, and confirmed the embargo on the export of arms and military equipment from EU member states. Yet, according to official data in the UN Commodity trade database (UN Comtrade), France made shipments of equipment within the category "bombs, grenades, ammunition, mines, and others" (930690) to Myanmar (Burma) in 1998, 1999 and 2000.

French exports of 'Bombs, Grenades, Ammunition, Mines & Others' to Myanmar(Burma) between 1998 and 2000 in US\$	
1998	18,344
1999	133,895
2000	16,854

The French government should provide specific details of what exactly was exported to Myanmar (Burma). The categories of munitions listed above raise serious concerns regarding whether or not the French government has enforced the EU embargo on military exports to that country or fulfilled its obligations under the EU Code of Conduct on Arms Exports.

French exports to Sudan

In November 2004, Amnesty International expressed concern that France has been one of the countries sending arms to Sudan in apparent violation of a 1994 EU arms embargo.²⁴ According to data provided to the UN by French customs officials, France registered transfers to Sudan for goods under the category 930690 for “bombs, grenades, torpedoes, mines, missiles, and similar munitions of war and parts thereof”. For example:

French exports of ‘Bombs, Grenades, Ammunition, Mines & Others’ to Sudan between 2001 and 2004 in US\$	
2001	447,687
2002	24,546
2003	124,493
2004	465,451

It appears that such transfers violate the EU Code of Conduct on Arms Exports (1998) as well as the EU embargo on Sudan imposed on 16 March 1994. AI France wrote to the French government in December 2004 calling on it to publish without delay detailed information on the date and nature of the contracts, and the intended use and recipients of the items transferred in order to determine whether these were transferred before the imposition of the UN embargo and whether they complied with the EU Code of Conduct on Arms Exports.²⁵ No written reply had been received from the French government by the end of May 2005.

French exports to China

An EU arms embargo on the People’s Republic of China has been in force since 27 June 1989. However, EU countries have interpreted this differently. France has been able to transfer some weapons to China²⁶ and the French government has been at the forefront of calls to lift the EU arms embargo on China.

The French government has also reportedly given approval to the French company Thales Angenieux’s proposal to set up a licensed arms production facility with North Night Vision Technology Co. Ltd. in Beijing to produce night-vision goggles, called LUCIE, which can be assembled with full military specifications.²⁷ A licence for image intensifiers from a British company, Pyser SGI, was refused by the UK government which has adopted a narrower interpretation of the EU arms embargo on China.

The lack of transparency

It is difficult to determine exactly what military equipment and weapons France exports and thus the potential detrimental impact on sensitive destinations because the information contained in the French government’s annual report to Parliament and the data

submitted to UN mechanisms by the French government do not specify what equipment falls under the different categories. Furthermore, information submitted to different mechanisms can vary considerably, making it difficult to cross check the data across them. For example, there were discrepancies between the data in the French annual reports and that submitted to the UN Comtrade. In some cases information appears absent, for example no data is entered under Sudan in the French annual reports covering exports for 2002 and 2003, or under Myanmar (Burma) in the French annual reports covering exports for 1999 and 2000. This contradicts the figures supplied by French customs.

Lack of controls on transfers of police and security equipment

Although French laws and regulations control and restrict the transfer of most military, security and police goods, some types of equipment are excluded. French arms export law does not contain any specific reference to the control of leg-irons, thumb-cuffs, electric shock stun weapons (batons, stun guns, stun belts and other equipment) which can easily be used as a means of torture and ill treatment.²⁸ Amnesty International has repeatedly expressed concern about this loophole to the French authorities.

Despite severe internal repression by the Kenyan police and a suspension of tear gas supplies from the UK, tear gas manufactured by the French company, Nobel Sécurité, was exported from France to Kenya during the late 1990s.²⁹ Such exports would appear to contradict French government policy which states that, in accordance with the EU Code of Conduct on Arms Exports, the supply of arms likely to be used to contribute to internal repression must be refused.³⁰ However, it remains unclear whether the export of such tear gas for “police” use requires export licence authorization by the French government.

Germany

Germany is ranked the fifth largest arms supplier in the world. At least 279 companies in Germany are producing or trading military, security and police products and services.³¹ According to the Small Arms Survey, Germany in 2001 it exported small arms worth US\$156.7 million.³²

In 2003, Germany licensed small arms exports to many countries including Egypt, Kazakstan, Kuwait, Malaysia, Mexico, Saudi Arabia, Thailand, Turkey and the United Arab Emirates,³³ all countries where serious human rights abuses have been committed.

Components – a gaping loophole

Despite a theoretically restrictive arms exports policy, German-made components are sometimes being incorporated into military equipment that could easily be used to facilitate human rights violations or contribute to conflict or internal repression. According to a recent report by the Berlin Information-center for Transatlantic Security (BITS) and Oxfam Germany, “the Federal Government and its agencies apply a double standard.”³⁴ The report points out that it is easier to get an export licence for arms components than for entire weapons systems. This loophole is particularly due to the inconsistent German arms export licensing system which consists of a dual legal structure: the restrictive War Weapons Control Act and the Foreign Trade and Payments Act which facilitates arms exports.

German engines for Ukrainian assembled armoured vehicles to Myanmar (Burma)

There is evidence that German engines are being incorporated into military vehicles available in Myanmar (Burma).³⁵ According to the Ukrainian armoured vehicle manufacturer, Kharkiv Morozov Machine Building Design Bureau (Ukraine), German Deutz engines are incorporated into the Ukrainian BTR-3U Armoured Personnel Carriers (APC) that are fitted with a machine gun, grenade launcher and anti-tank guided weapon system.³⁶

It is unclear whether these engines have been exported from Germany or are produced under a German licence in the Ukraine.

It was reported that in 2003 the Ukraine had signed a contract to supply 1000 BTR-3U to Burma over the next 10 years. The APCs would reportedly be sent in component form, to be assembled in Myanmar (Burma).³⁷ At the same time the Ukraine government reported to the UN Register of Conventional Arms that it had actually shipped 10 BTR-3U to Myanmar (Burma) during 2003.³⁸

However, under the 2000 EC Regulation on Dual-Use goods, which is legally binding on all EU members states, the export of dual-use goods for use in military systems to countries under embargo are in fact subject to arms export controls.³⁹ This covers products intended for incorporation into

military equipment or for the development, production or maintenance of such equipment, or for use in a plant for production of such equipment.

It is unclear whether the German government applies the Dual-Use regulation to cases involving exports of components to third countries who may then export items to embargoed destinations, nor whether it was reasonable for the company to have knowledge that its products may have been re-exported to embargoed destinations.

