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A Catalogue of Failures: G8 Arms Exports and Human Rights Violations

1. Introduction

Weak national control of the international transfer of “conventional” arms and security equipment contributes to the persistence of gross human rights violations. Of all the states with inadequate laws and administrative procedures to manage the export, transit and import of such arms – of which there are very many - none are more conspicuous than those states running the world’s largest industrialised economies – the Group of Eight.

Amnesty International is opposed to the transfer of military, security, and police equipment, technology and expertise that can reasonably be assumed will contribute to human rights violations in the receiving country, and has consistently appealed to the G8 governments to abide by this principle which they have long recognised but never fully implemented.

As this study shows, the governments of the G8 authorize unparalleled levels of arms and related assistance to the world’s armed forces and law enforcement agencies, but often to those who persistently commit gross human rights violations - equipping them, emboldening them and rewarding them.

At least two thirds of *all* global arms transfers in the years 1997-2001 came from five members of the G8.¹ The top supplier of weapons to the world was the United States, accounting for 28 per cent of global arms transfers. Second in line was Russia, with seventeen per cent. Third was France at 10 per cent, followed by Britain at 7 per cent and then Germany with 5 per cent.

For 25 years, US law has stipulated that weapons should be kept out of the hands of governments that will use them to abuse human rights. Yet US commercial arms sales have frequently had the opposite effect. US arms sales directed to developing countries have quadrupled from 2000 to 2001, many of them with forces that persistently abuse human rights. In addition, US military aid is currently furnished to more than 30 countries identified by the US itself as having a “poor” human rights record—or worse.

Almost ten years ago, the USA, Canada, France, Germany, Italy, Russia and the United Kingdom (UK) signed up, with other participating states of the Organization for

¹ SIPRI Yearbook, pp374-378

Security and Co-operation in Europe (OSCE), to the *Principles Governing Conventional Arms Transfers*. These Principles commit participating states to “avoid transfers which would be likely to be used for the violation or suppression of human rights and fundamental freedoms.” However, an examination of the practices of these seven powerful states falls tragically short of their agreed benchmark.

More recently, France, Germany, Italy and the UK, as Member States of the European Union (EU), committed themselves to the *European Union Code of Conduct on Arms Exports* (adopted 8 June 1998 by the EU Council). Canada, the USA and many other states have declared their general support for the principles of the EU Code. Although it leaves the final decision on exports to be made by national governments, the Code does stipulate that arms should not be exported to countries where there is a clear risk they might be used for internal repression or where serious violations of human rights have occurred. However, evidence so far suggests that this promise is not being fully kept. A binding international arms trade treaty grounded in principles of international law, especially human rights and humanitarian law, rather than an ad hoc voluntary Code would provide potential victims around the world with much greater protection, but only the G8 leaders could decide on that course.

There are almost no legal or regulatory requirements amongst the G8 states for the inclusion of international human rights or humanitarian law content in the various military, security, and police force training services that they provide to states in all world regions. Even where human rights criteria are referred to in laws governing arms export and foreign military and security aid, they are often loosely interpreted. In particular, inadequate attention is given during export decision-making by governments to the long lifecycle of most types of arms and security equipment and technology – and hence to the prolonged risk of abuse.

Instead, it is short term profit making and political advantage that guide the bulk of the international arms trade. Currently, the G8 governments allow companies to engage in secretive, loosely-regulated, international trade in weapons, technologies, and training. Using the excuse of “commercial confidentiality”, the provision of meaningful and timely information to legislators, media and the general public about arms export decisions is lacking, thus undermining parliamentary scrutiny and public accountability of the trade. In addition, companies in the G8 countries have been allowed to establish foreign production facilities, sometimes under licensing arrangements with foreign companies where the licences and their impact are not subject to effective human rights conditionality or oversight. This practice allows G8 companies to evade domestic arms control restrictions by establishing production in foreign countries which have weaker arms export controls.

Some companies in the G8 countries have been involved in the supply of security equipment and devices whose prime practical purpose is for torture or ill-treatment. In many more cases, companies supply devices designed for security and crime control purposes but which in reality can easily lend themselves to torture and ill-treatment. For example, US, Russian, French and German companies are amongst the two hundred and thirty companies in

35 countries making, distributing or brokering the supply of electro-shock weapons. G8 governments do not have in place effective laws and regulations to prevent the export of such equipment to foreign security forces that are known to abuse legitimate devices to inflict torture.

The European Commission, following concerns expressed in the European Parliament, recently proposed a Trade Regulation for adoption by the European Council.² This will, if enacted un-amended, ban the import, export and brokering by companies and individuals within all 15 EU member states of items that the Commission has categorized as "torture equipment" including electro-shock stun belts, leg irons, thumb-cuffs and shackles. The proposed Trade Regulation will also require that all EU member states introduce controls on the export of items such as stun batons, stun guns and riot control agents such as tear gas. Amnesty International welcomes the introduction of this Trade Regulation and calls on other governments around the world to introduce similar prohibitions and controls to protect human rights.

In July 2000, six of Europe's largest exporters of arms - France, Germany, Italy, Spain, Sweden and the UK - signed up to the *Framework Agreement Concerning Measures to Facilitate the Restructuring and Operation of the European Defence Industry*. This agreement is designed to loosen controls on arms exporting companies within Europe but could undermine arms export controls since it does not provide for adequate transparency or monitoring of exports to non-participating countries.

Who Armed Iraq?

In the shadow of the massive US-led military build-up against Iraq in late 2002 and early 2003, evidence emerged that all the Permanent Members of the UN Security Council, as well as several East European states, had supplied arms and related materials to the Iraqi government.

Before the 1991 Gulf War, at least 20 countries were accused of involvement in building up the technological basis for different Iraqi weapons programs, in particular the chemical weapons program.³ In December 2002, the Iraqi government submitted a 12,000-page dossier to the UN naming companies from Britain, France, Russia, the USA and China as suppliers of weapons technology to Iraq. However, by the time of writing, no conclusive evidence had come to light showing that Iraq possesses weapons of mass destruction.

Seventeen British companies named as having supplied Iraq with nuclear, biological, chemical, rocket and conventional weapons technology are to be investigated and could face

² Proposal for an European Council Regulation concerning the trade in certain equipment and products which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, COM (2002) 770, 30 December 2002

³ Cordesman, A. H., *Weapons of Mass Destruction in the Middle East* (Brassey's: London, 1991), pp. 64–65

prosecution. The dossier claims that 24 US firms sold Iraq weapons including nuclear and rocket technology and that some "50 subsidiaries of foreign enterprises conducted their arms business with Iraq from the US". Germany was shown to be Iraq's biggest arms-trading partner with 80 companies selling weapons technology. Although most of the trade ended in 1991 at the outbreak of the Gulf War, Russia, China and reportedly Portugal traded arms with Iraq after 1991 in breach of UN resolutions.⁴

In August 1991, UN arms inspectors – UNSCOM – compiled a list of companies which had supplied technology to the Iraqi chemical and biological weapons program. The list was not made public, but governments can obtain information on the involvement of companies from their own country upon special request to the UN.⁵ The German, US, UK, French, Russian, and Chinese governments should release the list of companies which supplied technology to the Iraqi chemical, biological and other weapons programs.

German companies have been subjected to criminal investigations on suspicion of violation of the arms embargo against Iraq. The UK and the USA have been accused of supporting the Iraqi chemical and biological weapons program through the sale of chemicals and technology.

"British firms sold thousands of kilos of the basic ingredients of nerve and mustard gas to Iraq and Iran last year, the Department of Trade confirmed yesterday... the Department's figures show that 2,000 kilograms of methyl phosphonyl difluoride has been exported to Iraq. This is the basic ingredient of the nerve gas Sarin... British firms also sold 38,000 kilograms of dimethyl methylphosphonate and other Sarin ingredients to Iraq." Andrew Beitch, the Guardian, 6 April 1984.

Four years after this article was published, in March 1988, an estimated 5,000 people were deliberately killed and thousands wounded as a result of chemical weapon attacks by Iraqi forces on the town of Halabja in Northern Iraq. Most of the victims were civilians, many of them children and women.

Conventional arms supplied by many states to the Iraqi armed forces, such as artillery, tanks, military vehicles, fighter planes and helicopters, have reportedly been used to commit grave human rights violations.

For example, in April 1999, violent clashes were reported between protesters and security forces when the latter attempted to prevent Shi'a Muslims from taking part in Friday prayers at the al-Hikma Mosque in Saddam City in Baghdad. These clashes reportedly left

⁴ 'Revealed: 17 British Firms Armed Saddam with his Weapons,' *The Sunday Herald*, 23 February 2003; 'Portugal sold arms to Iraq in violation of UN embargo: report,' Agence France Presse, 27 February 2003. The UN was reported as claiming that to name the companies would be counter-productive.

⁵ "Made in the USA" *LA Weekly*, 21 – 27 March 2003

scores of protesters dead. An eyewitness told Amnesty International that "when people were prevented from prayers they started shouting slogans against the authorities. Some protesters were armed and started shooting at the security forces but the latter were using tanks against the population and many people, including children, were killed."⁶

In 1994 Iraqi military and special forces continued to launch deliberate and indiscriminate armed attacks on civilian targets, including the settlements of al-Jibayesh, al-Uwaili and al-Saigal in the predominantly Shi'a Muslim southern marsh region of the country. Scores of families were displaced after their homes were destroyed or after fleeing to escape artillery shelling.⁷ In February 1992, President Saddam Hussein had said that Shi'a Muslims who participated in the March 1991 uprising should be machine-gunned for treason.⁸

In addition to supplies from countries named above, spare parts for Iraq's military were smuggled from Eastern Europe and former Soviet republics, despite a UN arms embargo. Although such transfers would have been illicit under international law, in many cases the arms sales appear to have been either authorized by government agencies or undertaken by state-owned arms export agencies.⁹

The ease with which companies, dealers and brokers - often with the collusion of government officials - have violated UN arms embargoes, highlights the need for a worldwide arms trade treaty with legally enforceable national export controls.

Increasingly global markets, transport links and communication networks provide opportunities for arms traffickers to circumvent national arms and security equipment controls. Since the genocide in Rwanda in 1994, United Nations investigations into the violation of UN Security Council arms embargoes have shown, often in graphic detail, how international networks of arms brokers and traffickers have fuelled human rights crises. Only extra-territorial and transparent control by powerful states over arms brokering and trafficking has any chance of properly regulating the arms trade and stopping the kind of "third country" deals that result in transfers of arms contributing to gross human rights abuses. The USA has an extra-territorial law on arms brokering which, although imperfectly applied and undermined in covert gun running operations by US government agencies, does appear to deter arms trafficking by US nationals abroad. But Canada, France, Germany, Italy and the UK do not even have such laws.¹⁰

⁶ *Iraq – Systematic Torture of Political Prisoners* (AI Index: MDE 14/008/2001)

⁷ Amnesty International Annual Report 1995 (AI Index: POL 10/001/1995)

⁸ Amnesty International Annual Report 1993 (AI Index: POL 10/001/1993)

⁹ 'Iraq Seeks Ukraine Arms Links,' *Financial Times* 9 July 2002. Two days later AP reported that Ukraine's parliament had set up a commission to investigate reports that government officials participated in arms sales to Iraq in violation of UN sanctions

¹⁰ Some other European countries are introducing controls with much greater extraterritorial powers. Sweden, Norway and the Netherlands already have such powers. Finland and Poland have introduced controls and they are under consideration in Belgium.

Arms brokering should be prohibited unless brokers pass strict eligibility criteria before being declared a 'fit and proper' person to carry out brokering activities. The US already has such a register but none of the other G8 countries has one. Moreover, by simply being on such a register, a broker should not be authorized to conduct any particular arms deals they want without first applying for an individual licence whose issuance is subject to strict human rights and other criteria. Such a system would assist enforcement agencies to target their efforts in a more informed way and provide for effective accountability.

Illicit firearms trafficking first appeared on the G7 agenda during the 1994 Economic Summit in Halifax when leaders highlighted the economic and social costs of crime. At the June 1997 G8 Summit in Denver, illicit small arms and light weapons trafficking had become a stated priority. The issue was discussed again at the May 1998 G8 Summit in Birmingham where it was agreed to develop an "international instrument" to combat firearms trafficking.

Although scant attention was given to the control of other conventional arms by the G8, the focus on small arms and light weapons did help the development of the UN Protocol Against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition, which it signed in 2002. This Protocol was attached to the UN Convention against Transnational Organized Crime. However, it has limited applicability to the supply of state armed forces and law enforcement agencies.¹¹

In July 2001, the US and Russian governments allied with those of China and some in the Non Aligned Movement to significantly weaken the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. Specifically, they objected to the inclusion of any explicit clauses to uphold international human rights and humanitarian legal responsibilities in relation to arms export control.¹² Nevertheless, governments did agree in the UN Programme to "*assess applications for export authorisations according to strict national regulations and procedures that cover all small arms and light weapons and are consistent with the existing responsibilities of States under relevant international law, taking into account in particular the risk of diversion of these weapons into the illegal trade*"¹³ But will the governments of the G8 give effect to this promise?

Before 2001, the G8 had little engagement with peace and human rights issues, but at the June 2001 Summit in Italy the G8 leaders began to address conflict prevention as a policy

¹¹ United Nations Convention against Transnational Organized Crime, adopted by resolution A/RES/55/25 on 15 November 2000

¹² See UN document A/Conf.192/15

¹³ See Section Two, paragraph 11, *ibid.* In January 2003, the UK government organised an international conference at Lancaster House, London, involving about 50 government representatives to discuss measures to implement this and other related paragraphs of the UN Programme of Action.

concern especially for Africa.¹⁴ This Plan was elaborated further at the 2002 G8 Summit in Calgary, but the Summit adopted little in the way of concrete steps and clear principles to make a serious improvement to human rights protection. In the run-up to the Calgary summit, Amnesty International made demands in three areas where courageous and decisive action by the G8 leaders could have an enormous impact:

- controlling the international arms trade;
- controlling the trade in ‘conflict diamonds’ and other minerals resources from armed conflict areas which fund the supply of arms and contribute to human rights abuses;
- supporting efforts to make police across the world more accountable and trained to respect human rights

Amnesty International and others highlighted the failure of governments from seven of the G8 states - the USA, the Russian Federation, France, the United Kingdom, Germany, Italy and Canada - to regulate arms transfers that contribute to grave human rights abuses in developing countries, particularly in Africa.

In response, the G8 proposed to “support efforts by African countries and the United Nations to better regulate the activities of arms brokers and traffickers and to eliminate the flow of illicit weapons to and within Africa.” These efforts are to include (i) “developing and adopting common guidelines to prevent the illegal supply of arms to Africa”; (ii) “providing assistance in regional trans-border co-operation to this end”, and (iii) “supporting African efforts to eliminate and remove antipersonnel mines.”

The 2002 G8 Summit's Action Plan for Africa failed to recognise the responsibility of the G8 governments themselves for the sale and transfer of arms to African countries, including by dealers, brokers and transport agents who are nationals and residents of the G8 countries. The Action Plan rather included a call for African nations to regulate illicit arms sales.¹⁵ The G8 proposed international guidelines and border co-operation for dealing with the massive suffering and destruction caused by the proliferation and misuse of small arms and light weapons in Africa. But these measures are clearly not enough. In response to direct threats to their own states, the G8 Summit agreed a “global partnership to prevent terrorist access to weapons of mass destruction”. This included a set of tough principles, a host of practical measures, and a \$20 billion budget to stem nuclear, chemical, radiological and biological weapons. Yet no similar partnership was offered to Africa to curb small arms and associated military items.

During 2001-03, the G8 governments have participated in the OSCE and “Wassenaar Arrangement”, where Japan was also represented, to develop “best practice guidelines” for the export and control of small arms and light weapons. These guidelines include references

¹⁴ From ‘G8 Roma initiatives on conflict prevention’, Conclusions of the meeting of the G8 Foreign Ministers, Rome, 18-19 July 2001.

¹⁵ “The Blame the Victim Summit”, *The Observer*, 30 June 2002

to the need to avoid arms transfers that will be used for human rights violations, but are not binding on the participating states.¹⁶

What is needed is a genuine commitment and action from each of the G8 governments to enact powerful new arms control laws consistent with international human rights standards and humanitarian law that will bring an end to their complicity in this shameful catalogue of failures.

2. United States of America

2.1 Arms Sales and Export Controls

The United States is the world's leading arms exporter, with arms sales agreements for new (non-surplus) weapons in 2001 totaling more than \$12 billion and actual deliveries valued at nearly \$10 billion.¹⁷ The US has two separate systems for selling arms abroad, a government-to-government sales program (Foreign Military Sales, FMS) and licensed commercial sales. Some of these sales are subsidized by a special financing program known as Foreign Military Financing.¹⁸ Data released by the US in June 2002 indicate that whereas sales negotiated through the Pentagon declined from 2000 to 2001, commercial sales reversed a two-year downward trend and nearly doubled from 2000 to 2001. Significantly, US commercial sales directed to developing countries quadrupled in that same time period (from 2000 to 2001).¹⁹

Despite a weak world economy, trends may well show an increase in total US arms sales when the data are collected for 2002. The budget allocation to finance foreign military sales rose from \$3.57 billion in FY 2001 to \$4.11 billion for FY 2003.²⁰ A supplemental request for fiscal year 2002 defense appropriations (debated alongside the fiscal year 2003 budget) included another \$372.5 million in counterterrorism-related FMF for a wide range of

¹⁶ The OSCE "Draft Best Practice Guide on Small Arms and Light Weapons", Vienna, 9 January 2003. Also the Wassenaar Arrangement "Best Practice Guidelines for the Exports of Small Arms and Light Weapons", adopted 11-12 December 2002. The Wassenaar Arrangement includes most of the world's significant exporters of conventional arms and "dual use" goods.

¹⁷ Richard F. Grimmert, "Conventional Arms Transfer to Developing Nations, 1994-2001" U.S. Congressional Research Service, August 2002, page 9.

¹⁸ In addition, surplus military goods are made available through a program known as Excess Defense Articles as well as through discretionary drawdowns of existing stock.

¹⁹ (Grimmett, source immediately supra), p 21

²⁰ Tamar Gabelnick, "Security Assistance After Sept 11", *Foreign Policy in Focus* Vol 7, No. 4 – May 2002 and US Office of Management and Budget, "Summary and Highlights: International Affairs Function 150 Fiscal Year 2004 Budget Request" and Gabelnick, Tamar "Security Assistance after Sept 11" Info on 03 comes from US govt OMB 04 request

countries including Oman, Nepal, Ethiopia, and Djibouti.²¹ U.S. military aid has also been on the rise to Colombia, the Philippines, Georgia, and Indonesia, which have redefined their long-standing insurgencies as "counter-terrorism" activities.²² Philippines received 30,000 M-16 rifles (plus ammunition) from stocks of US excess equipment.²³

Israel

The U.S. government has continued to sell sophisticated weaponry to Israel—including 52 F-16 fighter jets and six Apache attack helicopters in 2001- despite the fact that these weapons facilitate the disproportionate use of force and lead to violations of human rights.²⁴ On 9 April 2003, eyewitnesses reported that Israeli Apache attack helicopters and F16 Jets flew over Gaza city. The helicopters then fired a missile at a Palestinian car; after the first missile apparently failed to explode a second missile was fired at the same car killing two people. According to a local eyewitness, "*After the attack dozens of residents from the area went outside to investigate and see if they could help in some way, when the helicopters came back and fired two additional missiles at the crowd.*" This second attack killed five Palestinians, including two children; 13 year-old Ahmad Hamsa Al-Ashraf and 16 year-old Sami Hasan Qassem, both from the Zeitouna neighborhood. According to Gazan doctors, the bodies of all five were riddled with shrapnel from the missiles. 47 other Palestinians were wounded in the attack, five of whom were admitted to intensive care.²⁵

In 2002, Amnesty International called on all governments to suspend all transfers of the military equipment being used by the Israeli Defence Forces to commit human rights violations.²⁶ This includes components and weapons such as combat aircraft, helicopters, tanks, small arms, light weapons, and ammunition including air-to-surface rockets. The suspension should remain in force until the Israeli authorities demonstrate that the equipment will not be used to commit human rights violations in Israel and the Occupied Territories.

Earlier this year, the Bush Administration requested approval of \$4.41 billion to finance foreign military sales, as part of the fiscal year 2004 budget.²⁷ The requested funding includes a \$60 million increase in military aid to Israel, \$15 million to Yemen in conjunction with the Global War Against Terrorism, \$10 million to Nepal to fight counter-insurgency; and \$110 million to Colombia to support counter-terrorism efforts and to protect the Cano Limon oil

²¹ Gabelnick, Tamar. "Security Assistance After Sept 11" *Foreign Policy in Focus* Vol 7, No. 4 – May 2002

²² Gabelnick, Tamar. "The United States is Still #1 in Arms Sales," August 2002, <http://www.commondreams.org>

²³ <http://fas.org/terrorism/at/docs/Aid&Humanrights.html>

²⁴ Gabelnick, Tamar. "The United States is Still #1 in Arms Sales," August 2002.

²⁵ *Palestine Monitor*, 9 April 2003; AFP "Israel defends missile attacks", 9 April 2003

²⁶ *The Terror Trade Times* No. 3, Amnesty International, June 2002

²⁷ "Summary and Highlights: International Affairs Function 150 Fiscal Year 2004 Budget Request", 161

pipeline partly owned by Occidental Petroleum.²⁸ A supplemental appropriations bill to cover the cost of the Iraq war includes an additional \$1 billion in financing for military equipment, together with another \$1.06 billion to be split among 18 other small country allies, including Jordan, Pakistan, Afghanistan, and Colombia.

In theory, for 25 years US law has sought to keep weapons out of the hands of governments that will use them to abuse human rights. In 1978 Congress established a principled prohibition against the transfer of weapons to governments that engage in a consistent pattern of gross violations of human rights. In 1996 it established tight new regulations on arms brokering,²⁹ and unauthorized retransfer of weapons to another country are likewise prohibited by law.³⁰ The US currently observes more than 20 arms embargoes and in 1999, Congress passed the International Arms Sales Code of Conduct Act requiring the administration to pursue a multilateral agreement on uniform, strict export standards. This bill also includes provisions that require the State Department to include in its annual report on human rights the extent to which states meet the Code's criteria.³¹ Although many of these measures contain important loopholes that have impeded implementation or otherwise limited effectiveness, they do provide a legal framework to constrain arms transfers that put human rights at risk.

Over the past year, however, there have been several disturbing efforts to weaken or waive several of the provisions that constrain the sale of arms to countries that have a poor record of human rights. In March 2002 the Administration introduced an emergency supplemental defense authorization bill that sought to lift human rights restrictions in place for Colombia and Indonesia, despite continuing human rights abuses perpetrated by those wielding arms supplied by the state. Through so-called "counter-terrorism" funding, the US Administration sought to extend Indonesia's eligibility for military and police training, and it sought direct support for Colombia's operations against armed rebels.³²

Colombia

The Colombian armed forces have been a relatively large recipient of US military rifles and machine guns despite the high probability that these arms are persistently used to facilitate human rights violations. During 2001 more than 4,000 Colombian civilians were killed for political motives. Paramilitary groups acting with the active or tacit support of the Colombian armed forces carried out the bulk of such killings.³³ In April 2001 paramilitaries massacred

²⁸ US OBM, "Summary and Highlights: International Affairs Function 150 Fiscal Year 2004 Budget Request" pages 36-37

²⁹ Under the Arms Export Act of 1976, Section 38, as Amended (Title 22, US Code, S 2778). See L. Lumpe "US Policy on Small/Light Arms Exports", Federation of American Scientists, December 1997

³⁰ L. Lumpe and J. Donarski, "The Arms Trade Revealed: A Guide for Investigators and Activists" p32

³¹ <http://www.fas.org/asmp/campaigns/code/uscodecon.html>

³² Gabelnick, "New Supplemental Bill Will Make the World Safe for Oil, but Not Safe for Us." *Foreign Policy in Focus*, June 18, 2002

³³ Amnesty International Annual Report 2002, p76 (AI Index: POL 10/001/2002)

approximately 40 peasant farmers along the river Naya that runs between the Departments of Valle del Cauca and Cauca. The paramilitaries apparently entered the area immediately after detachments with the Third Brigade of the Colombian Army, *Brigada III*, left the area, pointing to a strong coordination between paramilitaries and the Colombian security forces.³⁴ The paramilitaries were able to carry out the massacre despite the heavy militarization of the area and the fact that the authorities had been repeatedly alerted to an imminent paramilitary attack.³⁵

US military assistance has included aid to the Colombian Marine Infantry. In February 2000, paramilitaries massacred local inhabitants in the municipality of El Salado, Department of Bolívar, over the course of several days whilst military units attached to the Colombian Navy's *Primera Brigada de Infantería de la Marina* (First Marine Infantry Unit) not only failed to prevent the massacre but also reportedly set up a roadblock to prevent humanitarian organizations from getting through to the village. According to information received by Amnesty International, 200 paramilitary gunmen raided the village of El Salado, killing 36 people, including a six-year-old child. Many victims were tied to a table in the village sports field and subjected to torture, including rape, before they were stabbed or shot dead.³⁶

During this last year, restrictions imposed on the supply of weapons to Pakistan after its 1998 testing of nuclear bombs were waived,³⁷ and security assistance to Pakistan has skyrocketed from \$3.5 million in fiscal year 2001 to a current authorization of some 1.3 billion.³⁸ Human rights advocates are also concerned about a review of defense trade policy being undertaken by the Bush Administration. Publicly available information suggests that the administration is considering policy changes that would relax controls on defense exports to key allies and potentially limit Congressional oversight of the arms trade. Because the strength of these allies' export controls varies widely, such changes may open new avenues for the diversion of U.S. technology and weapons.³⁹

³⁴ It is estimated that state agents and their paramilitary allies are responsible for approximately 84% of non-combat killings and disappearances. While approximately 4.5% are committed directly by State agents nearly 80% are committed by paramilitary forces acting with the acquiescence or support of the security forces. Paramilitary forces continue to be an intrinsic part of the security forces= counterinsurgency strategy and thus can count on the support of the security forces - *Colombia: A briefing document and manual for continued campaigning action on Colombia* (AI Index: AMR 23/082/01)

³⁵ *Colombia: Fear for Safety, Civilian inhabitants of rural communities in the municipality of Buenaventura* (AI Index: AMR 23/045/2001)

³⁶ *Colombia: A briefing document and manual for continued campaigning action on Colombia*, August 2001 (AI Index: AMR 23/082/01)

³⁷ <http://www.pmdtc.org/IndiaPakistan.htm>

³⁸ Transcript of a Panel Discussion on Arms Transfers to India and Pakistan, January 28, 2003 Washington, DC—Rachel Stohl.

³⁹ From the SAA recommendations assembled by ATWG, March 2003. Also see <http://www.cdi.org/issues/armstrade/exportcontrol.cfm>

Uzbekistan

In 2003 Uzbekistan received a 258 per cent increase in funds available to purchase military equipment from US suppliers. The US is providing \$25 million for military assistance and \$18 million for “border security assistance” for Uzbekistan, now described as “one of our foremost partners in the fight against terrorism”.⁴⁰ The \$25 million, from the Foreign Military Financing program, is for “lethal and non-lethal” equipment including communication equipment, airfield upgrades and training, as well as uniforms, equipment and counter-insurgency training for Uzbek Special Forces. It also covers helicopters and aircraft, some leased from Ukraine, for border patrols. In return, the US can maintain military bases in Uzbekistan.

The US has also offered another \$1 million in policing assistance, to set up an anti-narcotics unit to stem the flow of heroin and other drugs from Afghanistan, a trade that it says is helping to finance terrorist activity.

Yet at the same time, the US government has noted the “unsatisfactory” state of human rights in Uzbekistan, accusing the Uzbek government of using concerns about terrorist activity to “crack down broadly” on political opposition groups and human rights activists. “There are regular reports of human rights violations on the part of law enforcement bodies,” it says. Amnesty International also noted the “unabated” reports of ill-treatment and torture by Uzbek law enforcement officials of alleged supporters of banned Islamist opposition parties and movements.⁴¹

Kyrgyzstan, Kazakhstan, Georgia, Kenya and Ethiopia also saw important increases in their US military spending allowances. Restrictions on military assistance to Armenia and Azerbaijan were waived.⁴² Budget requests for the next fiscal year (2004) include substantial increases for Kenya, Kyrgyz Republic, and Uzbekistan. They also include an additional \$60 million for Israel, despite the US State Department’s recent assertion that helicopters, fighter aircraft, anti-tank missiles, and flechettes have been used to commit human rights abuses.⁴³

⁴⁰ United States Government, “Uzbekistan Military Assistance” and “Uzbekistan Exchanges and Law Enforcement Assistance” – US Government, undated, 2002

⁴¹ Ibid. See also Amnesty International Annual Report 2002, p261-2. Amnesty International received reports throughout 2001 that devout Muslim prisoners were singled out for particularly cruel, inhuman or degrading treatment in places of detention. According to relatives and former prisoners, upon arrival at a prison camp such prisoners were separated from other prisoners and made to run between two lines of guards who beat them with truncheons as they passed. There were also allegations that devout Muslim prisoners were subjected to beatings, humiliation, forced labour and rape by other prisoners with the complicity of prison authorities.

⁴² <http://fas.org/terrorism/at/docs/Aid&Humanrights.html>

⁴³ from AIUSA press release on March 18 2003, citing Department of State's Country Reports on Human Rights Practices for 2002

Cluster bombs used in Iraq

Although the US and UK authorities said that they would do everything possible to protect the Iraqi people, hundreds of civilians were reportedly killed in Iraq. Some were victims of cluster bombs; some died in attacks in disputed circumstances.

The scenes at al-Hilla's hospital on 1 April 2003 showed that something terrible had happened. The bodies of the men, women and children brought to the hospital were punctured with shards of shrapnel from cluster bombs. Injured survivors told reporters how the explosives fell "like grapes" from the sky, and how bomblets bounced through the windows and doors of their homes before exploding. A doctor at al-Hilla's hospital said that almost all the patients appeared to be victims of cluster bombs.

Some of the cluster bombs reportedly dropped from the air by US forces on a civilian area of al-Hilla appeared to be of the type BLU97 A. Each canister contains 202 small bomblets the size of a soft drink can. These cluster bombs scatter and spray over a large area about the size of two football fields. At least 5 per cent of the bomblets do not explode on impact, turning them into *de facto* anti-personnel mines as they continue to pose a threat to people, including civilians, who come into contact with them. This is the same air-dropped weapon that caused severe humanitarian problems in Afghanistan and Kosovo.

Dark green-grey ball-shaped BLU61 bomblets were also filmed and reported seen around al-Hilla, Najaf and Baghdad. In addition, the US forces fired M77 multiple rocket launched salvos, each with 644 cluster submunitions that spread over a 100 to 200 metre area.

Following a report by the US-based Violence Policy Center exposing past sales of long-range .50 caliber sniper rifles to Osama Bin Laden, the US State Department has recently decided to suspend the commercial export of these high-powered rifles that can pierce armoured vehicles and bring down aircraft. The State Department had already approved the export of 75 such weapons this year, though only 16 had already been delivered before the decision to suspend further sales.⁴⁴

Afghanistan

By July 2002, the US had militarily defeated the Taleban and Al-Qaeda forces and observed a United Nations embargo on arms to Afghanistan agreed in December 2000, except for the new Government of Afghanistan and the International Security Assistance Force.

It should be recalled that, according to its officials, the US Central Intelligence Agency (CIA) gave over US\$2 billion in light weapons to Mujahideen groups in Afghanistan fighting the Soviet invasion between 1979 and 1989. Much of this was channelled via the Pakistan Inter-Services Intelligence (ISI). This US aid continued openly until 1991, despite the fact that thousands of Afghan civilians were deliberately and arbitrarily killed by

⁴⁴ <http://www.fas.org/terrorism/at/index.html>

Mujahideen fighters, who were also responsible for widespread beatings, abductions and rapes. Other outside powers, including Iran and China, also supplied the Mujahideen groups with munitions, and they captured arms from the former Soviet Union. By late 2001, the weapons markets in the Taleban-held towns and villages on the Afghan border with Pakistan and Iran, were still reportedly doing a heavy trade in arms, including US and other missiles, and Kalashnikovs, made under licence in China and Egypt.

It came to light in 2002 that Gulbuddin Hekmatyar, a former Afghan prime minister (1992-1995) whose faction received considerable US assistance, has now been placed on a US list of terrorists associated with Al-Qaeda.

2.2 Exports of Security Equipment

In a few cases, US companies have been involved in the marketing of devices that easily lend themselves to use in torture or ill-treatment – such as electro shock stun guns, belts, leg-irons and thumbcuffs. In many more cases, US companies produce devices designed for security and crime control purposes but which in reality can easily lend themselves to torture. In some cases US companies have provided this equipment to foreign security forces that are known to abuse legitimate devices to inflict torture. Amnesty International has compiled lists of more than 80 US companies involved in the manufacture, marketing and export of the type of weapons and other equipment that can be used to torture over the past decade.

In Russia, for example, sixteen-year-old Andrei Osenchugov was reportedly beaten, whipped and subjected to electric shocks over a three-day period in July 2002 in order to force him to confess to a robbery that he says he did not commit. From 1999-2001, the Commerce Department approved licenses for more than \$4 million dollars of discharge type arms (for example stun guns and shock batons) to Russia. Between 2000-2001, the Department of Congress approved US export licenses for more than \$15 million in restraint equipment, \$30 million in discharge type arms and \$185 million in all crime control exports.

Recent changes to the laws and the administrative rules that govern the export of such equipment are intended to limit its possible use for torture and ill-treatment. Current policy now restricts export of crime control items on a broad range of human rights concerns⁴⁵, and an interim rule issued by the Department of Commerce in September 2000 significantly improved the regulation of crime control items that could be used in torture by requiring export license and disaggregated reporting of electric shock and restraint items. In the last session of Congress (2002), the House International Relations Committee passed the Lantos-Hyde Amendment. The amendment, initiated by Representative Tom Lantos (D-CA) and Representative Henry Hyde (R-IL), limits the export of crime control equipment when the foreign government has repeatedly engaged in acts of torture. It also restricts the exports

⁴⁵ www.bxa.doc.gov/PRESS2001/ForeignPolicyReport/Chapter2.html

of equipment that Amnesty International considers to be inherently cruel, inhuman or degrading such as thumbscrews, weighted gloves, and electro-shock stun belts.⁴⁶

2.3 Military and Police Training

The US government trains more than 100,000 foreign police and soldiers from more than 150 countries each year in US military and policing doctrine as well as war-fighting skills.⁴⁷ Throughout the decade of the 1990s, the record of one US military training institution, in particular, attracted public scrutiny in the US - the US Army's School of the Americas (SOA) offered training and education to Latin American soldiers, some of whom went on to commit human rights violations, and in 1996 training manuals advocating torture, extortion, kidnapping and execution were brought to light. No one has ever been accountable for these manuals or for the behaviour of SOA graduates, but in 2001 the school was renamed "the Western Hemisphere Institute for Security Cooperation" (WHINSEC) and its curriculum was changed to include coursework in human rights and humanitarian law.