It is important to note that the case was first published in September 2004 and details of the transfer of 10 BTU to Myanmar (Burma) during 2003 have been on the UN Register of Conventional Arms since May 2004.⁴⁰ Details of the involvement of Deutz in the development of these vehicles still remain on the Ukrainian manufacturer's website.⁴¹

In May 2005, it was reported that the German authorities were conducting investigations into the Deutz company for possible breaches of an EU arms embargo on Myanmar (Burma). According to a report in the German magazine Focus, Deutz supplied engines to a company in the United Arab Emirates from March 2000 to March 2001. These were then resold to a Ukrainian company which adapted them for use in armoured vehicles.⁴²

It is clear that the human rights record of the Myanmar (Burma) security forces is appalling. The Burmese army, the Tatmadaw, have used military vehicles to capture, detain and enforce conscription of child soldiers. Military vehicles have also been used to quell student pro-democracy demonstrations.⁴³ The German government should make every effort to ensure that German components are not being used by the security forces of Myanmar (Burma).

A significant number of licences issued by the German government are for "dual-use" items i.e. items that have a military as well as civilian use. Between 1999 and 2003, about half of the total licences reported by the German government in its Report on Military Equipment Exports were for military components.⁴⁴ The lack of public information makes it difficult to confirm that German components are not being incorporated into equipment exported to armed forces that do commit such violations.

Licensed production of Heckler and Koch assault rifles in Turkey

The German company Heckler and Koch has engaged in a number of licensed production arrangements. In the late 1990s, the German government authorized the licensed production of calibre HK33 5.56mm assault rifles in Turkey. These were replacements for the Turkish military's outdated G3 rifles, also produced with a German licence by the company MKEK in Turkey.

On 23 August 2000 the Turkish Minister of Defence signed a contract with a consortium of companies from Germany (Fritz Werner), Belgium (New Lachausee), Spain (Santa Barbara) and France (Manurhin) to install an ammunition manufacturing plant in Turkey. The plant will be run by MKEK and the lead foreign company will be Fritz Werner of Germany. This licensed production deal, which is estimated to be worth between €40 million and €45 million (approximately between US\$35.9 million and US\$40.4 million), will give MKEK the ability to produce 5.56mm calibre ammunition for assault rifles.⁴⁵

The German, Belgian and French companies listed above have all been granted export licences by their respective governments to fulfil this contract. This is despite the much-criticized previous authorization by the German government of licensed production with MKEK, where Heckler and Koch MP5 sub-machine guns were exported from Turkey to Indonesia. It still remains far from clear how, if at all, the governments of Germany, Belgium and France will ensure that MKEK will not export ammunition to forces likely to use them for violations of human rights and international humanitarian law. Among MKEK's other clients have been the governments of Burundi, Libya, Pakistan and Tunisia⁴⁶ – all countries where AI has reported serious human rights violations by the security forces.⁴⁷

Turkey lacks effective arms export controls based upon respect for international law. Despite its formal adherence to the EU Code of Conduct on Arms Exports, there is a real danger that the Turkish government will continue to allow the export of significant quantities of small arms and ammunition, many produced under licence from European companies, to security forces in other countries that persistently commit human rights violations.

Italy

Between 1996 and 2003, Italy was the tenth largest arms supplier. Italy in 2001 exported small arms valued at US\$298.7 million.⁴⁸ In recent years, Italian small arms have been transferred to a number of countries experiencing violent conflict or where violations of human rights and international humanitarian law occur including Algeria, Colombia, Eritrea, Indonesia, India, Israel, Kazakstan, Nigeria, Pakistan, and Sierra Leone.

Such international transfers appear to flout Italian law 185/90 which prohibits exports to countries whose governments are responsible for proven gross violation of human rights and to countries engaged in conflict, under arms embargoes or receiving Italian development aid whose defence spending exceeds their defence needs.⁴⁹ Italian non-governmental organizations (NGOs) are concerned that in practice the prohibitions in Italian law are being diluted by the Italian government in order to allow the transfer of arms to such countries.

Small arms exports to Algeria

In a parliamentary debate in November 2004 the Italian government defended sales to Algeria. The Under-Secretary of State for Disarmament at the Ministry of Foreign Affairs, Senator Alfredo Luigi Mantica, stated that "Algeria was not condemned by EU and/or UN bodies for human rights violations so the prohibitions of the Italian arms control law 185/90 are not applicable".⁵⁰

Algeria is a country which has been ravaged by serious human rights abuses resulting in the killing of around 500 people in 2004.⁵¹ In 2001 and 2002, the Algerian security forces shot dead some 100 unarmed citizens in the context of demonstrations in the northeastern region of Kabylia. An official commission of inquiry, which was established to look into killings committed between April and June 2001, concluded that the security forces had resorted to excessive use of lethal force during the demonstrations. Despite the authorities' repeated announcements that those responsible would be brought to justice, AI has received no information from the authorities indicating that any member of the security forces has been brought to trial for excessive use of lethal force during the demonstrations in 2001 and 2002.⁵² Torture and ill-treatment continue to be reported in Algeria. The Algerian government has generally failed to investigate allegations of human rights abuses, including by the security forces, and bring perpetrators to justice.

In 2003, Italy exported a range of arms and ammunition within several UN Commodity trade database (UN Comtrade) categories including sporting and hunting rifles, revolvers and pistols and small arms ammunition worth nearly US\$600,000 to Algeria.⁵³ In 2002, it exported a range of small arms including sporting and hunting rifles, shotguns, and a large number of pistols and revolvers to the value of US\$1.4 million⁵⁴ to Algeria. In 2001, it exported nearly US\$300,000 of revolvers, pistols, sporting/hunting shotguns, and small arms ammunition to Algeria.⁵⁵

The UN Special Rapporteur on torture, the UN Working Group on Enforced or Involuntary Disappearances and the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions have not been granted access to Algeria.

‘Civilian firearms’

A loophole in Italian law⁵⁶ means that non-military, so-called “civilian firearms”, continue to be exported without the same level of control over the recipients or end-use which applies to weapons categorized as military weapons. Only a few types of small arms – such as rifles and machine guns which are automatic and built specifically for military purposes – are actually categorized as military weapons. About 33 per cent of arms, semi-automatic weapons, spare parts and ammunition exported, fall outside the remit of the arms control law.⁵⁷ Also, a number of weapons routinely used by the police are normally not considered military arms.⁵⁸ Licences for these weapons are issued by local authorities and the standard of information the exporter must provide in order to obtain an authorization is lower than that required under the arms control law. Weapons which have been exported in this way include manual and semi-automatic rifles, semi-automatic pistols and revolvers, all of which can be used to commit serious human rights violations.

This is a significant loophole because, according to the data from the Italian National Institute of Statistics (ISTAT), between 1999 and 2003 Italy exported “civilian” small arms and munitions to the value of approx US\$1,916 million. During that period, “civilian” firearms were sold to a number of countries including Argentina, Brazil, Cameroon, Chile, Colombia, the Republic of the Congo, Ecuador, EU states, Guatemala, India, Japan, Malaysia, Mexico, Peru, the Philippines, South Africa, South Korea, Singapore, Thailand, Venezuela, the United Arab Emirates and the USA.⁵⁹

This lax categorization means that Italian companies are able to export “civilian” firearms to countries devastated by armed conflict and gross human rights violations, or subject to a UN or EU arms embargo. For example, in 2003 Italy exported weapons within the UN Comtrade categories including pistols, revolvers and sporting/hunting shotguns to the People’s Republic of China.