SOA-WHINSEC is well known, but in fact it is only one small part of a vast and complex network of US programs for training foreign military and police forces. Some of this education and training is conducted inside the US, funded either by the foreign government itself or with US loans and grants. In addition to the WHINSEC, there are approximately 275 military schools and installations in the US, offering over 4100 courses. Tens of thousands of students train in these programs, but far more receive some US training in their own nations through a variety of programs, including military exercises. Funding requests for International Military Education and Training (IMET), one of several US foreign military training programs, have risen to \$91.7 million for budget year 2004, an increase of nearly 60 per cent since 2001.⁴⁸

The US has imposed various restrictions on eligibility for military training, but these are not always rigorously observed. For example, because of Congressional concerns about Guatemala's continuing human rights performance, Guatemala is eligible only for non-lethal training supplied through a program known as Expanded-IMET. However, the current US

⁴⁶ AIUSA Briefing on US Export Controls on Equipment Used for Torture, 2002

⁴⁷ From Executive Summary of an AIUSA report, "*Unmatched Power, Unmet Principles*", Washington DC, 2002. This report is largely based upon research by Lora Lumpe for AIUSA.

⁴⁸ Figures for 2002 (actual), 2003 (request) and 2004 (request) are reported in the FY 2004 Military Assistance budget submitted by the Administration to Congress, 2003. The 2002 IMET budget was \$70 million; the 2003 request was \$80, augmented by a supplemental spending bill not included here; and the 2004 request is \$91.7 million. The 2001 figure is reported by Tamar Gabelnick in "New Supplemental Bill Will Make the World Safe for Oil, but Not Safe for Us." *Foreign Policy in Focus*, June 18, 2002

Foreign Military Training Report indicates that 95 Guatemalan Army troops received light infantry training, which is generally supplied by US Special Forces.⁴⁹

2.3.1 Private Military Services

In recent years the US government has frequently hired or authorized private military consultants to train foreign police forces and military troops. According to a detailed scholarly study, US companies trained militaries in more than 24 countries during the 1990s. This list includes Angola, Bolivia, Bosnia, Colombia, Croatia, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Ghana, Haiti, Hungary, Kosovo, Peru, Liberia, Malawi, Mali, Nigeria, Rwanda, Senegal, Saudi Arabia, Sweden, Taiwan and Uganda (Sudanese forces).⁵⁰

In many cases the US Defense, Justice or State Departments hire private corporations to implement training projects that the government has designed. For example, the US State Department has been using Military Professional Resources International (MPRI) and Logicon to train countries involved in its Africa Crisis Response Initiative (ACRI). Similarly, many training missions related to the US-funded war on the illegal drugs trade are being contracted privately.⁵¹

This stepped up “outsourcing” by the US government for training is attributable most principally to the overall growth in military and police training taken on by the United States in the past decade; US forces are unable to meet all of the training missions that various parts of the US government support around the world. On the supply-side, post-cold war reductions in the size of the US military forces led to a glut of experienced military personnel looking for work. Long-established professional military companies expanded operations in the 1990s and new firms sprang up to meet this business demand. The principal companies providing training to foreign forces are MPRI, Vinnell Corporation, Carlyle Group, BDM, Defense Forecasters International, DynCorp, Science Applications International Corporation, Texas Instruments and Booz-Allen & Hamilton.

⁴⁹ From J Olson’s report on US military training for AIUSA, 2002. When asked about this apparent breach of US policy on Guatemala, then-US Assistant Secretary of State Otto Reich replied that the training listed in the FMTR was provided to Guatemalan Police, not the Army. On the other hand, the US postponed the Mayan Jaguar training project/program due to “concerns about reports of corruption in Guatemala’s special counter-narcotics force (DOAN) with the National Civil Police and the threats against human rights workers who are exhuming bodies from mass graves”. The question is why did the US provide training by US Special Forces to the Guatemalan police on the one hand, and on the other suspend another training program for the same police force? In addition the inaccessibility to the classified volume of the FMTR precludes from knowing whether the Guatemalan Army has received any training in 2002.

⁵⁰ Deborah Avant, *The Market for Force*, manuscript chapter 2, book forthcoming 2003.

⁵¹ The following companies provided training to Latin American militaries in 1998: Flight Safety International, Systems Science Corporation, Beech Aircraft Corporation, Aeroservice Aviation, Aerodyne Machine, and Allied-Signal Aerospace. Isacson and Olson, *Just the Facts 1999-2000*, pp. 168-9.

In addition to working for the US government to carry out training programs, private companies may also contract directly with foreign governments to train military, security, or police forces in programs run independent of the US government. To do so, firms must first apply and be granted an export license by the State Department's Office of Defense Trade Controls.⁵² Companies ranging from Boeing to MPRI apply for training contracts—Boeing for training on weapons systems it manufactures, and MPRI for training in tactics and operations.

Sometimes persistence is rewarded. According to the *New York Times*, the State Department twice refused to grant MPRI authorization to work with the government of Equatorial Guinea because of its poor human rights record. After two years of lobbying, though, the company was finally given permission to help build a coast guard to protect the oil-rich coastal waters being explored by Exxon Mobil. The State Department balked, however, at MPRI's request to help Guinea build its police and military forces.⁵³

In 1975 Vinnell Corporation became the first private American company to receive permission from the State Department to run an independent training program for a foreign security force—in this case the Saudi Arabian National Guard.⁵⁴ Vinnell's most recent contract is for 1998-2003, and the firm currently has around 1400 civilian employees in Saudi Arabia.⁵⁵ Several other foreign militaries and police forces have hired private US companies for training. According to a news report in early 2000, DynCorp Inc. and MPRI were then completing contracts for logistical support and training of Colombian police and counterinsurgency forces, while at least six US firms had set up shop in Latin America, in anticipation of lucrative new contracts related to the United States' \$1.6 billion military aid program for Colombia.⁵⁶

The level of public transparency and accountability is significantly higher for US government programs that employ private contractors, such as the Africa Crisis Response Initiative, than it is for private commercial transactions between foreign entities and private US firms, such as the Colombian contracts. Information on private transactions is scarce.

⁵² Legal authority contained in section 38 of the Arms Export Control Act.

⁵³ Leslie Wayne, "America's For-Profit Secret Army," *New York Times*, October 13, 2002.

⁵⁴ Kim Willenson with Nicholas Proffitt, "Persain Gulf: This Gun for Hire," *Newsweek*, 24 February 1975, p. 30. Previously, private companies had been employed for covert military and police training operations, but not through the State Department-administered commercial military sales program.

⁵⁵ In addition, Science Applications International Corporation has a contract to train the Saudi Navy; Booz-Allen & Hamilton runs the Saudi Armed Forces' Staff College and helps train the recently formed Saudi Marines; and O'Gara Protective Services has been hired by the Defense Minister (Prince Sultan) to provide for the royal family's security. Brian Evans, AIUSA Saudi Arabia Co-Group, email correspondence, 19 January 2000.

⁵⁶ Tod Robberson, "Contractors Playing Increasing Role in US Drug War," *Dallas Morning News*, 27 February 2000. In reference to the use of private contractors, then "Drug czar" Barry McCaffrey is quoted as saying, "I am unabashedly an admirer of outsourcing." See also, Paul de la Garza and David Adams, "Military Aid...from the Private Sector," *St. Petersburg Times*, 2 December 2000.

There is no requirement that the State Department publish an annual listing of precisely whom it has licensed (and therefore authorized) to provide private military or security training, for what purpose, where and with which security unit. Nor does Congress know who is training whom, since the State Department is only required to notify lawmakers of contracts valued at \$50 million or more—a threshold so high that very few, if any, training operations are likely to surpass it.

In April 2003 the US Department of State awarded the multi-million dollar contract for policing Iraq to DynCorp, a private company with a dubious policing record. DynCorp was seeking to recruit active or recently retired policemen and prison guards and “experienced judicial experts”. DynCorp personnel contracted to the United Nations police service in Bosnia were accused of buying and selling prostitutes, including a girl as young as twelve years old. Several DynCorp employees were also accused of videotaping the rape of one of the women. When DynCorp employee Kathy Bolkovac spoke out publicly about the sex ring she was dismissed by the company for drawing attention to their abuses, but won her case against the company in a British employment tribunal in November.⁵⁷

Military training is now a multimillion dollar global business, and most companies involved in the business have Internet web sites relating their corporate histories and advertising their services, including perhaps some information on their past or even current deployments. If so, this source might be about the only public information available, as commercial training contracts are exempt from disclosure under the Freedom of Information Act, the law that forces the government to review and release documents to the public. Military companies can and have blocked public access to information on commercially negotiated contracts by arguing that even the most basic information is proprietary.

In terms of official oversight of private training contracts, the only remote possibility is that an official from the local US embassy’s security assistance office will make a field visit to inquire into how a training program is being carried out. Oversight varies from embassy to embassy, depending on the prominence of the issue. However, the fact that quite a few defense attaches have past relationships with the retired military personnel who now work for private military companies, likely further undermines serious oversight.

There are no legal or regulatory requirements for the inclusion of any international human rights or humanitarian law content in military, security, or police force training contracted privately. In addition, the “Leahy Law” requirement that trainees be vetted for

⁵⁷ Chatterjee, Pratap. “Dyncorp Rent-a-Cops May Head to Post-Saddam Iraq” *Corpwatch*, 9 April 2003 <http://www.corpwatch.org/issues/PID.jsp?articleid=6328> ; ‘Scandal-hit US firm wins key contract’ – *The Observer*, 13 April 2003.

prior human rights abuses does not apply to training purchased with the buyer's own money (but it does apply to US taxpayer-funded programs employing private firms, such as ACRI).

Taken together, these realities lead many to fear that training by private US security companies might contribute to human rights violations by providing sophisticated military training to abusive personnel, by not including any human rights or humanitarian law emphasis in the training, or perhaps even by imparting tactics and doctrine that are not standard for US forces.

Private Military Training in Croatia

Military Professional Resources International (MPRI) received a two-year contract with Croatia in September 1994 (later extended for two more years) for the "Democracy Transition Assistance Program" (DTAP). This privately contracted program between MPRI and the Croatian government was supposed to ensure that the Croatian military could meet the necessary human rights and democracy standards for admission into NATO's "Partnership for Peace" program. DTAP was to focus on classroom teaching of issues such as the difference between military and civil systems of law and proper military conduct toward civilians during and after conflict. No classes on tactics or on the use of weaponry were to be taught.

In 1995 the Croatian military launched two surprisingly successful military operations, called "Flash" and "Storm." In these operations, the army exhibited new communications techniques and movements that did not resemble its usual Warsaw Pact military tactics.⁵⁸ In addition, Croatian troops committed a number of serious human rights abuses.⁵⁹

In May 1996 Amnesty International sent a letter to the head of MPRI and to the Secretary of State, raising several questions about the human rights situation in Croatia (and Bosnia, where MPRI was also training forces), and inquiring about MPRI's human rights training.

"The fact that MPRI's initial training was followed by human rights violations [in Croatia], raises serious questions about the effectiveness of the human rights component of the training offered by MPRI." The letter asked specifically about the firm's system of vetting trainees, the content of the training (in particular inquiring whether the training raised the issue of gender, given widespread use of rape in the war), and how the impact and effectiveness of the training were monitored.⁶⁰

⁵⁸ For an assessment, see *Jane's Intelligence Review*, July 1998, pp. 39.

⁵⁹ *Croatia: Impunity for Killings After 'Storm'*, (AI Index: EUR 64/04/98), and *Three Years Since Operations Flash and Storm, Three Years of Justice and Dignity Denied*, (AI Index: EUR 64/05/98), and *Too Soon to Hail Success in Eastern Slavonia* (AI Index: EUR 64/01/98)

⁶⁰ Letter from AIUSA to Gen. Ed Soyster (USA ret.), International Vice President, MPRI, May 1996.

Amnesty International USA staff subsequently met with Ed Soyster, the International Vice President of MPRI, who said that there was no specific human rights training included in the training provided to the Croatian forces. He also made the point, that as a private organization, MPRI was not accountable to Amnesty International or to anyone else for the content of their training programs.

The following year Amnesty USA filed a series of requests for information about the human rights components of the MPRI's Croatia contracts with the US State Department's Office of the Special Representative for Military Stabilization in the Balkans. The group received no useful information.⁶¹

2.4 Specific Recommendations

The government of the USA should actively promote the development of an international "Arms Trade Treaty" with provisions for arms export control based upon respect for international law, especially international human rights and humanitarian law. The US government should also take steps to strengthen efforts to address the trade in small arms, light weapons and security equipment, and to prevent the use of indiscriminate weapons [for details on these measures, see the final recommendations at the end of this report]

In addition, the US government should:

- Suspend US arms sales, transfers and military aid to countries whose armed forces are likely to use them to commit human rights abuses, such as Israel, Colombia and Uzbekistan, until the danger of misuse has been proven to be very low.
- Amend sections 36(b)(1)(D) and 36(c)(1) of the Arms Export Control Act to require the Secretary of State to evaluate the likelihood that the articles included in the proposed sale will be used to commit human rights abuses.
- Amend sections 116(d) and/or 502B of the Foreign Assistance Act to require that the annual *Country Report on Human Rights* include a chapter summarizing the use of U.S. defense articles in human rights abuses.
- Refine the language in Section 4 of the Arms Export Control Act to underscore the importance of human rights norms in determining eligibility for participation in arms transfers programs.

⁶¹ Gerry Wallman, AIUSA Balkans Coordination Group, email correspondence 18 January and 29 February 2000.

- Include in all US training programs for foreign security forces sufficient international human rights and humanitarian law educational components based on internationally recognized legal standards and conducted by academic and/or non-governmental experts in the field.
- Disclose and better monitor the activities of private military companies that it has authorized (i.e., given an export license) or hired to train foreign militaries.
- Make explicit the applicability of human rights and vetting criteria for training activities undertaken by US contractors, and require that private contractors include human rights and humanitarian law training in their courses.
- Reintroduce the Export Administration Act with the 2002 Lantos-Hyde Amendment included to limit US exports of equipment that can be used in torture. The Amendment limits exports of crime control equipment especially susceptible to abuse to countries that practice torture and bans export of certain types of crime control equipment which are inherently cruel, inhuman, or degrading.
- Sign, ratify, implement and monitor the 1997 Ottawa Mine Ban Treaty, and ban the use, production, stockpiling, sale, transfer or export of anti-personnel landmines.
- Ratify the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials.

3. Russian Federation

3.1 Introduction

Despite the break up of the Soviet Union, the Russian Federation remains one of the world's top three producers of military, security and police (MSP) equipment and is still the world's second most important supplier of light weapons and ammunition after the United States.⁶² The military industrial complex in Russia encompasses over 2,500 state defence contractors of which about 1,100 enterprises are licensed for the production of weapons and war materiel.⁶³

Increasingly private companies are engaged in the MSP industry supplying such products as personal protection equipment or surveillance systems, or offering a full range of

⁶² See for example the SIPRI Yearbook 2002, also "Preliminary estimates of Russia's arms export in 2002", Centre for Analysis of Strategies and Technologies (CAST), www.cast.ru

⁶³ 'Defense industry reform: Current state and solutions'. Military Parade, www.milparade.com/2002/49/01_03.shtml accessed 26 February 2002.

security services such as VIP protection or training of security forces. Often they have links into, or ex-staff from, the Russian security services, police or army.⁶⁴

3.2 Arms Production

Russian companies make a wide range of weaponry and internal security technologies for purposes such as riot control, surveillance and prisoner restraint and control. These range from batons, shields and chemical incapacitants to shotguns firing a diverse range of incapacitating ammunition.⁶⁵ Russia has also imported security equipment and training from many countries including Israel, Germany, Canada, USA and Australia.⁶⁶ The Israeli company Elite Alpha Firearms Training Ltd claims to have trained Russian special forces.⁶⁷ Russia has engaged in significant programmes of research in “advanced non-lethal” weapons for disabling protestors using radio frequency, laser, kinetic, acoustic and biochemical systems⁶⁸ and in recent years some of this research has been in co-operation with a variety of agencies in the United States⁶⁹ and Germany.⁷⁰ Russian forces have also used “less lethal” weapons - most notoriously in the breaking of the Moscow theatre siege in October 2002, when they used a calmativ agent

⁶⁴ See for example Ralf Security which offers a range of services including personal protection and public peace maintenance, www.mtu-net.ru/ralf_security/projecte.htm, also

⁶⁵ For example: Tekhnika Scientific Production Co of the Russian Interior Ministry offers a full range of internal security equipment including weaponry, sub-machine guns, special silenced weapons, chemical incapacitant sprays, chemical and stun guns, rubber bullets, covert communications, telephone interception equipment and monitoring equipment. Company Information 1998. NPO Special Materials Ltd produces handcuffs, batons and clubs and ballistic vests. Company Information 2002.

Tsniitochmash, Klimovsk producers a wide range of police weapons ranging from pistols and revolvers to shotguns. It also produces chemical irritant sprays. Company Information 2001.

⁶⁶ For example: Q-Mac Electronics (Australia) has supplied frequency hopping radios to the Russian Interior Ministry. *Jane's Defence Review* January 2002.

Silent Witness Enterprises Ltd (Canada) list STA Plus as their Russian representative. Company Information March 2001.

PK Electronics (Germany), SIPE Electronic (Germany) and CCS International (USA) are listed as supplying special security equipment (including surveillance, monitoring and interception) to Russia. “The security systems market in Russia”. National Trade Data Bank (USA) July 1998.

⁶⁷ Company Information July 2000

⁶⁸ For a detailed discussion and evaluation of Russian crowd control weapons see the Russian contributions to the 1st European Symposium on Non Lethal Weapons, ‘Non-Lethal Weapons: New Options Facing the Future’, Fraunhofer Institut Chemische Technologie 25-26 September 2001

⁶⁹ Ibid. See for example chapter 17-1 Selivanov V., Klochikhnin V., & Pirumov V., ‘Modern Views on Development and Applications of Non Lethal Weapons in Anti-Terrorist and Peacekeeping operations (Summary of Russian-American Conference 1999, Easton MD, USA.’

⁷⁰ For example the Armoline-VST company of Moscow which is working on developing a net-launcher with GETEC and ViP of Germany and Olets of the USA.

Www.mvd-expo.ru/catalogue2001/security/list.htm accessed 1 February 2002.

based on the chemical fentanyl. Approximately 204 hostages died from the effects of the gas.⁷¹ It has also been reported that Russian forces have used an ultrasound device during the conflict in Chechnya.⁷²

Russia has manufactured electroshock batons since at least the early 1990s and has an institute dedicated solely to the testing of them.⁷³ The March Joint Stock Co, Moscow produces the Scorpion, Malvina and Arnold electroshock batons ranging from 70-100,000 volts, also 45,000 volt stun guns and a 45,000 volt electroshock briefcase.⁷⁴ Advanced pulsed electro-shock stun batons were imported from America in the mid nineties.⁷⁵ Small arms and light weapons continue to be manufactured largely in state owned factories.

3.3 Arms Export Control

Russia epitomizes the problems of controlling the use of arms and security equipment to prevent human rights violations. It is a major producer, a major exporter and a major victim of illicit proliferation of light weapons. Russia already has one of the most bureaucratically efficient systems of marking and tracking small arms. Its centralized systems mean that all trade is either officially sanctioned or it is illicit. The major flaw is that there is virtually no reference to controlling exports in terms of respect for human rights and international humanitarian law, and no national legal criteria or oversight mechanisms to achieve this goal.

Nevertheless, the Russian Federation agreed in 1991 to the OSCE *Principles Governing Conventional Arms Transfers* which do include respect for human rights, and more recently the Russian government supported the OSCE *Document on Small Arms and Light Weapons*. On December 1, 2000, Russia set up the Committee on Military-Technical Co-operation of the Russian Federation to develop a more effective export control mechanism for military supplies. The Russian Government has also agreed to submit to the OSCE appropriate data on small arms and light weapon transfers in accordance with the agreed nomenclature.

⁷¹ See for example BBC News reports at <http://news.bbc.co.uk> 27 October 2002 and *Russian Federation: Lawmakers must abide by Russia's international obligations in safeguarding freedom of expression*, 26 November 2002 (AI Index: EUR 46/063/2002)

⁷² Russia Reform Monitor No. 983, 6 November 2002. American Foreign Policy Council, Washington. USA

⁷³ For example: NII Stali manufacture the Yana range of electroshock batons which vary between 45-80,000 volts. Company information 2002.

NPO Special Materials Ltd offer the 40-45,000 volt Laska electroshock stun gun and also run the Special Materials Testing and Certification Centre - an accredited centre licensed to test equipment including handcuffs and electroshock weapons. They claim this is the only such facility in Russia. Company Information 2002

⁷⁴ Company information 1998

⁷⁵ Stun guns and pepper sprays seized by US officials in 1996, were being exported to Russia by Europe Distributing company, S+J products and Services was listed as the supplier. United States District Court Documents 30 December 1997

These are important shifts in policy that need to be recognized but, as is shown by the other G8 states, it is not sufficient to have a policy recognizing human rights – the main challenge is to abide by that policy.

In recent years, Russia has still ranked in the top three weapons exporters, despite the poor state of some of its production facilities. The majority of Russia's military exports are carried out by the state controlled marketing organization, Rosoboronexport, which has agents in 36 countries.⁷⁶ Exports in 2002 set a new post-Soviet record of \$4.7 billion.⁷⁷ In 2002 Rosoboronexport exported 85 per cent of Russia's weapons. Five Russian companies also exported directly to overseas customers.

Despite efforts by Rosoboronexport to control all exports from Russia, the number of private companies able to export independently is set to increase. Because of the severe financial situation in Russia, its armed forces cannot afford to replace aging equipment and the only way many companies can survive is to export. This is leading to direct competition between the state exporter and private companies. It is extremely difficult to obtain official information about Russia's arms exports, and the Russian committee on military-technical cooperation with foreign countries has even developed a list of information relating to exports that will be banned from publication.⁷⁸

Russia's main export markets are China and India. Other important markets are Vietnam, Algeria, Yemen, Kuwait, Greece, Burma, Malaysia and Sudan – mostly countries with long-standing and acute human rights problems.

3.4 Small Arms

Russian small arms and light weapons have proliferated to many of the world's conflict zones. The USA remains an important market for sporting and hunting versions of military weapons as well as ammunition.

The Kalashnikov assault rifle (AK47 - a term which covers the vast range of some 160 variants) is the world's most widely distributed single weapon model and has a huge impact on human rights especially within Africa and the Middle East. Copies of the AK47 are produced in at least 19 countries (including China, Bulgaria, Finland, Yugoslavia, Iraq and Romania), but it is no longer made in Russia. Its legendary reliability has led to estimates of the number of AK47s in circulation to be as high as 100 million⁷⁹, and it is held in the inventories of more than 80 countries, with the Russian Federation itself possessing ten different versions.⁸⁰ The

⁷⁶ Rosoboronexport Company Information 2001.

⁷⁷ "Preliminary estimates of Russia's arms export in 2002" www.cast.ru

⁷⁸ "Official news ban to be placed on some foreign arms sales". Moscow Interfax newsagency. 25 July 2002

⁷⁹ National defence, January 2000.

⁸⁰ *Jane's Infantry Weapons*, 2000-01.

price of these rifles varies enormously. The official Russian export price is \$100 but models can be worth from \$200-1000 on the illicit market, yet in areas of high availability such as South Africa, it can be as low as \$15.⁸¹

The fact that so many countries are producing copies means that it is and will always be extremely difficult to determine exact provenance of manufacture of any weapon used in human rights violations, unless and until Russia shares its gun serial numbers with the international community. Estimates on available stockpiles of Russian small arms and light weapons are also difficult. The Swiss Small Arms Survey for example calculates that Mozambique alone has six million or more AK47s, roughly half the number thought to be in the whole of the Russian federation, and Afghanistan is thought to have at least 10 million in circulation.⁸² What is more certain is that in the difficult economic climate which now prevails in Russia and its former client states, these stockpiles leak and become substitute currencies for army personnel, many of whom have not been paid for many months.

Examples of recent Russian small arms, light weapons and ammunition exports include automatic grenade launchers made by KBP to Afghanistan, Iraq, Chad and Angola⁸³; ammunition from LVE Plant to Afghanistan, Cambodia, Egypt, Iraq, Iran, Libya and North Korea.⁸⁴ Over the last 3 years Russia has exported over 9,000 modern, NATO calibre AK-101 and AK-102 assault rifles to Indonesia, with further exports ongoing.⁸⁵

3.5 Larger weapons

Increasingly Russia is signing military-technical cooperation agreements as a first step towards increasing exports. Currently Russia has such agreements with a number of countries including Algeria, Syria, Yemen, UAE, Kuwait, Sudan, Egypt, Jordan and Libya.⁸⁶

In early 2003 Russian officials visited Pyongyang to discuss military upgrades for tanks, and supplies of night vision equipment and ammunition.⁸⁷ It has recently delivered military equipment and training to Myanmar under a deal worth \$130 million.⁸⁸ In 2002 Russia signed an agreement worth some \$150 million to supply Ethiopia with a range of military equipment including combat helicopters, armoured personnel carriers and ammunition for infantry weapons.⁸⁹ It has also recently supplied helicopters to Nigeria.⁹⁰ Russia is

⁸¹ Boutwell J & Klare M., A Scourge of Small Arms, *Scientific American*, June 2000, pp. 48-53

⁸² Swiss Small Arms Survey 2001, pp 62-63.

⁸³ AGS-17 Automatic Grenade Launcher in service with countries including Afghanistan, Iraq, Chad and Angola, made by KBP Tula Instrument Design Bureau. *Jane's Infantry Weapons 2001-2*.

⁸⁴ LVE Plant, Company Information 2001.

⁸⁵ Arms Markets. Tass Information Agency. 2002, vol. 2, No. 11, p13

⁸⁶ Arms - Russian defence Technologies. 1 (14), 2003.

⁸⁷ *Jane's Intelligence Review*, p39, March 2003.

⁸⁸ "Myanmar reports delivery of Mig-29s." *Jane's Intelligence Review*, p.8, February 2003.

⁸⁹ "Weapon makers African card." *Vremya MN*, 3 August 2002.

increasing its exports and cooperation with Indonesia, exports include armoured personnel carriers, combat helicopters and military training.⁹¹ All of these are countries where Amnesty International has documented human rights violations by armed forces

Russia uses arms exports to directly fund the re-equipping of its armed forces which otherwise it could not afford to do. The promotion of Russian MSP equipment has increased hugely in recent years. There are MSP fairs held regularly not only in Moscow but new fairs such as Ural Expo Arms, OTTV Omsk and Moscow Aerospace. International arms fairs used to see one stall of Russian weaponry marketed by the state export organization. In recent years Russian companies have exhibited at numerous international arms fairs including Malaysia, Colombia, Turkey, France, Greece, Pakistan, South Africa and United Arab Emirates. As well as weaponry, financial services for defence enterprises have also been offered at the fairs, for example by Interprombank at DSA in Malaysia and MAKS in Russia.⁹²

3.6 Foreign Licenced Production

As well as exporting directly, Russia is increasingly embracing licensed production abroad as a way of earning badly needed revenue. Where foreign licenced production is established in states with weak arms export controls, the chances of such arms falling into the hands of human rights abusers is greatly increased. In Soviet times the production of Russian small arms and other weaponry took place in most Warsaw Pact countries but was often unregulated. Recently Russia has been trying to claw back some of this intellectual property and potential earnings by threatening lawsuits against unlicensed manufacture of its designs.

For example the Bulgarian Arsenal Plant was pressured to purchase a licensed production agreement for the Kalashnikov assault rifle.⁹³ Bulgaria has been the source of such Kalashnikovs by international arms traffickers supplying governments and rebel groups who commit human rights violations. It has also been reported that Bazalt, the Russian company that developed the RPG-7 rocket launcher, has pressed Pakistan Ordnance Factories as well as Bulgarian and Greek manufacturers to enter into agreements in relation to unlicensed copies.⁹⁴ At a recent arms fair in Abu Dhabi it was reported that Rosoboronexport was actively seeking out unauthorised copies of Russian military hardware.⁹⁵

⁹⁰ "Russia delivers to Nigeria three more helicopters." ITAR Tass, 6 August 2002.

⁹¹ Arms Markets. Tass Information Agency. 2002, vol. 2, No. 11, p13

⁹² Military Parade 5 June 2001

⁹³ Russia's defense loses big in patent sellouts. S. Saradzhyan. *St. Petersburg Times*. 16 April 1999.

⁹⁴ "A barrier on the path to dishonest competition. Russian manufacturers have begun a fight with illegal use of trademarks that belong to them". I. Korotchenko. *Moscow Nezavisimoye Voennoye Obozreniye*. 12 October 2001

⁹⁵ "Russia to protect intellectual property rights to military hardware" ITAR-TASS, 17 March 2003

Russia is also actively offering new licensed production agreements as a method of ensuring arms exports, for example to India,⁹⁶ Vietnam,⁹⁷ China⁹⁸ and Syria.⁹⁹ At the recent Defendory arms exhibition in Greece (October 2002) Russia entered into negotiations with Greece on the possible licensed production of a new compact assault rifle, and the Bazalt company held discussions with Israeli representatives to discuss joint cooperation.¹⁰⁰

3.7 Arms for Natural Resources

A worrying development in Russian MSP exports is the link between resource extraction companies (oil and gas) and the supply of weapons. Participation in oil and gas projects in Algeria by a number of companies, including Gazprom, has been linked to arms deliveries.¹⁰¹ Recently it has been reported that Promgaz (an affiliate of Gazprom) has signed a cooperation agreement to interact in foreign markets to boost the export potential of Russia's defence industry.¹⁰² Russian resource extraction companies, for example the joint Belarussian-Russian company Slavneft, are also heavily involved in exploiting Sudan's oil reserves.¹⁰³ Russia has actively exported arms to states in zones prone to violent conflict, particularly in African countries rich in natural resources.

Sudan

For example, following a trade delegation that visited Sudan in April 1995, the government in Khartoum reported that the Russian government was ready to support Sudan in technical and training fields and to reactivate previous military agreements.¹⁰⁴ It was reported in 1997 that Russia had supplied 9 T-55 tanks and 6 Mi-24B "Hind" attack helicopters to Sudan via Belarus.¹⁰⁵ Russia further supplied 60 BTR-80A armoured personnel carriers manufactured by the Arzamas Machinery Plant, which were delivered in 2000 to the Sudanese government forces.

⁹⁶ Tula Armoury offers the Konkurs-M anti tank missile system's licensed production at an Indian plant. "Russian armoury exhibits new missile for anti-tank system at Indian arms show". Interfax-Military News Agency. 22 February 2002

⁹⁷ In 2002 Kolomna Machine Building Design Bureau implemented a 2001 contract with Vietnam for transferring 50 Iгла MANPADs (Man Portable Air Defence Systems - shoulder launched missiles) and the license for their production. In "Preliminary estimates of Russia's arms exports in 2002". www.cast.ru

⁹⁸ China has started producing Krasnopol projectiles under a license purchased from from KBP. Defense Technologies. Itar-Tass, p.23, V.1, No.1, 2003

⁹⁹ Arms - Russian Defence Technology. 1 (14), 2003. p6

¹⁰⁰ "Russian arms firms showing at Defendory fair". *Moscow Rossiyskaya Gazeta*. 5 October 2002

¹⁰¹ "Russian weapons pave road to Algeria for oil and gas companies"

www.rusenergy.com/eng/companies.htm 30 May 2001

¹⁰² Military News Agency Moscow 27 February 2002

¹⁰³ *Pravda* 19 January 2002

¹⁰⁴ *Jane's Sentinel Security Assessment* - North Africa 22 February 2000

¹⁰⁵ Belarus report to UN Conventional Arms Register 1997.

On 21 February 2002, a Sudan government helicopter gunship killed 24 civilians in Bieh, injured many others and disrupted a World Food Programme (WFP) food distribution operation. The attack occurred despite a flight clearance agreement given by the Sudanese government to WFP operations in Bieh that day, under the framework of Operation Lifeline Sudan, the umbrella organization providing relief to civilians in Southern Sudan. The government announced an investigation into the incidents but no results of any investigation were ever announced.¹⁰⁶

Angola

Weapons supplied by Russia to Angola range from Su-24 fighter bombers handed over in January 2001¹⁰⁷, Mi-23 fighters, repairs to other fighters, T-72 tanks, grenade launchers supplied by the Instrument Design Bureau KBP Tula¹⁰⁸, attack helicopters supplied in 2000.¹⁰⁹

The civil war in Angola continued throughout 2001; hundreds of unarmed civilians were deliberately killed by government forces and by forces of the União Nacional para a Independência Total de Angola (UNITA), National Union for the Total Independence of Angola. The armed conflict and insecurity were responsible for the number of internally displaced people increasing by 300,000 during the year to an estimated total of four million and for a precarious humanitarian situation.¹¹⁰

A visit to Luanda by Igor Sergevey, Minister of Defence of the Russian Federation, led to the parties reaching agreement on the maintenance and modernization of the Angolan army's weapons. It is also reported that Russia and Angola are proposing to establish in Angola centres for serving of weapons of Soviet manufacture in other African states.¹¹¹ This could have a profound effect as Africa is awash with old, broken down Russian equipment such as APCs and artillery pieces.

Russia has also supplied arms to Eritrea and Ethiopia at a time of high tension and military clashes.¹¹² Russia supplied significant amounts of weaponry to the Northern Alliance in Afghanistan (in 2001 estimated at £30-40 million) and is expected to be the largest provider of

¹⁰⁶ *Sudan: bombing of civilians are unacceptable*, 22 February 2002 (AI Index: AFR 54/006/2002)

¹⁰⁷ ANGOP news agency 22 January 2001

¹⁰⁸ *Jane's Infantry Weapons* 99/2000

¹⁰⁹ Russian report to UN Conventional Arms Register 2000

¹¹⁰ Amnesty International Annual Report 2002 (AI Index: POL 10/001/2002)

¹¹¹ *Moskovskiye Novosti* 16 January 2001

¹¹² It was reported that it had supplied 8 fighters to Ethiopia and 6 to Eritrea in 1998 (IPS 12/1/2001) and further supplies of 4 combat aircraft and 307 pieces of large calibre artillery in 2000. (Russian report to UN Conventional Arms Register 2000)

MSP equipment to the new regime.¹¹³ The largest markets by far for Russian MSP exports are China which over the last few years is stated to be worth up to US\$9 billion,¹¹⁴ and India.¹¹⁵

Russia has recently 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.¹¹⁶ This includes weaponry for border security forces that operate in Kashmir as well as Assam. Recently new contracts have been signed with Iran¹¹⁷ and with Indonesia to supply helicopters which may have a role in the Papua and Aceh conflicts.¹¹⁸ The Indonesian navy this year plans to buy two Mi-171 and eight Mi-2 helicopters from Russia. Human rights activists claim the new helicopters may be used in operations to crack down on separatist rebels in Papua and Aceh.¹¹⁹

3.8 Foreign-based Brokers, Dealers and Agents

Russian companies increasingly use agents and dealers abroad to promote their weaponry. One example is the South African based company Suburban Guns which advertises on its website that it is a dealer for Izhmash, Baikal and Makarov weapons, and has also offered Iгла and Strela man-portable shoulder launched air-to-air missiles. It also stated in company product information that it was a distributor for NII Stali, although whether this included electroshock weapons is not known.¹²⁰

Besides the “official” trade in weapons, there are a large number of arms traffickers and brokers willing to supply arms to warring factions across Africa. One example is the network operated by Victor Bout who, through his UAE based Air Cess Company, is reported to have delivered arms clandestinely to Angola, Sierra Leone, Liberia and Congo and to have been paid in “conflict diamonds” mined illegally. Much of the weaponry traded originated in Russia, Central Asia and other Eastern European countries. Another example is the Zimbabwean company, Avient, with management links to the UK, which was reported to have hired Russian aircraft and air crew to support the government of Laurent Kabila in the Congo with “air drops”, and also admitted to repairing and maintaining Russian MIG fighters for the Kabila regime.¹²¹

¹¹³ Moscow *Nezavisimaya Gazeta* 12 February 2002

¹¹⁴ “Eurasian strategy is a must for Russia’s development”. www.milparade.com/2001/45/01_01.shtml accessed 26 February 2002

¹¹⁵ “Russia to speed up delivery of military hardware”. *Times of India*. 8 February 2002.