Berettas in Brazil⁶⁰

Italian Berretta handguns are one of the foreign small arms most frequently confiscated by the police in Brazil, a country which accounts for 8 per cent of the world’s gun fatalities. Until recently, the government had failed to exercise due diligence in curbing the use of small arms by civilians. In the years between 1999 and 2003, Italy exported firearms and ammunition worth US\$10.63 million to Brazil.⁶¹

In the last 10 years, 300,000 people have been killed in Brazil, many as a result of urban violence and the widespread proliferation of handguns and small arms, which account for 63 per cent of all homicides in Brazil.⁶²

Sixteen-year-old Camila Magalhães Lima lost the use of her legs in 1998 when she was hit by a stray bullet in a shoot-out between thieves and private security forces while walking home from school.⁶³ “I had plans for the future; I wanted to travel the world, take a modelling course, and

continue my gymnastics training. From one day to the next, my dreams were shattered – all because of the irresponsibility of supposedly civilized men who only feel brave with a gun in their hands.”

Many of the weapons are made in Brazil, but guns are also imported from several countries including, in order, the USA, Spain, Belgium, Germany, Italy, the Czech Republic, Austria, and France.⁶⁴

Japan

Japan “does not export any arms whatsoever”, according to official national policy.⁶⁵ However, official data on the UN commodity trade database (UN Comtrade) indicates that Japan has sold a wider variety of arms than is permitted under Japanese legislation, which has effectively banned military exports.⁶⁶ For example, in 2003, Japan exported arms to the Philippines within the categories of “military rifles, machineguns and other”. In 2000, the Philippines government reported that it had imported goods within the category “bombs, grenades, torpedoes, mines, missiles and similar munitions of war”, and “parts and accessories of Military Weapons” from Japan.⁶⁷

According to information submitted to the UN, other recipients of similar weapons and munitions from Japan include Denmark, Germany, South Korea, Malaysia, Thailand and the USA.⁶⁸ In 2000 Japan exported “military weapons” to Israel, and in 1999 Malaysia and Indonesia reported that they had imported “military weapons” from Japan.⁶⁹ Such transfers would appear to contradict the policy of no arms exports, and furthermore, include countries where armed forces have committed grave human rights violations.

At least 57 companies in Japan are known to be involved in the military, security and police trade.⁷⁰ In 2003 there were at least 11 companies in Japan producing small arms and light weapons or their parts or small arms ammunition.⁷¹ According to UN Comtrade data, in 2001 Japan exported small arms worth US\$70.3 million. The main recipients of these exports were Belgium, Canada, France, Germany, and the USA.⁷² Others included the People’s Republic of China, Cyprus, Lebanon and South Africa.⁷³ This figure puts Japan in the top 13 exporting countries for small arms and light weapons. Although Japan claims that all these weapons are for hunting and sporting use only, it is unclear how such weapons are defined and what end use monitoring is in place to ensure they are not used for serious abuses.

Loophole – the definition of arms

Japan continues to be one of the top producers and exporters of “non-military” small arms since, under Japanese legislation, hunting and sporting weapons are not classified as “arms” and are therefore not subject to the same controls as firearms covered by the Export Trade Control Order.⁷⁴

There are two major concerns in regard to Japanese controls on small arms: the lack of control on the export of “civilian” weapons and the narrow definition of arms which has the potential to exclude weapons with military specifications. According to the Ministry of Economy, Trade and Industry (METI), which is responsible for granting permission to export weapons, hunting and sporting

weapons are “mostly exempt from restriction...meaning it is not required to obtain an export licence to export them.”⁷⁵ However, another official has stated that an export licence is required.⁷⁶ It is unclear exactly what the controls are on these civilian weapons since the information coming from the Japanese government appears contradictory. There are concerns that these different interpretations of the legislation within METI are confusing and risk leading to exports that would not give due consideration to the human rights and development concerns of the transfer. If Japan were to adopt an Arms Trade Treaty this would provide a clear and consistent set of standards that would be agreed on an international level.

For certain sporting and hunting weapons whose performance is deemed to be similar to that of military small arms, exporters are required to apply for an export licence. However METI does not make public its guidelines for distinguishing between military small arms and sporting and hunting weapons.⁷⁷ The Ministry may not approve the export of such weapons if it is believed that they may be turned over to military use or if the customers are among the Foreign Users’ List of prohibited end-users. This list contains 160 specific organizations based in Afghanistan, China, India, Iran, Israel, Libya, North Korea, Pakistan, Syria and Taiwan.⁷⁸

It is unclear from the data submitted to UN Comtrade whether the weapons exported in 2003 under the category of “arms, ammunition and parts” were military or civilian firearms. Recipients of these weapons included Belgium, Brazil, Canada, Germany, Lebanon, the Philippines, Russia, South Africa, Thailand and the USA.⁷⁹

Such transfers raise serious concerns about the number of export licences issued for weapons that are not in practice necessarily restricted to recreational use. The use of sporting and hunting weapons has been reported in human rights abuses, for example the massacres of civilians by “death squads” in Algeria,⁸⁰ and by armed groups in the Solomon Islands.⁸¹ There also exists the concern that it would be possible to gain an export licence for hunting and sporting weapons destined for military or police end-users, especially users who abuse human rights. Since Japan does not provide a public report of exports licences granted we cannot check where sporting and hunting weapons have gone to.

Furthermore, in Japanese law⁸² the definition of “arms” does not explicitly include tear-gas and police equipment so although these weapons are controlled by the Export Trade Control Order they are not subject to the ban and information is not freely available as to what controls are placed on the export of these goods. The export of electro-shock equipment and leg-irons does not require a licence, this is despite the fact according to the UN Standard Minimum Rules for the Treatment of Prisoners “chains or irons shall not be used as restraints.”⁸³ In addition, while Japanese law prevents the export of

arms to countries involved in or likely to be involved in international conflict, and it also forbids export to areas “*not in conformity with the spirit of the Japanese Constitution*”, there is no specific ban on exports that may contribute to human rights violations and violations of international humanitarian law.

Dual-use technology

Japan is a leading player in the international market for dual-use technology – that is civilian technologies which can be used to advance the development of military equipment and weapons. However, Japanese law on dual-use goods and licensed production of dual-use goods abroad does not provide sufficient controls to prevent goods from being transferred to end-users where they may be used to facilitate human rights abuses.