¹¹⁶ “Massive modernisation plan for India’s paramilitary forces”. *Kerala Next*, India. 30 January 2003.

¹¹⁷ *Washington Times*. 8 March 2002, p7. Reports of new advanced electronic warfare system, to defeat planes and missiles, to be supplied to Iran by Rosoboronexport, Russia.

¹¹⁸ Arms Markets. Tass Information Agency. 2002, vol. 2, No. 11, p13

¹¹⁹ Joyo Indonesian News, Laksamana Net, 25 January 2002.

¹²⁰ http://www.suburbanguns.co.za/other_prices.htm, accessed 12 May 2003 and Suburban Guns company information 1998.

¹²¹ *Financial Times* 18 April 2001

A major source of weapons for the arms brokers is from stockpiles left over from the Soviet era, or from current army stockpiles that may be poorly maintained and guarded. A number of instances have been reported where serving military units have supplied equipment to dealers. A Russian military unit reportedly supplied ten anti-aircraft missile launchers to a dealer who then sent them to Chechen armed oppositionists. The launchers were the same kind used to shoot down four military helicopters in 2002.¹²² Such illicit weapons can impact greatly on domestic crime issues (Russia has seen an increase in the use of small arms in crime), as well as ending up in the hands of criminals abroad, for example the recent cases of military pistols ending up in Japan.¹²³

3.9 Impact on Violations within Russia

Chechnya

The ongoing conflict in Chechnya has seen repeated human rights violations by Russian MSP forces in their efforts to contain rebel forces. Reports of torture in “filtration camps”, disappearances, extrajudicial executions and the indiscriminate targeting of the civilian population have consistently been reported.¹²⁴ Of particular concern is the practice of “zachistki” or sweep operations, when villages or sectors of towns are cordoned and searched, in many cases leading to destruction of property, looting and the disappearance of young males.¹²⁵ Also reported is the use of “fuel air” weapons (more powerful than any conventional explosives) in civilian areas causing huge casualties¹²⁶ and the use of cluster bombs, which because of their high failure rate become de-facto landmines after the conflict has ended.¹²⁷

Tragically much of the weaponry used by the rebels in Chechnya was provided by, or seized from, official Russian stocks.¹²⁸ For example in May 1992 the Russian Minister of defence ordered the handover to the Chechen General Dzhokhar Dudayev of half of the military armaments belonging to Russian Federation forces in Chechnya. Estimates of the Russian small arms left in Chechnya when Russian troops pulled out in 1992 range between 41,000 and 57,000 pieces. The Russian Defence Ministry reported 18,832 AK 74s 9,307 AKM’s, 533 Dragunov sniper rifles, 138 grenade launchers, 678 tank machine guns, 319 large calibre machine guns and 10,581 pistols left behind. Rebels were also thought to have acquired 200,000 hand grenades and over 13 million rounds of ammunition.¹²⁹ It is worrying that Russia has decided to end the mandate of the OSCE assistance group in Chechnya as this

¹²² “Arms sales confession”. *Moscow Times* 30 January 2003

¹²³ “NPA, Russians to meet over pistol smuggling”. *Yomiuri Shimbun* (Japan) 7 November 2002

¹²⁴ See for example www.amnesty.org and www.hrw.org for detailed reports on violations in Chechnya.

¹²⁵ “Counting the cost”. *Jane’s Defence Weekly*. 18 September 2002. “Grozny, where recovery is still just a word”. *The Guardian* 28 November 2002

¹²⁶ *Marine Corps Gazette*, 8 February 2000.

¹²⁷ “A global overview of explosive submunitions” Human Rights Watch. May 2002

¹²⁸ “Arms sales confession”. *Moscow Times* 30 January 2003

¹²⁹ Small Arms Survey 2001, op cit p179

could reduce scrutiny of human rights abuses in Chechnya and gives a false impression of normalisation.¹³⁰

3.10 Specific Recommendations

The government of the Russian Federation should actively promote the development of an international “Arms Trade Treaty” with provisions for arms export control based upon respect for international law, especially international human rights and humanitarian law. The Russian government should also take steps to strengthen efforts to address the trade in small arms, light weapons and security equipment, and to prevent the use of indiscriminate weapons [for details on these measures, see the final recommendations at the end of this report]

In addition, the Russian government should:

- Establish a system of export control based upon rigorous case by case consideration of whether any proposed arms or security equipment or technology export would be likely to result in such exports being used for serious violations of international human rights or humanitarian law;
- Implement fully the OSCE arms export criteria, agreed by the Russian Federation as a participating state, in order to raise its standards in the control of all exports, transits and imports of military, security and policing technology
- Develop an effective system of parliamentary scrutiny of arms export decisions, for instance via a regular reporting to a parliamentary committee and office;
- Publishing more comprehensive data about its arms transfers to allow effective parliamentary and public scrutiny to ensure that Russian-supplied arms do not contribute to, or facilitate, such human rights violations.
- Include compulsory licencing and registration requirements for all ‘transfers’ of Russian-based arms manufacturers, brokers, transporters and financiers who operate only through third countries.
- Any authorised arms dealer, broker or shipper should be removed from the register if they are found to be guilty of committing related criminal offences; money laundering, firearms related violence or trafficking to unauthorised states.
- Sign, ratify, implement and monitor the 1997 Ottawa Mine Ban Treaty, and ban the use, production, stockpiling, sale, transfer or export of anti-personnel landmines.

¹³⁰ *Russia Reform Monitor*, No. 1001, 5 January 2003. American Foreign Policy Council, Washington.

4. France

4.1 Introduction

France is one of the world's largest producers of military equipment and is ranked in the top five largest arms exporters. However, the French government is generally not transparent about its arms exports.

Since coming to power in 1995, President Jacques Chirac has instigated wide-ranging reforms of French defence policy. The defence reform programme, first announced in February 1996, was implemented through the 1997-2002 Military Planning Act, which ended conscription and reorganised both active and reserve forces. As a result of these reforms the defence industry has been forced to undergo huge changes, including privatisations and job cuts.¹³¹ It has also meant that exports have been accounting for an increased proportion of business for French producers as orders from the French armed forces decrease.¹³²

4.2 Production and Exports

In 1997-2001 France accounted for 10 per cent of global arms transfers, ranking as the third largest exporter¹³³. French military exports were 2.7 billion euros in 2000 and 3.1 billion in 2001. Figures are not available yet for the year 2002¹³⁴. Arms fairs to promote French military and security technology are organised and attended with government support, such as the Eurosatory arms fair in Paris in June 2002, Milipol Qatar 2002 and the Asian Aerospace 2000 show at which French fighter aircraft were displayed.¹³⁵

4.3 Arms Control

Arms possession, production and trade are still governed by the Decree-law of 18 April 1939, though an inter-ministerial working group has recently been appointed to take into account

¹³¹ « La réforme de la politique de défense et l'industrie française d'armement », Jean-Paul Hébert, in *La réforme de la politique française de défense*, Économica et Institut de Stratégie Comparée, 1998.

¹³² *Jane's Defence Weekly* 20 May 1998. As a result of these changes, the French Defence Ministry was putting in place a strategic plan to help French arms suppliers win billions worth of export contracts to make up for falling orders from their domestic markets.

¹³³ SIPRI, *Yearbook 2002: Armaments, Disarmament and International Security*, p.378.

¹³⁴ Not available on 29 March 2003. The 2000 figure was the lowest level since 1994; they had been at 3.8 billion euros in 1999. The Ministry of Defence attributed the fall to the 2000 figure to the fact that there were no major deliveries of aircraft or naval equipment in 2000 – *Jane's Defence Weekly* 16 January 2000

¹³⁵ La lettre de l'Observatoire des transferts d'armements, N°21, 2000.

recent changes in the field of public security, national defence policy and armaments. Features of the French national arms export control law include the following:

- Many types of *security and police equipment and technologies* are not mentioned in French trade legislation and hence their export is generally not controlled. There are exceptions for those items classified as 'arms' in which case both manufacture and export are regulated.
- Government authorisation must be granted for any arms exports - one can only obtain a final export permit after receiving a 'Autorisation de Fabrication et de Commerce'.¹³⁶ The procedure is complex and involves a large number of administrative bodies. Those wishing to export weapons must obtain prior authorisation from the Prime Minister or from the Secretary General for National Defence. Such authorisation is granted on the basis of an opinion given by the Inter-Ministerial Committee for the Study of Exports of War Weapons (CIEEMG¹³⁷) which is chaired by the Secretary-General of National Defence and composed of representatives of the Ministry of Foreign Affairs, the Ministry of Defence and the Ministry of Finance. As well as giving their opinion on general arms export policy, they are also asked to check all export applications on a case-by-case basis.¹³⁸
- There is almost no parliamentary oversight of French arms exports; the French Parliament is not formally involved in the procedure. But in 2000, for the first time, a report on French arms export policy by the Ministry of Defence was distributed to national representatives¹³⁹. Since then, three reports have been made public.¹⁴⁰ The 4th report on arms exports for the year 2002 is not yet available¹⁴¹. The publication of the report is a step towards some meaningful transparency, but it does not yet provide sufficient information for effective parliamentary and public scrutiny of French government claims to take human rights into account before authorising exports. French Members of Parliament do not take a formal role in monitoring the human rights impact of arms export licences.¹⁴²

¹³⁶ Art. 13 of the legislative decree of 18 April 1939.

¹³⁷ Commission interministérielle d'étude des exportations de matériels de guerre (CIEEMG).

¹³⁸ The procedure for obtaining such authorisation applies to contracts for commercial sales as well as to direct cessions, ie arms already used by the French military that are ceded free of charge or in return for payment.

¹³⁹ Rapport au Parlement sur les exportations d'armement de la France en 1998, Ministère de la Défense, mars 2000.

¹⁴⁰ <http://www.defense.gouv.fr/actualites/dossier/d118/index.html> Although small arms and light weapons are listed by destination country, other military exports are broken down only by type and by region, rendering detailed scrutiny impossible.

¹⁴¹ Not yet available on 29 March 2003.

¹⁴² However, there does exist a «Committee on Armaments Ethics », headquartered at the Military Academy in Paris, made up for weapons engineers, lawyers, academics and representatives of the

- An official of the French Ministry of Defence told Amnesty International that French customs authorities always work closely with customs authorities in the country of destination, in order to ensure the constant monitoring of goods exported from France.¹⁴³ But judging from many cases of French arms and security equipment being supplied in the face of human rights abuse (see below) the French government still fails to ensure that its export licence and ‘end-use’ monitoring systems prevent such transfers falling into the hands of those who have been responsible for human rights violations, whether they are state security forces or opposition groups.

4.4 Small Arms and Light Weapons

Successive French governments have provided military and other security equipment and training to most Francophone countries in Africa, often regardless of their human rights record.¹⁴⁴ Among the recipients of weapons such as small calibre machine-guns, automatic rifles, light guns and shoulder-fired rockets in 1999 were Burkina Faso, identified by the UN as a conduit for arms to Liberia and to armed opposition forces in Sierra Leone.

Cameroon

The French authorities have also allowed the export in 1999 of small calibre machine-guns, automatic rifles, light weapons and shoulder-fired rockets in to Cameroon. There the security forces were reported to have unlawfully executed hundreds of people since 1998. In 1999, extrajudicial executions of criminal suspects in North, Far-North and Adamawa Provinces of Cameroon continued during operations to combat armed robbery by a joint unit of the army and gendarmerie (the paramilitary police), known as the *brigade anti-gang*. From March 1998, when the “brigade” was deployed, some 700 people were reported as extra-judicially executed. Killings were reported to have continued throughout 1999. The practice of abandoning unburied bodies decreased and it became more difficult to establish the numbers killed.¹⁴⁵

religious community. Its latest report questions the assessment criteria used for French weapons export policy, criticising the decision to sell weapons to Iraq during the 1980s – *Le Monde* 16 April 2003.

¹⁴³ interview 24 April 2003

¹⁴⁴ Rwandese armed forces that perpetrated the 1994 genocide were supplied with weapons and ammunition by France. In 1998, the French National Assembly published the results of an inquiry into this affair - “Enquête sur la tragédie rwandaise (1990-1994)”, Report No.1271, Les documents d’information de l’Assemblée Nationale, 1998. <http://www.assembleenat.fr/dossiers/rwanda/r1271.asp>. The report states that “weapons and ammunition were ceded in 31 cases without application of the proper procedure” Bernard Debré, France’s minister of cooperation in 1994, acknowledged that the French government had continued to supply arms to the Rwandan government “between five and eight days, perhaps ten days after the massacres started.”

¹⁴⁵ Amnesty International Annual Report 2000 (AI Index: POL 10/001/2000)

Egypt

Despite persistent reports of human rights abuses involving the use of force by Egyptian security forces in the late 1990s¹⁴⁶, including excessive use of force and torture in police stations, shotgun cartridges were transferred from France to Egypt during 2000.¹⁴⁷ In a student demonstration at Alexandria University on 9 April 2002, a 19-year-old student, Muhammad Ali al-Sayid al-Saqqa, was killed and several others were seriously injured by buckshot. The demonstration began peacefully but events escalated as security forces prevented students from leaving the confines of the university campus to join others outside for a protest march.

A statement issued by the Egyptian Ministry of the Interior said that the security forces fired buckshot in an attempt to calm down the situation. Amnesty International fears that Muhammad 'Ali al-Sayid al-Saqqa died after being shot by buckshot fired by a member of the security forces in circumstances where the safeguards required under the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials were not adhered to.¹⁴⁸

Senegal

Ammunition not categorised, as 'war material' still needs a special French export licence for 'explosive commodities'.¹⁴⁹ Many police forces worldwide use non-military grade ammunition in weapons such as shotguns. During 2000 France transferred both 'small arms ammunition' and 'shotgun cartridges' to Senegal.¹⁵⁰

In January 2001, student Balla Gaye was shot dead in clashes between demonstrators and the police near the University of Dakar. President Wade immediately ordered an investigation which concluded in November that the police might have been responsible for this death. A policeman was subsequently charged and detained but has not yet been tried.¹⁵¹

Throughout the 1990s Amnesty International had reported regular human rights violations by the Senegalese security forces in the context of the armed conflict in Casamance, including arbitrary arrests and long-term detentions without trial, extrajudicial

¹⁴⁶ Amnesty International Annual Report 1998 (AI Index: POL 10/001/1998) and *EGYPT-Torture remains rife as cries for justice go unheeded*, February 2001 (AI Index: MDE 12/001/2001)

¹⁴⁷ Nisat database, Comtrade data USD 38,000

¹⁴⁸ *AI's briefing to the Human Rights Committee on the Arab Republic of Egypt*, May 2000, (AI Index: MDE 12/019/2002)

¹⁴⁹ To obtain such a licence - autorisation d'exportation de produits explosifs (AEOE) – a form must be submitted to the Ministry of Economy, Finances and Industry. The licence is eventually given out by the Service des Titres du Commerce Extérieur, which is connected to the General Directorate of Customs and Indirect Taxation.