In line with the Wassenaar Arrangement⁸⁴, the Japanese government provides a list of restricted countries and products but still permits transfers of products that clearly can have a military end-use, bringing into question the claim not to have an arms trade. Japan’s advanced technological capability, particularly in the computing and electronics fields, has meant that its dual use technology has played a part in many types of missile systems around the world.⁸⁵ In 1996, for example, the Netherlands army bought 640 Toshiba computers as an “off the shelf” item to be incorporated into an extensive command and control system.⁸⁶

Japan’s lack of control on the re-export of supposedly “civilian” dual-use goods, produced under license production agreements with other countries means that Japanese equipment may be transferred to end-users with poor human rights records without the Japanese parliament being able to exercise any oversight. For example, Kawasaki Heavy Industries has a joint venture with Germany’s MBB to produce the BK117, a dual-use light transport helicopter which is most often used for purposes such as medical evacuations. However it has “hardpoints”, points at which weaponry such as guns or missiles can be attached to convert it to military use. In 1985 a military version of the BK117 was unveiled at the Paris air-show, fitted with eight anti-tank missiles, a roof-mounted sight for the missiles, a sight for a turret-mounted machine gun and radar warning sensors. German airworthiness authorities had certified an increased weight version of the model, allowing for weapons and equipment to be attached.⁸⁷

Such transfers show that Japan is not implementing its national policy of no arms exports. It appears from government statements that the Japanese government has already considered and decided on a shift in export policy in favour of pursuing projects “related to support of counter-terrorism and counter-piracy”.⁸⁸ Licences will be granted on a case-by-case basis, however using criteria that have not

yet been made public. The absence of clear principles based on international law raises concerns that such exports will be granted to destinations where there is a risk that arms transfers could contribute to human rights violations or have a detrimental impact on the sustainable development of the recipient country. In his public statement the Chief Cabinet Secretary stated that:

“Decisions will be made on the basis of individual examination of each case, in light of Japan’s basic philosophy as a peace-loving nation that aims at avoiding the escalation of international conflicts.”⁸⁹

Prime Minister Koizumi later qualified this statement, saying that there is a possibility that Japan may sell arms to Southeast Asian nations to fight piracy.⁹⁰

The Russian Federation

The Russian Federation is a key player in every aspect of the international arms market. It is one of the world's largest producers and exporters of major conventional weapons and small arms. Between 1996 and 2003, Russia was the fourth largest arms supplier. In 2003, Russia exported small arms worth at least US\$42.2 million.

Arms exports with scant regard for human rights?

The lack of criteria based upon relevant principles of international law governing weapons sales in Russia means that it has continued to sell weapons to states whose forces have committed abuses, including during violent conflict such as Ethiopia, Sudan, and Uganda. In 2003, Russia exported conventional weaponry, including combat aircraft, to Algeria, India, Iran, and China; attack helicopters to Ethiopia, India and Uganda; and 269 missile launchers to China and 74 to India.⁹¹ All of these states armed forces have committed grave abuse during armed conflict or carried out serious human rights violations.

Russia is also a major exporter of small arms and light weapons. In 2003, it exported sporting and hunting shotguns worth US\$1.7 million to Algeria.⁹² The use of sporting and hunting weapons has been reported in human rights abuses. In 1997 such weapons were used in the massacres of civilians by "death squads" in Algeria.⁹³

In Russia's export control system, there is virtually no reference to controlling arms exports for reasons connected with respect for international human rights and humanitarian law, the potential impact on regional stability, or the possible effects of such transfers in undermining the sustainable development of the importing country. The principles governing exports are set out in the Law on Military-Technical Co-operation and the Law on Export Controls, but these relate mainly to the interests of the Russian Federation, and "the observance of international treaties on nuclear non-proliferation, arms reduction and disarmament, and the banning of chemical, biological, and other types of weapons of mass destruction."⁹⁴

The Russian Federation has signed a number of major contracts with India and is in line to modernize and re-equip Indian paramilitary forces with equipment including Mi-17 helicopters and AK small arms.⁹⁵ This includes weaponry for border security forces that operate in Kashmir as well as Assam. New contracts have been signed with Iran, reportedly for advanced electronic warfare systems for use against planes and missiles.⁹⁶ Russia also signed an agreement in June 2004 with the Mexican government for the maintenance and final

assembly of helicopters (Mi-8/-17s, Mi-24/-35s and Mi-26s) at a plant in Mexico City. A number of these helicopters are already in service in Colombia,⁹⁷ despite continuing international concern about human rights violations attributed to the armed forces, and evidence of their links with paramilitary groups.⁹⁸

In early 2003 Russian officials visited Pyongyang, North Korea, to discuss military upgrades for tanks and supplies of night vision equipment and ammunition.⁹⁹ Russia has recently delivered military equipment and training to Myanmar (Burma) under a deal worth US\$130 million and has also recently supplied helicopters to Nigeria.¹⁰⁰ Serious human rights violations in these three countries have been documented.¹⁰¹

Russia's main markets are China and India. It has continued to supply these two countries over the years with missile launchers, combat aircraft and battle tanks, despite regional tensions. Other important markets are Algeria, Kuwait, Malaysia, Myanmar (Burma), Sudan, Vietnam, and Yemen – most states whose security forces have contributed to long-standing and acute human rights problems.

Exports to Ethiopia

In 2000, when Ethiopia and Eritrea were at war, Russia exported 307 large calibre artillery systems to Ethiopia.¹⁰² Both parties to the conflict were subject to an arms embargo imposed on 17 May 2000 by UN Security Council Resolution 1298, but this was lifted one year later on 16 May 2001. It is not clear from the data available when exactly Russia exported these weapons.

In 2003, Russia exported 18 large calibre artillery systems and seven attack helicopters to Ethiopia. These exports from Russia have raised serious concerns about the impact of such weaponry on long-standing border tensions between Ethiopia and Eritrea. Russia has been a major supplier of arms to Ethiopia and has also supplied aircraft to Eritrea.¹⁰³ Large calibre artillery systems can consist of guns, howitzers, or multiple-launch rocket systems.

Russia is one of the biggest exporters of conventional weapons and munitions, including small arms and light weapons, yet these exports take place without adequate consideration being given by the Russian authorities to the fact that the arms may be used to facilitate serious violations of human rights and international humanitarian law. This highlights the inadequate adherence by the Russian Federation to its political commitments, undertaken through the Organization for Security and Co-operation in Europe (OSCE) and the UN, and to its commitments under relevant international law.

The United Kingdom

The UK is the second largest arms exporter in the world by value¹⁰⁴ with sales of US\$4.3 billion a year. In 2001, the UK exported US\$44.8 million worth of small arms. The government claims to have “one of the strictest and most transparent arms export licensing systems of any country”.¹⁰⁵ A major overhaul of the UK’s export controls took place recently, with new export control legislation entering into force in 2004. This legislation, for example, placed new controls on international arms brokering activity. Despite these positive developments, a number of controversial licensing decisions, problems over reporting and inadequate capacity to enforce the system continue to raise concerns.

The UK governments plans, by 31 March 2006, to cut 35 per cent of the staff working in a section within the Department of Trade and Industry (DTI), which is responsible for assessing arms applications.¹⁰⁶ In an attempt to cope with such staff shortages, the UK Secretary of State for Trade and Industry is considering an option of “involving private sector partners” in processing licence applications.¹⁰⁷ Both of these proposals raise serious concerns about the impact that this would have on the effective implementation of the UK national criteria and EU Code of Conduct on Arms Exports.