¹⁵⁰ Nisat database, Comtrade data USD 389,000 of 'Shotgun cartridges' and USD 54,000 of 'small arms ammunition'

¹⁵¹ Amnesty International Annual Report 2002, (AI Index : POL 10/001/2002)

executions, "disappearances", torture and ill-treatment. In 1999, for example, Amnesty International reported that many civilians in Casamance, arrested by the security forces, were reportedly tortured or ill-treated while held incommunicado for up to 10 days before being presented before an examining judge. A number of them were allegedly burned with petrol-filled plastic bottles set alight. None of these allegations were investigated. In May 1998, security forces fired live ammunition to break up a student demonstration in Saint-Louis, Senegal's second city. Nine students and one policeman were hurt in these clashes.¹⁵²

In April 1998 Djoumondong Bassène, Louis Bassène, Babao Manga and Lamine Tendeng were detained in Djiromaïte. They were reportedly asked to dig their own graves and then shot. Adrien Sambou "disappeared" after being arrested by soldiers in Kabrousse in July. In November soldiers broke into Djifangor Banjal, a neighbourhood near Ziguinchor, and killed some 30 civilians in a door-to-door search for MFDC (an armed opposition group) rebels.¹⁵³

Côte d'Ivoire

Firearms' cartridges and parts were transferred to Côte d'Ivoire from France during 2000.¹⁵⁴ In 2002 Amnesty International reported several instances of extrajudicial execution in the country. On 7 October gendarmes in Abidjan shot three civilians from Burkina Faso. An eyewitness reported that « at about 7pm, gendarmes asked these three people to show them their identity cards and then took their money. They then asked them to lie down on the ground on their stomachs. One of the gendarmes took out his gun, the men from Burkina-Faso begged for forgiveness, the two other policemen tried to dissuade their colleague from shooting them but were not successful. Two of the men died instantly and the third died the next day."¹⁵⁵

4.5 Larger Arms Exports

Zimbabwe

In 1998 it was reported that France's ACMAT military trucks had been selected by Zimbabwe for front-line use, with 23 already in use by the Zimbabwean armed forces.¹⁵⁶ Reporting on the continuing human rights violations in Zimbabwe by state-sponsored "militia" as well as state security forces, Amnesty International has noted repeated examples of soldiers arriving in trucks to commit such abuses. On 28 June 2000, for example, three days after the

¹⁵² Amnesty International Annual Report 1999, (AI Index: POL 10/001/1999)

¹⁵³ Amnesty International Annual Report 1999, (AI Index: POL 10/001/1999)

¹⁵⁴ Comtrade data for 2000

¹⁵⁵ *Côte d'Ivoire: A country caught up in a turmoil for more than a month*, October 2002 (AI Index : AFR 31/005/2002)

¹⁵⁶ *Jane's Defence Weekly* 15 July 1998. A report in the *Sunday Times* on 7 May 2000 said that 360 Acmat vehicles were being used to transport 21,000 AK-47s to police and war veterans across the country

parliamentary elections, soldiers beat Edwin Mushoriwa, the opposition MDC party parliamentary representative for the Harare constituency of Dzivarasekwa, as well as other MDC supporters. Around 200 MDC supporters were holding a victory rally when the soldiers arrived in a military truck and beat them with rifle butts. Many MDC supporters were hospitalised.¹⁵⁷

In the court hearings reviewing the election in the Mutoko South constituency of Mashonaland East Province, Matthew Rukwata Dovi, a parliamentary candidate for the MDC, testified that "militia" members abducted him on 20 April 2000 and held him for three weeks. He said that he was often handcuffed, and repeatedly assaulted, and on one occasion he and three other MDC party members were forcibly exhibited as "MDC turncoats" upon a stage at a ZANU-PF rally. Amnesty International reported that government trucks donated or provided by foreign states were used to transport the abducted victims.¹⁵⁸

In July 2001, civilians in Budiriro reported that army soldiers and police were beating residents up, apparently in reprisal for their observance of a two-day stay away organized by the Zimbabwe Congress of Trade Unions. Tim Rhumba, who lived in Budiriro, was quoted in a daily newspaper describing how armed soldiers arrived in five trucks outside his home as they searched for someone identified as an MDC official. He said the soldiers ordered him and other occupants in the home to lie down on the floor, and then began to assault them.¹⁵⁹ Given the recent escalation of violent political repression by government armed forces in Zimbabwe, as well as abuses committed by Zimbabwean soldiers in the DRC, it should have been foreseen that military trucks transferred from France would be used to facilitate human rights violations.

Côte d'Ivoire

In September 2000, there were 13 *Véhicule de l'Avant Blindé* (VAB) amphibious armoured personnel carrier in service in Côte d'Ivoire. The VAB was developed by Giat, the French state arms manufacturer, to meet the French Army's requirements. However, by the year 2000, one thousand of these vehicles had been exported and they were in service in Africa, the Middle East and Asia. While the French Army's version is normally fitted with a 7.62mm or 12.7mm machine gun, the export versions have a wider range of weapons including a turret-mounted 20mm cannon.¹⁶⁰

In October 2002 dozens of civilians were massacred at Daloa, after the recapture of the town by government forces. The men in fatigues who carried out the killings arrived in military vehicles and 'tanks'.¹⁶¹

¹⁵⁷ *Zimbabwe: Further information on fear for safety*, July 2000 (AI Index : AFR 46/025/2000)

¹⁵⁸ *Zimbabwe : The Toll of Impunity*, June 2002 (AI Index: AFR 46/034/2002)

¹⁵⁹ *Daily News*, "Soldiers assault Budiriro residents", 12 July 2001

¹⁶⁰ *Jane's Defence Weekly* 20 September 2000

¹⁶¹ *Côte D'Ivoire : A Succession of Unpunished Crimes: From the massacre of gendarmes at Bouaké to the mass graves of Daloa, Monoko-Zohi and Man*, February 2003 (AI Index: AFR 31/007/2003)

Indonesia

In April 1996, Indonesian security forces with armoured personnel carriers (APCs) violently suppressed a protest in Ujung Pandang using excessive force; at least three students were killed. Three months later, the US government explicitly included APCs in its arms export ban on Indonesia citing human rights violations as the reason for the ban. Amnesty International opposed the provision of such armoured vehicles to Indonesia because of the potential to use the mounted guns for political killings, to facilitate arbitrary arrests and torture, as well as to command and control such operations. Yet in that same month, July 1996, Indonesia ordered 18 VBL (Véhicule Blinde Leger) amphibious scout cars from Panhard, a French company, for delivery the following year to its armed forces.¹⁶²

During 2000, Giat's VAB armoured personnel carriers were also in service with the Indonesian security forces.¹⁶³ Armoured vehicles were used by the security forces in Aceh to counter armed rebels during which serious human rights violations were committed by both sides. Hundreds of people were extra-judicially executed and thousands of villagers have fled their homes and sought refuge in local mosques and schools.¹⁶⁴

Republic of the Congo

France is heavily dependent on Africa for its oil. French companies control significant oil fields in the Republic of the Congo. French oil interests have apparently been linked with the supply of arms, and this has sometimes had devastating consequences for the human rights of the local population. For example, in 1998, France delivered 71 military transport vehicles to the government of the Republic of the Congo (Brazzaville). Many civilians were killed and injured during the armed conflict and some 800,000 people were displaced.

It could have been foreseen from the recent history of the violent conflict in the Congo that soldiers there would misuse the vehicles to facilitate human rights violations. Some 25,000 militias were estimated to be involved in the fighting. The former president of the French oil company Elf, which has significant interests in the Congo, admitted that his company delivered arms to both main sides in the conflict.¹⁶⁵

¹⁶² *Jane's Defence Weekly* 10 July 1996 and AI Index ASA 21/039/1997.

Panhard's APCs were still understood to form a part of Iraq's armoury in 2003 – *Jane's Defence Weekly* 26 March 2003.

¹⁶³ 'VAB APC', *Jane's Defence Weekly*, 20 September 2000. In service with Brunei (26); Central African Republic (10); Côte D'Ivoire (13); Cyprus (145); France (3,975 army, 33 gendarmerie); Indonesia (18); Lebanon (85); Mauritius (11); Morocco (394); Oman (30 including VBC-90); Qatar (162) and UAE (20).

¹⁶⁴ Amnesty International Annual Report 2001 (AI Index: POL 10/001/2001)

¹⁶⁵ *The Terror Trade Times* No 3, Amnesty International June 2002. And *Republic of Congo: An old generation of leaders in new carnage*, March 1999 (AI Index: AFR 22/001/1999) noted that Elf-Congo was accused by former President Lissouba of providing money to President Sassou's *Cobras* to acquire arms. Former President Lissouba unsuccessfully tried in early 1998 to sue Elf-Congo in a French court

4.6 Security Equipment

Tear gas to Kenya

When Kenyan paramilitary police stormed All Saints Anglican Cathedral in Nairobi on 7 July 1997, first they threw tear gas canisters, and then they moved in wielding truncheons. Several dozen peaceful pro-reform advocates sheltering inside were left bleeding and badly hurt; many more, including an elderly opposition member of parliament, were injured.¹⁶⁶ Amnesty International researchers retrieved some of the tear gas canisters and plastic bullets used against peaceful protesters in Kenya and traced them back to British companies. Following pressure from Amnesty International, the UK government declared that it had rejected £1.5 million of licence applications for riot control equipment – including batons and tear gas – to Kenyan police because of human rights concerns.

But human rights abuses by the Kenyan security forces continued. When tear gas was misused again in June 1999 against a crowd of 2,000 peaceful protesters, Amnesty International again put a name to the company manufacturing the tear gas – and this time it was a French company, Nobel Sécurité. So after the UK government rejected licences for export of tear gas, it seems that the Kenyan authorities instead turned to a French company to supply the equipment necessary for such brutal acts of “crowd control”.

This case illustrates the need for stringent, internationally consistent arms control. However, a French decree of 20 November 1991 contains a list of all the war material and other associated equipment that is subject to a special export procedure, and tear gas grenades are not considered war material and therefore are not subject to any specific procedure.

Nor does French arms export law contain any specific reference to the control of leg irons, thumb cuffs, electronic batons, stun guns, stun belts and shock shields, all equipment which can be used for torture. In 1998-2000, the French companies Le Protecteur SA, AKAH (Albrecht Kind France), Equipol, Eclats Antivols SA and R-Plus were offering to supply electro-shock stun weapons, Rivolier SA and Le Protecteur SA were offering leg irons, and Le Protecteur SA was offering thumbcuffs.¹⁶⁷

of law for alleged involvement in a conspiracy to overthrow his government by financing Sassou's armed group, as well as complicity in killings and acts of terrorism. In late September 1998, the French Ambassador to Congo announced that France was sending 25 instructors to Congo to train Congolese Gendarmerie's middle ranks.

¹⁶⁶ Police and security units in Africa are increasingly deploying tear gas and other chemical irritants directly into buildings and other enclosed spaces where it is very difficult for people to leave, either for physical reasons – crowded or barricaded doors and windows – or because of the fear of beating, arrest or “disappearance” should they leave. When tear gas has been used in these type of circumstances a number of severe injuries and deaths have occurred.

¹⁶⁷ *Stopping the Torture Trade*, Amnesty International, 2001 (AI Index: ACT 40/002/2001).

In its third report to the French parliament (2001), the Ministry of Defence admitted that Article 2 of the EU Code of Conduct mandates all EU member states to exercise control over the exports of non-military goods susceptible of being used for repression purposes or other human rights abuses. However, the goods involved do not fit into the French category of military goods or into the category of military-civilian dual use goods, and are therefore considered to be civilian goods to be regulated at the European level. A recently proposed European Commission Trade Regulation will, if enacted unamended, ban the import, export and brokering by companies and individuals of items that the Commission has categorised as “torture equipment” including electro-shock stun belts, leg irons, thumb-cuffs and shackles. It will also require member states to introduce controls on exports of stun batons, stun guns and riot control agents such as tear gas.

The French authorities have created a working group to assess the legal consequences of such a future European controlling mechanism for policing and security equipment. Amnesty International calls on France to introduce export controls on police and security equipment such as riot control batons and shields, tear gas and other chemical irritants, stun guns and shock shields.

4.7 Licensing of Foreign Production

Turkey

Giatt Industries manufactures a one-person power-operated turret armed with a 25mm cannon and 7.62mm machine gun for the Romanian/Turkish RN-94 armoured personnel carrier, developed as a private venture by the Nurol Machinery and Industry Company of Turkey and the Romarm Company of Romania to meet the requirements of the Turkish Land Forces (TLF). TLF Command has so far purchased five RN-94s for extensive trials.¹⁶⁸ Giatt's turret is being manufactured under licence by Nurol in Turkey for installation on locally built FNSS Defence Systems Armoured Infantry Fighting Vehicles (AIFV).¹⁶⁹

In June 1995 the US State Department published a report saying that there was ‘highly credible’ evidence that Turkey was using armoured personnel carriers, among other equipment, in instances of human rights violations.¹⁷⁰ Amnesty International has documented the use of armoured personnel carriers to perpetrate human rights abuses in Turkey. Safak Akbulut is believed to have been abducted by Gendarmerie officers on 24 November 1999, the day she was released from prison. While in prison she was reportedly pressured to turn state's witness. The Minister of Justice reportedly gave a statement after Safak Akbulut's

¹⁶⁸ *Jane's Defence Weekly* 19 February 2003.

¹⁶⁹ *Jane's Defence Weekly* 3 March 1999. At the end of 2002, it was reported that Turkey was to transfer 100 of these armoured infantry fighting vehicles to the Jordan Armed Forces, for assembly in Jordan (*International Defense Review* 1 December 2002)

¹⁷⁰ US State Department, Report on Allegations of Human Rights Abuses by the Turkish Military and on the Situation in Cyprus, June 1995.

"disappearance", openly acknowledging that Safak Akbulut had not been released from prison, as the court had ordered, but that she had been taken in a military vehicle to the military service branch.¹⁷¹

4.8 Brokering arms supplies

Brokers of arms deals based in France must obtain government approval for their general operations but they do not need to obtain prior approval on a case-by-case basis if the arms transfer and brokerage activity is outside France.

“Angolagate” first came to light when French judicial officials found that Brenco International, a company owned by billionaire businessman Pierre Falcone, was involved in arms transfers to the Angola government and had made payments to a number of his French associates¹⁷². Pierre Falcone was a consultant to the French government agency SOFREMI, which exports military equipment under the auspices of the French Interior Ministry. He had also developed good contacts in the Eastern European arms business through Russian émigré businessman Arcadi Gaydamak who was based in Israel. In November 1993, Pierre Falcone and Arcadi Gaydamak had allegedly helped arrange the sale of small arms to Angola worth US\$47 million. In 1994, they reportedly arranged a second deal for US\$563 million-worth of weapons, including tanks and helicopters. The Angolan government paid for the weapons with oil.¹⁷³

The civil war in Angola has taken the lives of hundreds of unarmed civilians each year at the hands of both government forces and the National Union for the Total Independence of Angola (UNITA). Human rights abuses reported included torture, mutilation, abductions and killings. In 2001 alone, the armed conflict and insecurity were responsible for 300,000 people being forced to flee their homes, bringing the number of internally displaced people to four million.¹⁷⁴

A new draft law proposed by the French Senate provides for the creation of a regime whereby a broker would have to apply for a licence before each "intermediary operation", as well as a system for reporting each brokerage operation under the threat of penal sanctions if these provisions are violated. However, there is no provision for full control of extra-territorial brokering by French nationals and residents, which means that brokers could

¹⁷¹ Turkey : Safak Akbulut, 22 March 2000 (AI Index: EUR 44/020/2000)

¹⁷² For more details, see Georges Berghezan “*Trafics d’armes vers l’Afrique – Plein feux sur les réseaux français et le savoir-faire belge*”, GRIP, 2002.

¹⁷³ Ken Silverstein, “*The Arms Dealer Next Door: International billionaire, French prisoner, Angolan weapons broker, Arizona Republican. Who is Pierre Falcone?*”
<http://inthesetimes.com/issue/26/04/feature4.shtml>

¹⁷⁴ See *Terror Trade Times No 3*, Amnesty International, June 2002

merely leave the country to be able to continue their business. The draft law has still not been adopted.¹⁷⁵

4.8.1 Trade supporting illicit arms trafficking

France, along with China, is one of the two largest markets for Liberian timber. Yet the Liberian timber industry has strong links with the arms trade to Liberia –an explicit finding of the United Nations (UN) Panel of Experts established by the UN Security Council to monitor compliance with UN sanctions imposed on Liberia in 2001.

The Panel's reports have shown that the government of Liberia is continuing to procure arms, despite the UN ban on arms transfers. The Panel has stressed concerns that revenue from the timber trade - a major source of government income - is being used to purchase military assistance and that timber companies have facilitated transfers of weapons. These weapons are being used to pursue internal armed conflict between government forces and the armed opposition Liberians United for Reconciliation and Democracy (LURD).

Both sides continue to commit grave human rights abuses against civilians as fighting has intensified and spread during 2003. Liberian government forces and armed militia fighting with them are responsible for killings, torture, including rape, and forcible recruitment of children under-18. LURD forces have committed similar abuses, although to a lesser extent.¹⁷⁶

4.9 French military aid

During the cold war, one of the biggest fields of French cooperation was in Africa, the countries engaged in these cooperation were called “Les pays du Champ”. France still has bilateral defence accords with countries such Burkina Faso, Central African Republic, Congo, Gabon, Cote d’Ivoire (suspended since General Robert Guei entered in power), Rwanda, Togo and Zaire.¹⁷⁷ The number of French military personnel in operation in African countries is difficult to establish.¹⁷⁸ In 2000 François Lamy a French deputy, noted that just 39 defence accords were published out of a total of 90.¹⁷⁹

4.9.1 Training

The Nationals Schools with Regional Vocations (NSRV):

There are 15 training centres, in Benin, Burkina Faso, Cameroon, Gabon, Ivory Cost, Mali, Senegal and Togo for more than 840 trainees coming from 20 countries in 2001 (690 in 2000). In these centres there are French instructors.¹⁸⁰

¹⁷⁵ As of 2 May 2003.

¹⁷⁶ *The Terror Trade Times No.4*, Amnesty International, May 2003

¹⁷⁷ Annexes of the Information Report Assemblée Nationale N°3394, 20 November 2001.

¹⁷⁸ In “La coopération militaire en question” p25, Observatoire des Transferts d’Armements Belkacem Elomari 2001

¹⁷⁹ In “Control the foreign operations” Assemblée Nationale 8 March 2000 n° 2237

¹⁸⁰ National Assembly 1114, 8 October 1998, Page 41

French military schools:

In 2000, 1473 places were offered to foreign military officers. Some of the training involves maintenance of order but full details are not available. The available information does not mention human rights or humanitarian law, nor if inquiries are made about students' backgrounds or the risk of their involvement in human rights violations.¹⁸¹

4.9.2 Military “Co-operation”

Although the reporting structures within the French cooperation policy have recently been reformed,¹⁸² there is still a great lack of transparency. The French Parliament does not receive a complete report about French military cooperation programmes abroad. An official of the MDCD told Amnesty International that his agency was always prepared to answer to questions raised by the French Parliament, but he refused to talk about French military cooperation programmes in central Africa, as 'this was confidential information that could not be shared with the general public'.¹⁸³

4.9.3 Private Military Services

A new law in France was passed on 14 April 2003 aimed at preventing French mercenary activity abroad. Any individual recruited for the specific aim of fighting in an armed conflict in exchange for personal advantage or compensation, without being a citizen of a state involved in the armed conflict, a member of the armed forces of this state or an envoy of a state other than those involved in the armed conflict, will be subject to fines and imprisonment – 5 years and 75,000 euros for an individual, 7 years and 100,000 for a recruiter and organiser of mercenary operations.¹⁸⁴

A new company, “Défense Conseil International” (DCI), 49.9 per cent owned by the French government and 50.1 per cent by private investors, now provides military and security training, advice, maintenance and technical assistance. There appears to be no parliamentary control of its activities. It has the expertise of around 700 French Army or retired army personnel, and works closely with the General Arms Delegation in the Ministry of Defence and the Department of Foreign Relations. In a conference run by these two organisations with the Institute of International and Strategy Relations, the president of DCI, Yves Michaud, reacted strongly against an Amnesty International (France) speech about the need for transparency and respect of human rights.¹⁸⁵

¹⁸¹ Observatoire des Transferts d'Armements - La Coopération militaire Française en question Belkacem Elomari 2001

¹⁸² from www.france.diplomatie.fr/mae/dcmd.gb.html ; Information report, Assemblée Nationale 20 November 2001, p34

¹⁸³ Telephone call to Ministry of Defence, 25 April 2003

¹⁸⁴ *Loi nr. 2003-340 du 14 avril 2003 relative à la répression de l'activité de mercenaire.*

¹⁸⁵ The chairperson of Amnesty International France wrote to DCI after the conference to discuss human rights but so far there has been no reply

4.10 Specific recommendations

The government of France should actively promote the development of an international “Arms Trade Treaty” with provisions for arms export control based upon respect for international law, especially international human rights and humanitarian law. The French government should also take steps to strengthen efforts to address the trade in small arms, light weapons and security equipment, and to prevent the use of indiscriminate weapons [for details on these measures, see the final recommendations at the end of this report]

In addition, the government of France should:

- Adopt a law on arms brokering including extra-territorial applicability for French nationals, and for permanent residents and registered companies in France.
- Establish an effective system of parliamentary scrutiny of arms export decisions, for instance via a regular reporting to a parliamentary committee and office.
- Publish comprehensive and timely information about all exports from France of military, security and police equipment and technology in order to allow effective parliamentary and public scrutiny to ensure they do not contribute to, or facilitate, such human rights violations.
- Prohibit the production and trade of equipment whose inherent effects result in torture or cruel, inhuman or degrading treatment, and prevent the export of all other security and police equipment in cases where there is a reasonable assumption that it will be used for cruel, inhuman and degrading treatment.
- Support the adoption of the European Council Regulation concerning the trade in certain equipment and products which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (COM 2002 - 770).
- Ensure that all French military assistance abroad, whether carried out by state agents or by private companies, will include practical training in human rights law and international humanitarian law. The terms of agreement for French military and security assistance, whether financial or practical, should be made public and conditional on establishing human rights safeguards in the recipient country.

5. United Kingdom

5.1 Introduction

The United Kingdom is a permanent member of the United Nations Security Council, a member of the Group of Eight and one of the top five arms exporting nations in the world¹⁸⁶. Arms and security equipment produced in the UK ranges from crowd control technologies such as water cannon, plastic baton rounds and tear gas, to small arms, small arms ammunition, major weapons systems such as aircraft, helicopters and warships, and electronics, computer software and other dual-use items.

5.2 Arms Export Controls

Companies or individuals wishing to export items on the UK's Military List or Dual-Use control list must apply for an export licence from the Department of Trade and Industry (DTI). UK government policy states that:

*'An export licence will not be issued if the arguments for doing so are outweighed by the need to comply with the UK's international obligations and commitments, by concern that the goods might be used for internal repression or international aggression, by the risks to regional stability or by other considerations as described in [the Consolidated EU and National Arms Export Licensing Criteria]'*¹⁸⁷

The consolidated criteria for approving arms exports modify the eight criteria that were announced in 1998 when the UK agreed to the EU Code of Conduct on Arms Exports. They were announced on 26 October 2000 and consist of eight criteria against which export licence applications must be judged, including the respect for human rights in the country of final destination, the existence of conflict or tensions, the preservation of regional stability and the risk that the equipment will be diverted or re-exported to undesirable end-users¹⁸⁸. The consolidated criteria form the basis of 'guidance' issued by the government to inform those involved in the licensing process, and as such do not have legal force.

¹⁸⁶ Statistics vary between the value of export licences granted and actual deliveries, but the CRS Report for Congress "Conventional Arms Transfers to Developing Nations, 1994-2001" August 6, 2002 by Richard F. Grimm reports the UK to be second behind the US in terms of actual weapons shipped –Tables 9, 9a, 9b, c (p. 82 / 83 / 84), with the UK making up 18.78% of the global total of weapons delivered in 2001.

¹⁸⁷ 2001 Annual Report on Strategic Export Controls. CM 5559. London, The Stationery Office, July 2002. p.413

¹⁸⁸ Hansard, 26 October 2000. HC 199-203W

The legal basis for the regulation of UK export controls is the Export Control and Non-Proliferation Act 2002 which became law on 24 July 2002. The Export Control Act, which is expected to enter into force in the second half of 2003, is the result of a comprehensive overhaul of the UK export control regime following the ‘arms to Iraq’ scandal in the late 1980s and early 1990s investigated and reported on by Sir Richard Scott.¹⁸⁹

As a result of the findings of the Scott Report and sustained pressure from civil society, the Labour government announced in its 2001 general election manifesto that it would ‘legislate to modernise the regulation of arms exports, with a licensing system to control the activities of arms brokers and traffickers wherever they are located’.¹⁹⁰ This process, though flawed, is nearly complete. The new Export Control Act sets out in primary legislation the extent of the government’s powers to impose export controls, but the actual controls to be imposed under secondary legislation are still the subject of a three month consultation period which finished on 30 April 2003. Shortcomings in the proposed regulations are discussed below (see Holes in the controls), but the bottom line is that according to government policy, UK-supplied arms and security equipment (be it through direct export, brokered transfer, overseas licensed production or other means) should not end up in the hands of those who will use it to commit human rights abuses.

In 2001 the UK granted export licences for goods on the military or dual-use equipment lists to 181 countries around the world.¹⁹¹ The licences include those granted to “non-sensitive” countries such as members of the EU, OECD and most NATO countries, those granted to “sensitive” destinations which might give cause for concern on human rights grounds depending on the nature of the equipment and the end-user, and those granted to countries under embargo.¹⁹²

5.3 Impact of the ‘war on terrorism’

UK government policy states that it “will not issue an export licence if there is a clearly identifiable risk that the proposed export might be used for internal repression.’ The government policy states that: ‘Internal repression includes extra-judicial killings, arbitrary arrest, torture, suppression or major violation of human rights and fundamental freedoms.’¹⁹³

¹⁸⁹ The Rt Hon Sir Richard Scott, the vice-Chancellor. *Report of the Inquiry into the Export of Defence Equipment and Dual-Use Goods to Iraq and Related Prosecutions*, House of Commons Papers 115 (London HMSO 1996)

¹⁹⁰ *Ambitions for Britain*, Labour’s manifesto 2001

¹⁹¹ 2001 Annual Report on Strategic Export Controls. CM 5559. London, The Stationery Office, July 2002

¹⁹² Saferworld, *An independent audit of the 2001 UK Government Annual Report on Strategic Export Controls*, February 2003

¹⁹³ Hansard. 28 Jul 1997 : Column: 28

However, in 2001, many states neighbouring Afghanistan that persistently commit human rights violations were benefiting from a UK government open licence that, according to one detailed study, "appears to authorise the export of almost anything on the military list, including unlimited quantities of small arms and light weapons, light and heavy artillery, armoured vehicles including main battle tanks, combat aircraft and helicopters, and rocket systems and missiles with a range of less than 300km".¹⁹⁴ The countries included Uzbekistan and Kyrgyzstan, which provided bases and other help in the US-UK led military campaign against Taleban and al-Qaeda forces in Afghanistan, as well as Turkmenistan. Amnesty International has documented serious human rights violations in these countries for many years.

Turkmenistan

Turkmenistan's appalling human rights record has deteriorated even further following an armed attack on President Niyazov in November 2002, which triggered a new wave of repression throughout the country. Scores of men, women and children have faced detention, harassment, house eviction, and confiscation of property. Many of them were reportedly targeted solely because of their family relations with the regime's opponents. There have been credible reports of torture and ill-treatment in detention, and dozens have recently been sentenced to long prison terms after grossly unfair trials.

In many cases the defendants' lawyers were given little or no notice before the court hearings began.¹⁹⁵ Twenty-one-year old student Aili Yklymov and his elder brother Esenaman - relatives of Saparmurad Yklymov, a leading opposition figure - were arrested the day of the attack on the President. According to credible sources, Aili Yklymov was beaten so severely in the basement of the Ministry of National Security in Ashgabat on 5 December that he was unable to walk and had to be taken to questioning on a stretcher. Aili Yklymov was released in mid December, but had to sign an undertaking not to leave Ashgabat. His father told Amnesty International that as a result of the ill-treatment in custody, his son has difficulties concentrating and is almost constantly tired.

Esenaman Yklymov was reportedly also ill-treated in custody the day he was arrested and his ears bled as a result; when he was released the following day he was unable to hold a pen in order to write. At the beginning of January, Esenaman Yklymov was forced to denounce his parents on television and was reportedly sentenced to five years' imprisonment. He remains at risk of torture. Both brothers reportedly received no treatment for their injuries while in custody. Other members of the Yklymov family have also been allegedly detained and tortured or ill-treated.¹⁹⁶

¹⁹⁴ Saferworld, *An Independent Audit of the 2001 UK Government Annual Report on Strategic Export Controls*, February 2003

¹⁹⁵ *Turkmenistan: Appeals Cases: Appeal for human rights on the President's birthday*, 19 February (AI Index: EUR 61/004/2003)

¹⁹⁶ Ibid

Other countries covered by the open-ended arms export system include traditional British allies such as Qatar - the Gulf state where the US military HQ for the attacks on Iraq was based - plus Pakistan, now a UK and US ally, Jordan and Oman.

5.4 Small Arms & Light Weapons

Although the UK is not a major producer of small arms and light weapons (the Small Arms Survey classifies it as a medium producer¹⁹⁷), it is home to the parent company of one of the world's most prolific licensors of overseas small arms production. From 1991 until its disposal in December 2002, Heckler & Koch was a subsidiary of Royal Ordnance, the small arms division of BAE Systems Plc. Heckler & Koch is one of the world's largest producers of small arms, and its weapons are used in over 90 countries worldwide¹⁹⁸. Through the setting up of licensed production facilities overseas and the transfer of technology, the company has played a key role in assisting various countries to establish domestic small arms production capabilities.

Amnesty International has repeatedly raised concerns at the lack of official UK control on the export of small arms made overseas under licence, in particular with regard to Heckler & Koch MP5 sub-machine guns made in Turkey and exported to Indonesia at the height of the East Timor crisis¹⁹⁹. Turkey has also exported other H&K rifles to other countries without having an export policy based on human rights. Amnesty International has called for the UK Export Control Act to contain comprehensive measures to ensure that individual licensed production deals themselves require a very strict licence because of the massive potential impact of such UK-sponsored foreign production on human rights. Unfortunately current UK government proposals in the draft secondary legislation are insufficient (see Holes in the Controls below).

In addition, several UK licences issued for direct exports of small arms and light weapons during 2001 give Amnesty International cause for concern on human rights grounds.

Nepal

The human rights situation in Nepal significantly deteriorated in late 2001 and 2002 as the conflict with insurgents belonging to the Communist Party of Nepal (Maoist) - (CPN-Maoist) intensified. Increased incidences of unlawful killings, "disappearances", torture (including rape and mock executions) and arbitrary arrest and detention by the Nepalese police and army

¹⁹⁷ Small Arms Survey 2002, Map 1.2, p. 20

¹⁹⁸ Small Arms Survey 2001, p.20

¹⁹⁹ AIUK MSP Action March 2000. Action on Licensed Production

were reported by Amnesty International.²⁰⁰ The organisation also reported and condemned widespread human rights abuses by the Maoist insurgents.²⁰¹

Despite this deterioration, in 2001 the UK granted standard individual export licences for equipment worth £6m to Nepal, including 6780 assault rifles, 11 semi-automatic pistols, 4 shotguns and 2 sporting rifles, a total of 6797 small arms.²⁰² In addition, the UK government licensed the export to Nepal of components for small arms (including assault rifles), weapons sights and grenade launchers.

Although these licences may have been granted during a period of cease-fire between July and November 2001, Amnesty International believes that the UK government should have examined them in the context of the ongoing conflict, and should have considered the strong likelihood that such a large consignment of such weapons would be used for gross human rights violations by the Nepalese security forces. Therefore, the UK government should have suspended the transfer at least until those responsible for serious violations have been brought to justice and the Nepalese security forces have demonstrated that they can observe basic human rights and humanitarian standards.²⁰³

Jamaica

The UK is the principal provider of external assistance to the Jamaica Constabulary Force (JCF), including programmes in training and forensics. Jamaica suffers from a high level of crime and police officers face armed criminals on a daily basis, often leaving them with no alternative to the use of lethal force to protect their own lives and the safety of the public. However, over recent years, Amnesty International has documented numerous cases where the evidence overwhelmingly indicates that those killed were extra-judicially executed.²⁰⁴

With 140 deaths at the hands of the JCF in 2000 alone, Jamaica had one of the highest rates of police killings *per capita* in the world.²⁰⁵ In April 2001, Amnesty International released major reports documenting extra-judicial executions and violence by members of the Jamaica security forces, including the “killing of Braeton Seven.”²⁰⁶

²⁰⁰ *Nepal: A Spiralling Human Rights Crisis*, April 2002 (AI Index: ASA 31/016/2002) and *Nepal: A Deepening Human Rights Crisis* December 2002 (AI Index ASA 31/072/2002)

²⁰¹ *Nepal: CPN (Maoist) abuses are unacceptable in the “people’s war”*, 9 April 2001 (AI Index ASA 31/009/2001)

²⁰² UK Annual Report 2001, p222 states export licence granted for 6780 rifles to Nepal in 2001. *Jane’s Infantry Weapons* 2003-4 states that the H&K G36 assault rifle is in use with Nepal.

²⁰³ *10 Basic Human Rights Standards for Law Enforcement Officials*, December 1998, (AI Index: POL 30/04/98).

²⁰⁴ *Jamaica: Police killings: Appeals against impunity*, August 2001 (AI Index: AMR 38/012/2001)

²⁰⁵ Amnesty International Annual Report 2001, (AI Index: POL 10/001/2001)

²⁰⁶ *Killing and violence by police: How many more victims?* April 2001 (AI Index: AMR 38/003/2001)

However, in 2001 the UK government issued an arms export licence authorising the transfer to Jamaica of 300 handguns. It also licensed the UK export of small arms ammunition, weapon sights and gun mountings to Jamaica. Amnesty International protested against such transfers and sought assurances that the UK government would not export arms to Jamaica for use by the JCF until significant steps have been taken to re-train JCF officers to operate within existing UN standards on law enforcement, criminal justice and human rights, and until effective monitoring and accountability systems have been put in place. As long as impunity for extra-judicial executions and other grave violations of human rights continues, the perpetrators should not be armed.

In 2003, Amnesty International documented in detail the impunity with which the JCF are able to kill and torture, and called for a worldwide campaign for the protection of human rights in Jamaica.²⁰⁷ Amnesty International called upon the Jamaican government to hold police officers accountable for committing extrajudicial executions – “not one police officer has been convicted of an extrajudicial killing since 1999, despite over 600 killings at the hands of the police since that date, many in disputed circumstances.”²⁰⁸

5.4.1 Police and security equipment

In 1997 the UK government banned the export and transshipment of certain equipment that has been used in torture.

The then foreign secretary Robin Cook announced: “We are committed to preventing British companies from manufacturing, selling or procuring equipment designed primarily for torture and to press for a global ban. There is clear evidence that certain equipment has been used for torture or other cruel, inhuman or degrading treatment or punishment. I can now announce that we will take the necessary measures to prevent the export or transshipment from the UK of the following equipment:

- “Portable devices designed or modified for riot control purposes or self-protection to administer an electric shock, including electric-shock batons, electric-shock shields, stun guns, and tasers, and specially designed components for such devices.
- “Leg-irons, gang-chains, shackles--excluding normal handcuffs--and electric-shock belts designed for the restraint of a human being.”²⁰⁹

Amnesty International welcomed this move as an important step towards stopping the UK trade in torture equipment. The organisation also welcomed the proposals under the

²⁰⁷ *Jamaica: The killing of the Braeton Seven - A justice system on trial*, March 2003 (AI Index: AMR38/005/2003)

²⁰⁸ *Jamaica: Government fails relatives of the Braeton Seven - overwhelming evidence of extrajudicial executions ignored*, 13 March 2003 (AI Index: AMR 38/007/2003)

²⁰⁹ Hansard, 28 Jul 1997 : Column: 66

Export Control Act draft secondary legislation to prohibit the brokering of such equipment by UK nationals or residents wherever they are located when they conduct their business.

As a result of recommendations made in the report of the Independent Commission on Policing for Northern Ireland (the Patten report), the Northern Ireland Office (NIO) in consultation with the Association of Chief Police Officers is conducting research into alternative policing approaches, and is looking in particular at the range of 'less lethal' equipment which could be made available to the UK police²¹⁰. This eagerly-awaited research is being carried out in cooperation with officially recognised bodies in Europe, the USA, Australia and other countries. Amnesty International is monitoring the research programme to ensure that any equipment authorised by the Home Office for use by the UK police has been rigorously and independently tested and complies with human rights standards.

This official research programme has implications for UK export control of police and security equipment. If certain restraint technologies, kinetic energy weapons, electroshock weapons and chemical irritants are deemed suitable for use by law enforcement officials in the UK, it is likely that other law enforcement agencies will also want such equipment and that the UK government will come under pressure to allow the export of such equipment.

There are currently five UK police forces conducting operational trials with the dart-firing Taser electroshock stun gun.²¹¹ Yet the UK Foreign Office has banned the export of such weapons due to evidence that they have been used in torture. It is currently reported that the trials are limited to deployment alongside firearms with specially trained UK firearms officers.²¹² Amnesty International is concerned that this type of equipment has not been subjected to sufficient independent medical, legal and technical assessment to warrant wider deployment to ordinary "beat" police officers or prison officers (as is the norm in the USA), and urges the UK government not to do so without further testing and consultation.