Increase in open licensing of exports

A major problem with the UK arms export control system is that the UK government is increasingly using open licences¹⁰⁸, particular with the transfer of military technology, and is encouraging exporting companies to use them “whenever these are available”.¹⁰⁹ Open licences allow the exporting company to make multiple shipments to specified destinations. Once such a licence has been issued there is no further advance authorization or scrutiny prior to the shipment of the goods.¹¹⁰

For example, in 2004 the UK Government authorised Open Individual Export Licences (OIELs) for armoured all wheel drive vehicles to Algeria, Morocco, Pakistan, Syria, Saudi Arabia and Turkey - countries where armed forces and police have committed persistent human rights violations.¹¹¹ Such licensing would appear to undermine the UK government’s criteria, governing its arms exports, on human rights.

Since no records are published on the amount of equipment exported under these licences by the DTI, the increasing use of open licences makes effective scrutiny more difficult in the annual reporting. The problem is that the government neither publicly reports on the final destination or the end-use of such equipment, nor the final product(s)

the components are being incorporated into. This is particularly problematic for exports of components that are intended to be incorporated into other weapons systems in the recipient country. As the parliamentary committee¹¹² that scrutinizes decisions puts it:

“The lack of information about incorporation OIELs [Open Individual Export licences] is worrying, as it means we only have a partial picture of how British components and technology are being used abroad.”¹¹³

There is a clear risk that the UK arms transfers could be diverted or re-exported “under undesirable conditions” to countries with weak export controls such as Turkey, so the use of OIELs by the UK government increases such risks. In 2004, the UK government issued 19 OIELs for Turkey which cover a broad range of equipment including components for air defence systems, components for naval electronic warfare equipment, components for heavy machine guns, components for surface to air missiles, components for combat aircraft, and components for weapon control systems.¹¹⁴ The UK government provides no information regarding the military or security products in which these UK components will be used in or their intended end-use. This makes it difficult to monitor which of these products will be re-exported from Turkey to a third country. Some of Turkey’s export customers include the armed forces of Kuwait, Nepal, Egypt, Oman and Pakistan.¹¹⁵

In 2003, the UK government issued an open licence including crowd control ammunition, tear gas/irritant ammunition, and CS hand grenades to the Maldives. In August 2004, the UK government expressed concerns over the human rights situation in the country:

“We are concerned by reports of attacks by the police on peaceful protesters in Malé last Friday, the subsequent declaration of a state of emergency, and large numbers of arrests.....”¹¹⁶

To the best of our knowledge, the UK Government has neither reviewed nor revoked the licence despite the risk of use of this type of equipment.

In 2003 the UK Government also licensed OIELS including tear gas, crowd control, irritant ammunition and stuns grenades to several countries such as Malaysia, Papua New Guinea, Saudi Arabia and Turkey where there are concerns about the misuse of force by police and security forces.¹¹⁷

Arms exports and sustainable development

Criterion eight of the EU Code of Conduct on Arms Exports requires EU governments to take into account whether a proposed arms export would seriously undermine the economy or seriously hamper the sustainable development of the recipient country. This criterion

has been at best poorly implemented. In 1999, four EU countries were involved in a major arms sale to the South African government. No consideration whatsoever appears to have been given to the detrimental impact on the country of this massive arms deal and the promise of tens of thousands of jobs in the South African defence industry has not materialised.

The development cost of arms transfers in South Africa¹¹⁸

In 1999 South Africa agreed to purchase armaments – including frigates, submarines, aircraft and helicopters – from suppliers including Germany, France, Sweden and the UK. The cost at 2003 prices of the armaments was US\$6 billion. This far exceeds government spending on other projects such as combating HIV/AIDS (US\$53.8 million per year). The six billion dollars could have purchased treatment with combination therapy for all five million AIDS sufferers for two years.

In another deal, the UK government's decision to authorize the export of a US\$40 million military air traffic control system to Tanzania, one of the poorest countries in the world, in 2001 created controversy and confusion about how criterion eight was included in the UK's 2002 Export Control Act. This decision was criticized for being too expensive by the World Bank and the International Monetary Fund and provoked an internal dispute among UK ministers and departments, including the Department for International Development and the Treasury, who were concerned that the military system would exacerbate Tanzania's external debt.

Since the Tanzania debacle, the UK government has developed its own methodology for ensuring that arms exports do not undermine sustainable development by identifying destinations where sustainable development might be a concern and then examining the possible impacts of arms transfers on those countries. Yet, this methodology does not deal with the potential impact from arms sales, particularly from cumulative transfers, on countries not included on the list of destinations of concern as highlighted by the sale of BAE Hawk jets to India.

Hawk aircraft to India

In 2003, the UK government announced the sale of BAE Hawk jets to India. Forty-two of the 66 jets are to be produced under licensed agreement in India and the total contract will cost US\$1.7 billion, which is the equivalent of 10 years of UK bilateral aid to India. US\$1.7 billion could pay for one year of extra primary schooling for 20 million girls (US\$85 per year per child).

The deal has also raised other concerns about its impact on regional tensions between India and Pakistan, especially in relation to Kashmir since the Hawk is a military aircraft. It can deliver "a comprehensive array of US/NATO compatible air-to-air and air-to-surface weaponry with pinpoint accuracy, by night as well as day, but at a fraction of the cost of major line aircraft types".¹¹⁹ The Hawk aircraft can be used in ground attacks and is capable of carrying a "heavy and varied weapons load", including tactical

nuclear weapons. Such a transfer is irresponsible in the context of continuing tensions in Kashmir between the two regional nuclear powers India and Pakistan.

Enforcing controls on the brokering of prohibited equipment

It is unclear how actively the UK authorities are enforcing a new law, the Export Control Act, which came into effect in May 2004. The Act prohibits the brokering of arms to embargoed destinations and also the brokering of certain “restricted equipment”, such as those items that can be used for torture or ill-treatment, unless expressly authorised by the UK government. The “brokering” of such equipment is now prohibited for the British registered companies and also for British citizens no matter where they carry out their brokering activities (either in the UK or abroad). It also covers foreign nationals when in the UK.

Brokering torture equipment

In December 2004, the *New Statesman* magazine published details of a UK-registered company, TLT International, that was offering a range of stun guns and stun batons on its website. The company claimed to be “a manufacturers outlet, please make enquiries” and stated that orders should be “only by bulk purchasing”.¹²⁰ The company claims to be a Global Facilitator and “is the true and honest company to open a Gateway to and from W. Africa and Far East.”¹²¹

Despite the fact that this information was made public in December 2004, the company was still advertising the stun weapons on its website in March 2005.¹²² The government has yet to make a public statement about any investigation into the activities of this company.

The United States of America

The USA continues to dominate the international arms market. It is a world leader in both arms exports and production. It ranked first among the world's conventional arms suppliers between 1996 and 2003, with deliveries worth in total US\$151.9 billion¹²³ or on average around US\$19 billion per year. The largest recipients of US weapons (in terms of financial value) in 2003 were Egypt, Greece, Italy, Israel, Japan, Saudi Arabia, South Korea, Taiwan, and Turkey, and the UK. Between 2000 and 2003 Saudi Arabia was the largest purchaser of defence articles from the USA; its purchases totalled US\$6.3 billion.¹²⁴

The USA also remains the world's largest exporter of small arms, light weapons and ammunition.¹²⁵ In 2001, it exported small arms and light weapons worth US\$741 million. This was mainly made up of military small arms and light weapons, small arms ammunition, pistols, revolvers, and sporting and hunting rifles.¹²⁶

More than 40 per cent of the largest 100 defence companies in the world are from the USA. Four of the five top arms companies globally – Lockheed Martin, Boeing, Northrop Grumman, and Raytheon – are US companies.¹²⁷

US military aid

Significant arms transfers have been made from the USA to recipients in countries where there are major and persistent human rights concerns. These include Colombia, Egypt, India, Israel, Nigeria, the Philippines, Saudi Arabia, Sri Lanka, and Venezuela.¹²⁸

According to US law (the Leahy amendment), no US military aid may be provided to any unit of a foreign security force if there is credible evidence that such a unit has committed gross violations of human rights.¹²⁹ Yet, military aid from the USA to security services and armed forces with a persistent record of human rights violations continues. Significant violations of human rights and international humanitarian law in some of these countries are carried out or facilitated by paramilitary and armed forces equipped courtesy of US military assistance. For example, the Colombian armed forces have been a relatively large recipient of US military rifles and machine guns despite continuing international concern about human rights violations attributed to the armed forces, and evidence of their links with paramilitary groups.¹³⁰

In August 2003, the US government lifted the ban on military assistance to the government of Rwanda and in 2004 the US concluded a military cooperation agreement with Rwanda whose armed forces and officials have been accused by UN investigations of

backing armed groups in the eastern Democratic Republic of the Congo (DRC).

US military assistance to Nepal - should be conditional on improved human rights

Since 2001, the USA has provided over US\$29 million in Foreign Military Financing to Nepal. This includes grants for military equipment, training, and services.¹³¹ In 2003, it provided 8,779 assault rifles under Foreign Military Sales to the Nepalese security forces. Yet, the Nepalese Army has been involved in arbitrary arrests, “disappearances” and the killing of civilians suspected of sympathizing with the Communist Party of Nepal (Maoist). On 1 February 2005, the King dismissed the government, assumed direct power and declared a state of emergency. Political leaders were arrested and the King severed all internal and external communications links. The state of emergency was lifted on 29 April 2005. However, many fundamental rights which had been suspended were not restored.

On November 2004, the US Congress had approved a government spending bill for the fiscal year 2005, which made US military aid to Nepal conditional on improvements to its human rights record.¹³² US law obliges the government of Nepal to cooperate with the National Human Rights Commission of Nepal (NHRC) by granting access to all places of detention, and to resolve all security related cases involving individuals in government custody.¹³³ The Nepalese government must also show that it is taking effective steps to end torture by its security forces and to prosecute those responsible for human rights violations. Following US Congressional approval, the Nepalese Chief of Army Staff agreed to respect court orders and cooperate with the NHRC.¹³⁴ However, the Nepalese armed forces have continued to commit human rights violations.

As part of the fiscal year 2005 government spending bill, the USA must cut off military aid to the Nepalese government and armed forces unless the US President either certifies that the Nepalese government has met the above conditions, or exercises a national security waiver. The USA reportedly postponed military training sponsored by the US Pacific Command for the Royal Nepalese Army in April 2005.¹³⁵ By May 2005 the US government had not announced a decision on whether or not to deny military aid for the fiscal year 2005 despite a grave deterioration in the human rights situation in Nepal. The USA is likely to review the situation after 31 May 2005.

The US government is using funding from the fiscal year 2004 to continue providing military aid to Nepal, reviewing each instance on a case-by-case basis, which is why the State Department has not had to comply with the obligation passed in the government spending bill for the fiscal year 2005. Furthermore, the US President has requested US\$4 million in Foreign Military Financing for the fiscal year 2006 to help the Nepalese government pay for US defence articles such as small arms, armour plating, and grenade launchers.¹³⁶

Increasing US military assistance to Pakistan

On 27 October 2001, immediately after the attacks on 9/11, and formally in June 2003, the US government waived restrictions on arms transfers to Pakistan, which had previously been imposed because of Pakistan's nuclear testing and programmes and because General Pervez Musharraf had deposed an elected government.

Since then transfers to Pakistan of US military equipment, as well as military education and training, have increased each year. Pakistan has been promised US\$300 million in US foreign military grants (these include sales and services) and US\$2 million in military training for the fiscal year 2005.¹³⁷ Major US military grants and proposed sales have included six C-130 military transport aircraft (grant of US\$7.5 million); six Aerostat surveillance radars (sale worth US\$155 million); 12 radars and 40 Bell helicopters (sale worth US\$300 million); military radio systems (sale worth US\$78 million); and the proposed sale of eight P-3C aircraft, six Phalanx guns, and 2,000 TOW missiles worth up to US\$1.2 billion.¹³⁸

In 2004, the US government designated Pakistan a "Major Non-NATO Ally" for its support for the US "war on terror".¹³⁹ In March 2005, the US Department of State approved the sale of F-16 fighters to Pakistan in a major policy shift, despite the risk of an arms race with India, which neither country can afford, and possession of nuclear weapons by both states.¹⁴⁰ Before the fighter jets can be transferred, however, the US President must receive US congressional approval.

Pakistan and India, both nuclear powers, have yet to resolve the issue of Kashmir. Over the decades, the situation has alternated between high and low intensity conflict. The dialogue begun by the two countries in 2004 is intended to address all bilateral issues, including the Kashmir issue.

Pakistan is also a country where human rights abuses and violations are common. According to the *Amnesty International Report 2004*, human rights abuses against religious minorities, women and children are frequent, as are arbitrary detentions (in particular in the context of the "war on terror").¹⁴¹ The US State Department in its 2004 country report on Pakistan described Pakistan's human rights record as poor: "local police used excessive force and committed or failed to prevent extrajudicial killings" and "security force personnel continued to torture persons in custody throughout the country".¹⁴²

Potential misuse of US military assistance to Israel

The US government has exported a wide range of military equipment to Israel. In 2003, licence approvals were issued for equipment including fighter aircraft spare parts, armoured personnel carriers, carbines, ammunition of different calibres, grenade launchers, machine guns, helicopter parts, missile spare parts, radio sets, riot control equipment, tank components and spare parts.¹⁴³ Israel has been facing resistance to its decades-long occupation of Palestinian territories. Widespread human rights abuses have been committed by both the Israeli security forces and Palestinian armed groups.

In 2004 the Israeli army killed around 700 Palestinians, including at least 150 children, according to the *Amnesty International Report 2005*. Palestinian armed groups killed 109 Israelis, at least 67 of whom were civilians, including eight children. Certain abuses committed by the Israeli army have been condemned by AI as war crimes or crimes against humanity. These included unlawful killings, torture, the use of “human shields”, the obstruction of medical assistance and the targeting of medical workers, and extensive and wanton destruction of property. AI has condemned Palestinian armed groups’ deliberate targeting of civilians as crimes against humanity.

Although the US government has reportedly postponed working with Israel to develop a Joint Strike Fighter airplane because of concern about Israel’s sales to China, the USA has provided Israel with funds to develop new weapons, such as the Arrow anti-missile missile (ongoing project, US\$625 million), the Merkava tank (operative, US\$200 million), and the high-energy laser anti-missile system (ongoing project, US\$130 million).¹⁴⁴

According to US law, government authorized transfers or sales of controlled defence articles can be used only for internal security or defensive purposes.¹⁴⁵ However, there have been reports that Israel has not respected this condition. According to a US Congressional Research Service report, “[t]here were reports in February 2001 and again in the summer of 2002 that the U.S. government was investigating if Israel misused U.S. military equipment, including Apache helicopters, in assassinating Palestinian leaders, and later reports that Members of Congress inquired if Israel misused Apache and Cobra helicopters and F-16 fighter-bombers in attacking Palestinian facilities”.¹⁴⁶

Conclusion

Irresponsible arms transfers contribute to violations of human rights and international humanitarian law. They are a proven catalyst for dictatorial governance, and multiply the incidence and degree of armed conflict involving civilian casualties. Once war has broken out, they prolong the fighting, increase the loss of civilian life and injury, intensify the indirect human costs and undermine socio-economic development.

The G8 includes the world's five biggest arms exporters, accounting for 84 per cent of all arms exports worldwide, and thus has a specific global obligation to stop irresponsible arms transfers. As the largest group of arms exporters and the most influential states in the world, the G8 states have a special responsibility for leadership in addressing the world's security problems.

The G8 countries have declared their concern about the problems of Africa, the continent most scarred by conflict and repression fuelled by irresponsible arms transfers and many of whose countries are most unlikely to achieve the Millennium Development Goals. The G8 has also made some declarations to control arms transfers, stressing, in the Miyazaki Initiatives for Conflict Prevention (2000), the importance of regulating exports of small arms and committing the G8 states to refuse arms exports if there is a risk they will be used for repression or aggression. And in 2003, the G8 prioritized peace and security in Africa and promised to help African governments curb illegal arms trafficking.

However, as this report shows, the reality often does not live up to the rhetoric. G8 governments have left significant loopholes in their own arms export standards and control mechanisms. Their efforts to control arms exports are not in proportion to the G8's global responsibility.

The G8 governments need to clean up their act by enforcing existing laws prohibiting the export of weapons to states that violate human rights and international humanitarian law; and by bridging gaps and closing loopholes in legislation which allow existing prohibitions to be circumvented.

A global Arms Trade Treaty based on relevant principles of international law, including international human rights and humanitarian law, would ensure that all states abide by the same rules and standards, thus developing consistency and clarity in and across national export control regimes.

G8 foreign ministers must, therefore, announce their support for the call from the UK government, as well as the Commission for Africa and many others, for an Arms Trade Treaty - a new legally

binding instrument for international arms transfers that would be based firmly on states' existing responsibilities under international law.

Such an Arms Trade Treaty must be:

- international - the arms trade is an international problem; national and regional controls are simply not enough because suppliers and brokers can move their operations to the weakest link in the supply chain;
- legally-binding –political declarations lack enforcement mechanisms, and are often poorly implemented because of a lack of political will;
- based on international law - especially international human rights laws and standards and international humanitarian law;
- include all conventional weapons – much of the international debate is focused on small arms and light weapons which, whilst hugely important, would not offer a sufficient and comprehensive regime.

Such an Arms Trade Treaty must be based on six key principles for global transfers derived from states' existing obligations under international law:

- 1 All international transfers of arms shall be authorized by a recognized state and carried out in accordance with national laws and procedures that reflect, at a minimum, states' obligations under international law.
- 2 States shall not authorize international transfers of arms that would violate their expressed obligations regarding arms under international law.
- 3 States shall not authorize international transfers of arms where they will be used or are likely to be used for violations of international law.
- 4 States shall take into account other factors, including the likely use of the arms, before authorizing an arms transfer.
- 5 States shall submit comprehensive national annual reports on international arms transfers to an international registry, which shall publish a compiled, comprehensive, international annual report.
- 6 States shall establish common standards for specific mechanisms to control: (a) all import and export of arms (b) arms brokering activities; (c) transfers of licensed arms production; and (d) the transit and trans-shipment of arms. States shall establish operative provisions to monitor enforcement and review

procedures to strengthen the full implementation of the Principles.

These principles are elaborated further in the Appendix to this report.

Every day, millions of men, women and children are subjected to human rights violations. They are living in fear of armed violence fuelled by irresponsible arms sales. In responding to the massive loss of life and destruction of property and livelihoods that so often follow irresponsible arms transfers, the G8 needs to show strong leadership and push without delay for negotiations to start on an Arms Trade Treaty – at least by 2006.

Appendix: Global principles for arms transfers

Principle 1: Responsibilities of states

All international transfers of arms shall be authorised by a recognized state and carried out in accordance with national laws and procedures that reflect, as a minimum, states' obligations under international law.

Principle 2: Express limitations

States shall not authorize international transfers of arms that violate their expressed obligations regarding arms under international law.

This includes:

- A Obligations under the Charter of the United Nations – including:
- decisions of the Security Council, such as those imposing arms embargoes;
 - the prohibition on the use or threat of force;
 - the prohibition on intervention in the internal affairs of another state.
- B Any other treaty or decision by which that state is bound, including:
- Binding decisions, including embargoes, adopted by relevant international, multilateral, regional, and sub-regional bodies to which a state is party;
 - Prohibitions on arms transfers that arise in particular treaties which a state is party to, such as the 1980 UN Convention Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects, and its three protocols, and the 1997 Anti-personnel Mines Convention.
- C Universally accepted principles of international humanitarian law:
- Prohibition on the use of arms that are of a nature to cause superfluous injury or unnecessary suffering;
 - Prohibition on weapons that are incapable of distinguishing between combatants and civilians.
- D Transfers which are likely to be diverted for any of the above or be subject to unauthorized transfer.

Principle 2 encapsulates existing express limitations under international law on states' freedom to transfer and to authorize transfers of arms. It focuses on circumstances in which a state is already bound not to transfer arms, as set out in expressed limitations in international law. The language is clear: "states shall not ..."

When new binding international instruments are agreed, new criteria should be added to the above principles. For example, if there is a new binding instrument on marking and tracing or illicit brokering.

Principle 3: Limitations based on use or likely use

States shall not authorize international transfers of arms where they will be used or are likely to be used for violations of international law, including:

- A breaches of the UN Charter and customary law rules relating to the use of force;
- B the commission of serious violations of human rights;
- C the commission of serious violations of international humanitarian law, genocide, and crimes against humanity;

Nor should they be diverted and used for the commission of any of the above.

In Principle 3, the limitations are based on the use or likely use of the weapons to be transferred. All states should abide by the principles of state responsibility, as set out in international law, which include supplier-state responsibility and accountability for the use of arms transferred between states.

Principle 4: Factors to be taken into account

States shall take into account other factors, including the likely use of the arms, before authorizing an arms transfer, including:

- A the recipient's record of compliance with commitments and transparency in the field of non-proliferation, arms control, and disarmament.

States should not authorize the transfer if it is likely to:

- B be used for or to facilitate the commission of violent crimes;
- C adversely affect regional security or stability;
- D adversely affect sustainable development;
- E involve corrupt practices;
- F contravene other international, regional, or sub-regional commitments or decisions made, or agreements on non-proliferation, arms control, and disarmament to which the exporting, importing, or transit states are party;
- G or be diverted for any of the above.

Principle 4 does not contain clearly stated prohibitions on the authorization of arms transfers. Instead, it identifies possible consequences that states are required to take into account before authorizing an arms transfer, imposes a positive duty on states to address these issues, and establishes a presumption against authorization where these consequences are deemed very likely.

Principle 5: Transparency

States shall submit comprehensive national annual reports on international arms transfers to an international registry, which shall publish a compiled, comprehensive, international annual report.

Principle 5 is a minimum requirement to increase transparency so as to help ensure compliance with Principles 1-4 above. States should report each international arms transfer from or through their territory or subject to their authorization. Reporting should be standardized and tied to the implementation of the normative standards set out in the Treaty. These reports should be sent to an independent and impartial Registry of International Arms Transfers, which should issue a comprehensive annual report.

Principle 6: Comprehensive Controls¹⁴⁷

States shall establish common standards for specific mechanisms to control: (a) all import and export of arms; (b) arms brokering activities; (c) transfers of licensed arms production; and (d) the transit and transshipment of arms. States shall establish operative provisions to monitor enforcement and review procedures to strengthen the full implementation of the Principles.

Principle 6 will help ensure that states enact national laws and regulations according to common standards, and ensure that the principles are implemented consistently.

Notes

1 Small arms and light weapons' (abbreviated to 'small arms' in this report). Small arms are designed for personal use; light weapons are designed for use by several people serving as a crew. Small arms include revolvers and self-loading pistols; rifles and carbines; sub-machine guns; assault rifles; and light machine guns. Light weapons include heavy machine guns; grenade launchers; portable anti-aircraft and anti-tank guns; recoilless rifles; portable launchers of anti-tank missiles, rocket systems, and anti-aircraft missile systems; mortars of calibres of less than 100mm; ammunition, shells, and missiles for all the above; grenades; landmines; and explosives.

2 Congressional Research Service data included in Table 9c in Grimmett, Richard F., *Conventional Arms Transfers to Developing Nations, 1996-2003*, Congressional Research Service Report for Congress, 24 August 2004, p.3.

3 According to the Congressional Research Service data included in Table 9c in Grimmett, Richard F., *Conventional Arms Transfers to Developing Nations, 1996-2003*, C Congressional Research Service Report for Congress, 24 August 2004, p.83.

4 Taken from the SIPRI Yearbook 2004 Armaments, Disarmament and International Security, Oxford University Press, 2004. Table 12A.2. SIPRI trend-indicator values expressed in US\$ million at constant (1990) prices. SIPRI data on arms transfers relate to actual deliveries of major conventional weapons. SIPRI uses a trend-indicator value. The SIPRI values are an indicator of the volume of international arms transfers and not the actual money values of such transfers. Thus they are not comparable to economic statistics such as gross domestic product or export–import figures. Source: SIPRI arms transfers database.

5 Based on the latest aggregated figures from the Small Arms Survey using UN Comtrade data and annual reports, *Small Arms Survey Yearbook 2004: Rights at Risk*, A Project of the Graduate Institute of International Studies, Geneva, Oxford University Press, 2004, p.104.

6 http://www.dfait-maeci.gc.ca/trade/eicb/military/table3_02-en.asp

7 Some may have been extrajudicial executions. Amnesty International Annual Report 2003, p.253.

8 Nisat small arms database based on UN Comtrade data, submitted by Canada under the category of 930630 "Cartridges other than for riveting/sim. tools/for captive-bolt humane killers/for shotguns, & parts thereof".

9 The second and fourth guidelines as detailed in the *Export of Military Goods from Canada: Annual Report 2002* released in November 2004. Canada closely controls the export of military goods and technology to countries: "that are involved in or under imminent threat of hostilities" and "whose governments have a persistent record of serious violations of the human rights of their citizens, unless it can be demonstrated that there is no reasonable risk that the goods might be used against the civilian population".

<http://www.dfait-maeci.gc.ca/trade/eicb/military/fwd2002-en.asp>

10 "Before the Minister's approval is sought, extensive consultations are held among human rights, international security and defence industry experts at Department of Foreign Affairs and International Trade (DFAIT), with the Department of National Defense and, where appropriate, with other government departments and agencies. These consultations involve reviewing the latest information and best policy advice on Canada's defence

and industrial relations with the recipient country, regional peace and stability (including civil conflict), and the human rights situation, including trends. Careful attention is also paid to the end-use documentation to ensure that the goods are indeed going to a legitimate end-user and will not be diverted.” <http://www.dfait-maeci.gc.ca/trade/eicb/military/fwd2002-en.asp>.

11 Answers to Questions about Canada’s Export Controls on Military Goods, Department for Foreign Affairs and International Trade, sec. 9., available at <http://www.dfait-maeci.gc.ca/trade/eicb/military/documents/20qa-eng.pdf>.

12 UN Comtrade data, submitted by the Canadian government under the category of 95101 “Tanks and other armored fighting vehicles, motorized, parts, nes.”

13 Amnesty International Report 2004, p.299.

14 The legal basis of the Automatic Firearms Country Control List (AFCCL) is in article 4.1 of the EIPA. However, Canadian export control authorities suggest that exporters contact them at the time of the licence application for an updated list.

15 Department of Foreign Affairs and International Trade (DFAIT).

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55 Nisat small arms database based on UN Comtrade data, submitted by Italy, under the categories of 9302 “Revolvers and pistols, other than those of heading 93.03 or 93.04”; 930320 “Sporting/hunting/target-shooting shotguns, incl. combination shotgun-rifles (excl muzzle loading); and 930630 “Cartridges other than for riveting/sim. tools/for captive-bolt humane killers/for shotguns, & parts thereof”.

56 The law 185/90 does not cover “civilian” firearms and ammunition designated for hunting, sporting or personal protection.

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- 147 This Principle recognises the need to include critical elements to comprehensively control international arms transfers, as recognised by the UK Government in its statement on 15 March 2005 on an Arms Trade Treaty which is being supported by a growing number of governments.

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