5.5 Holes in the Controls

The new Export Control Act 2002 is certainly an improvement on the old system based as it was on a 1939 Act. Under new powers contained in the 2002 Act the UK government will be able to control 'intangible transfers' (fax and email), the transfer of technology and technical assistance, and the inter-mediate trade in "controlled goods" (commonly known as brokering and trafficking). The publication of an Annual Report on Strategic Export Controls will also be a statutory requirement. However the legislation is not fully comprehensive and there are

²¹⁰ Patten report recommendations 69 and 70 relating to public order equipment. A research programme into alternative policing approaches towards the management of conflict. Reports from phases I, II & III of the research programme are available on the Northern Ireland Office website: www.nio.gov.uk

²¹¹ Northamptonshire Police, Lincolnshire Police, Thames Valley Police, North Wales Police and the Metropolitan Police. ACPO press release 30 January 2003

²¹² ACPO press release 30 January 2003

loopholes that could potentially result in UK-supplied arms and security equipment being used to commit human rights violations in the recipient country.

5.5.1 Arms Brokering and Trafficking

There is growing evidence that UK arms brokers and shippers are among those responsible for deliveries of small arms, light weapons and ammunition into conflict and human rights crisis zones. Amnesty International is therefore extremely concerned at the inadequacy of current UK government proposals to regulate the activities of UK brokers and shippers.

Democratic Republic of the Congo

Extrajudicial execution, torture and rape of civilians by all sides continue to characterize the ongoing conflict in the Democratic Republic of the Congo (DRC). The International Rescue Committee, a humanitarian organization, has estimated that since August 1998 over 3 million civilians have been killed or died from hunger and disease as a consequence of the conflict. By the end of 2002 over 2.5 million had been driven from their homes and many were beyond the reach of humanitarian assistance.

Despite this catalogue of human misery, British pilots and air cargo companies have been allowed by the United Kingdom (UK) government to supply weapons to armed forces in the DRC responsible for mass human rights abuses. Under current UK law, as long as the weapons are collected and routed outside UK territory to a destination not embargoed by the UN, such arms trafficking is perfectly legal. The traffickers have used links in other European Union (EU) countries or outside EU jurisdiction to circumvent the 1993 non-binding EU embargo on arms sales to the DRC.

In a taped video interview for Oxfam, a British pilot described how in 1999 and 2000 he flew AK47 assault rifles from Rwanda and Uganda into the rebel-held town of Kisangani in the DRC. He claimed the planes were registered in Swaziland for Planetair and New Gomair. The UN identified New Gomair as probably carrying illegal natural resources from the DRC and Planetair was named by the US government as supplying arms to eastern DRC. In the interview, the British pilot said: *“Mostly the stuff we carried were brand new AKs plus the ammunition. They’re all packed in plastic bags and in beautiful condition... It’s quite a standard operation for us... We know there is a war on. We are not involved in it because we’re just charter pilots... We were doing about 80 to 90 hours flying a month... It is very easy. Leave the hotel, do a little hour there and two hours on the ground and you are back in time for dinner.”* In June 2000, six days of fighting between Rwandese and Ugandan forces for the control of Kisangani left over 1,200 civilians dead.

Amnesty International subsequently identified offices in London run by Sky Air Cargo, a company that had operated a Liberian-registered cargo plane known to have carried arms to Sierra Leone, Democratic Republic of the Congo and Angola.²¹³ Strangely, the

²¹³ *Campaigners Join Forces to Expose Gun-Runner*, Joint News Release, Amnesty International (United Kingdom), Oxfam, Campaign Against the Arms Trade and the United Nations Association

Liberian Civil Aviation Regulatory Authority was run by a UK business in Kent, England, during 1999 and 2000.²¹⁴ When too many questions were asked, the Kent businessman switched to selling registrations for Equatorial Guinea. UN investigations have shown that aircraft on these UK-run registers were used for international arms trafficking to Angola, Sierra Leone and Central Africa, including the DRC.²¹⁵

Current UK law also fails to prevent UK transport companies being used for arms trafficking abroad. In April 2000, a UK newspaper, the *Guardian* and a UK NGO, Saferworld, identified an ageing Liberian-registered Boeing 707 that had been contracted to fly arms from Bulgaria and Slovakia to Harare in Zimbabwe. The arms were apparently destined for Zimbabwean forces in the DRC.²¹⁶ The plane's handlers used the offices and facilities of a UK cargo company with offices in Ostend, Belgium, without the knowledge of its owners.

Zimbabwe

In October 2002, a report of the United Nations Security Council accused two UK residents, John Bredenkamp and Andrew Smith, of illegally providing services and military equipment to the Zimbabwean Defence Force (ZDF) for use in the DRC. The UN said that Bredenkamp, a Zimbabwean businessman and one of the richest people in the UK,²¹⁷ with a personal fortune estimated at £720 million, was breaching EU and British sanctions against Zimbabwe through his arms brokering company Aviation Consultancy Services (ACS), in which he holds an active investment.²¹⁸

ACS had offices in South Africa, Zimbabwe and the UK, and has worked with Smith's company Avient Air. According to the UN, ACS has acted as a representative for major European arms contractors such as Agusta of Italy and BAE Systems of the UK. In the early 1980s, BAE supplied 12 Hawk jets to the Zimbabwe Defence Force (ZDF). But the UK and the EU respectively imposed an arms embargo on the country in May 2000 and February 2002. Contrary to those arms embargoes, the UN Report alleged that BAE spare parts for the

(UK), 2 July 2002. See also US State Department report on "Arms and Conflict in Africa", 15 July 1999, United Nations "Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo", 12 April 2001, and Brian Wood and Johan Peleman, "The Arms Fixers", op cit.

²¹⁴ Letter from the Minister of Transport of Liberia to Mr Sanjivan Ruprah, 24 November 1999, and Letter from International Air Management, Kent, to Mr S Naqvi of Sky Air Cargo Ltd, 9 March 2000.

²¹⁵ United Nations Panel of Experts report on Sierra Leone (S/2000/1195), December 2000. See also, Richard Beeston "Britons named in UN report on 'blood diamonds'", Diplomatic Editor, *Times Newspaper*, UK, December 22, 2000

²¹⁶ Zimbabwean forces were deployed to the DRC in support of DRC government forces from August 1998 until late 2002.

²¹⁷ *Sunday Times* index

²¹⁸ For all quotes from the UN, see: Letter dated 15 October 2002 from the Secretary-General addressed to the President of the Security Council, New York, 15 October 2002

ZDF Hawk jets, worth \$3 million, were supplied by ACS in 2002. In addition, the UN obtained copies of invoices from Raceview Enterprises, a company controlled by Bredenkamp, for deliveries worth \$3.5 million of camouflage cloth, batteries, fuels and lubricating oil, boots and rations.

In a first reaction, BAE Systems acknowledged that ACS was "one of our many advisers in Africa". But it denied supplying Hawk spares in breach of sanctions. Bredenkamp says that the spares were legitimately exported from other European manufacturers.²¹⁹ In the UK, these reports prompted some members of parliament to ask serious questions about British involvement in Zimbabwe arms supplies.²²⁰

Under the draft secondary legislation the government does not intend to introduce controls on all UK brokers wherever they are located, despite this being promised in its election manifesto in 2001. The new proposal is that if 'any part of the deal' by UK residents and registered companies takes place within UK territory, then it will require a licence, but if the brokering takes place totally "offshore" or "extra-territorially", then it will only become illegal if the deal involves the transfer of torture equipment, embargo breaking and long-range missiles.

However, these proposals are still too weak. The UK and other governments usually only implement arms embargoes after time-consuming multilateral consultations and when the human rights violations in a potential recipient country are already at crisis levels. A UK-based arms broker seeking involvement in a questionable arms transaction in a crisis zone would be aware of the possibility that his application might be refused, and could simply choose to conduct his business abroad before an embargo is implemented to avoid any form of UK control or scrutiny.

Those potential transactions that the UK government needs to control most would thus escape the proposed system of UK regulation. For this reason, Amnesty International has been consistently calling for full extra-territorial application of the law on arms brokering – similar to that which is already accepted by the UK government for trafficking in illegal drugs, child and sexual bondage, landmines and corruption of foreign officials.

Currently the UK government is proposing to keep a record of all those who apply for licences to broker, but the list will fall short of an official register with eligibility criteria.

5.5.2 Licensed Production Overseas

There is an increasing global trend for international arms deals to include some aspect of licensed production overseas. These deals may include the licensing of one overseas company by another to produce complete weapons platforms or systems, the setting up of subsidiary companies, joint ventures or other commercial relationships and structures. In the UK, the

²¹⁹ *The Guardian*, 8 November 2002

²²⁰ Quoted in *The Guardian*, 8 November 2002

trend is also increasing. For example, *Jane's Defence Industry* reported in 2000 that the UK-based company Racal had around 25 licence manufacturing arrangements with offshore licensees, including in Bulgaria, Malaysia, Romania and Saudi Arabia.²²¹

The implications of licensed production overseas for weapons proliferation are greater than for standard arms exports. There is a risk that the arms produced as a result of the licensed production agreement will be exported to states to which the government would refuse to license exports directly. There is also a risk that once the technical information has been exported along with the manufacturing expertise, there is the potential for unlimited future generations of production. This is especially true in the case of small arms and light weapons which often incorporate slight modifications and are then produced as a 'domestic' product²²².

One UK example illustrates the dangers the under-regulation of licensed production of small arms. In January 1998, defence industry publications, *Jane's Defence Weekly* and *Defense News* reported that Heckler & Koch UK had won an \$18 million contract to transfer technology for the local production of 200,000 infantry rifles for the Turkish Army. The rifles were reportedly to be manufactured during the following ten years by a Turkish state run company called Makina ve Kimya Endustrisi Kurumu (MKEK).

On 9 December 1999, a UK Channel 4 Television Dispatches programme, *Licensed to Kill*, alleged that MKEK were also making Heckler and Koch MP5 submachine guns under licence and had sold 1,000 of these to the Indonesian police. 500 of these were exported during the height of the recent East Timor crisis. The UK Government refused to licence direct exports to Indonesia for this category of weapon.

The Export Control Act gives the government the power to control all methods of transferring technology, in whatever form. There are also proposals to control the provision of technical assistance. The government is satisfied that the existing controls on direct exports and the new controls on transfers of technology and provision of technical assistance will be sufficient to effectively regulate licensed production deals. Amnesty International is concerned that without a specific licensing requirement for each individual licensed production deal judged against the same criteria as direct exports, it will be impossible to place limits on production levels, and the UK will have no control over sales or transfers to third countries from the production facility.

5.5.3 New Export Guidelines for 'incorporation cases'

One of the problems with the UK system of export controls identified by Amnesty International is the extent to which the Secretary of State can issue or change the guidance

²²¹ "Mergers and Takeovers, Thomson-CSF Grabs Racal" *Jane's Defence Industry*, 1 February 2000.

²²² For example Pakistan Ordnance Factories domestically produced Heckler & Koch MP5 variant, the PK and have subsequently exported this to Kenya, South Africa and the Philippines, POF Company Information 1999.

given to those involved in the licensing process. In a statement on 8 July 2002, Foreign Secretary Jack Straw announced that he had allowed British military equipment to go to the US for onward export to Israel. He did this by issuing new guidance on how export licences for components and spare parts, which are destined to be incorporated into larger weapons systems and then exported on to another country, are to be considered²²³.

The new UK guidelines can override the human rights criteria in the EU Code of Conduct because, for the export of UK components for incorporation into larger weapons systems in another country, the UK government will now also take into account:

- the export control policies of that country
- the UK's defence and security relationship with that country.

Israel

In 2002, Head-Up Display (HUD) units from the UK were to be supplied to the USA for incorporation into F-16 fighter jets destined for the Israeli Defence Force. The HUDs enable pilots to see targeting and weapons information without having to look at separate instruments. Amnesty International has previously called on all governments to cease all transfers of the military equipment being used by the Israeli Defence Forces to commit human rights violations.²²⁴ The suspension should remain in force until the Israeli authorities demonstrate that the equipment will not be used to commit human rights violations in Israel and the Occupied Territories and the areas under the control of the Palestinian Authority. Israel regularly uses F-16s for assaults on the West Bank, Gaza Strip and areas under the control of the Palestinian authority.²²⁵

On 22 July 2002, just before midnight, Israeli F16 jets were used to drop a one-ton bomb on a densely populated neighbourhood of Gaza city killing 17 people, including nine children, and wounding more than 70 others, many seriously. The youngest killed was 2 months old, and others were infants. The Israeli authorities claimed that the Hamas official killed in the attack had organised suicide attacks on Israeli civilians.²²⁶

The new guidance makes a mockery of the government's claim that the Export Control Act contains tough new measures "to ensure that British arms do not contribute to internal repression or external aggression." The UK government cited the 'new reality' of the

²²³ Hansard. 8 Jul 2002 : Column: 651W

²²⁴ *The Terror Trade Times No 3*, Amnesty International, May 2002. The suspension should include components, spares, servicing and equipment for combat aircraft, helicopters and tanks, small arms and light weapons, and ammunition including air-to-surface rockets.

²²⁵ Amnesty International has also repeatedly condemned attacks on civilians in reports and statements and in meetings and other communications with armed groups that have attacked civilians in Israel and the Occupied Territories and in countries around the world. For example, see: *Without distinction - attacks on civilians by Palestinian armed groups* (AI Index: MDE 02/003/2002)

²²⁶ *Killing the Future: Children in the Line of Fire*, October 2002 (AI Index: MDE 02/005/2002)

multinational defence industry in justifying its willingness to allow indirect arms exports to the Israeli government – but the reality is ‘business as usual’ for the UK repression trade. By exporting arms and related equipment to an intermediate destination and not insisting on any UK government control over the final export, weapons with UK parts can easily be exported to human rights abusers in other countries. The government is prepared to allow this even when it would not allow the sale of the same components directly to the country of final destination.

Currently the guidelines for granting export licences state that a licence will not be issued: ‘where there is a clear risk that the proposed export might be used for internal repression’; ‘for exports which would provoke or prolong armed conflicts or aggravate existing tensions or conflicts in the country of final destination’; or where there is ‘existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions’. UK parliamentarians and media questioned the wisdom of the Foreign Secretary’s statement and the nature of the UK/US relationship²²⁷.

5.6 Specific Recommendations²²⁸

The government of the UK should actively promote the development of an international “Arms Trade Treaty” with provisions for arms export control based upon respect for international law, especially international human rights and humanitarian law. The UK government should also take steps to strengthen efforts to address the trade in small arms, light weapons and security equipment, and to prevent the use of indiscriminate weapons [for details on these measures, see the final recommendations at the end of this report]

In addition, the UK government should:

- Introduce full extraterritorial controls on UK-based arms brokers – residents, nationals and registered companies.
- Establish mandatory registration for those intending to function as arms brokers and shippers, with removal from the register as a penalty for professional misconduct. Removal should have the force of rescinding the right to trade as a broker and voiding all current licences
- Require all transportation agents who wish to arrange arms deliveries to meet strict registration criteria and to obtain licences and keep records of each authorised shipment

²²⁷ Hansard 9 Jul 2002 : Column 760; and *inter alia*: ‘Straw provokes row over arms for Israel’ *The Guardian* 9 July 2002 p.10; ‘Don’t bow to US on arms’ *Mirror*, 9 July 2002 p.6; ‘Weapons sales new guidelines attacked in light of middle east crisis’ *Financial Times*, 9 July 2002 p.6

²²⁸ Specific policy recommendations for UK legislation from the UK Working Group on Arms submission to the Quadripartite Select Committee’s inquiry into the Secondary Legislation of the Export Control Act 2002 – March 2003

they may carry out, including the source country, the authorising licence, and the transit routes and intermediate consignees

- Refuse to authorize UK companies to licence production overseas if the recipient state cannot demonstrate sufficient accountability in terms of export and end-use control and may licence the export of the resulting equipment to forces that would commit grave human rights violations.
- Establish a system of post-export end-use monitoring so that where serious human rights violations are committed the licence is revoked along with all subsequent deliveries and support (e.g. provision of spares or technical assistance).
- Support the adoption of the European Council Regulation concerning the trade in certain equipment and products which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (COM 2002 - 770).

6. Germany

6.1 Arms production and trade

Despite successive German government statements that regularly assert their arms export policy is very restrictive, the reality of German arms transfers is quite different. According to Stockholm International Peace Research Institute (SIPRI) aggregated export figures between 1997 and 2001 Germany was ranked fifth of the world's largest arms suppliers, having exported major conventional arms worth US\$ 4,821 billion.²²⁹

German arms producing companies offer nearly the whole range of conventional weapons such as war ships, particularly conventional submarines and the MEKO class of frigates and corvettes, Main Battle Tanks (MBTs) and components, artillery and other armoured vehicles.

But German companies also supply a much wider variety of military, security, police (MSP) equipment, ranging from restraint equipment, so-called "less lethal" tear gas and stun grenades, to communication and surveillance systems and small arms - most notably the range of small arms designed and produced by Heckler & Koch (HK). The direct export of HK weapons and the proliferation of licensed production of such weapons are detailed later in this report.

²²⁹ SIPRI Yearbook 2002

6.2 Arms export controls

The German arms export control system does not effectively restrain arms transfers likely to contribute to human rights violations in the recipient countries. There is also the danger that ongoing initiatives from the arms industry may further weaken the control system with potentially serious consequences for human rights.

German arms exports legislation consists of two laws based on Paragraph 26²³⁰ of the German Constitution (“*Grundgesetz*”) which states that "arms production" and "transfers of weapons designated for warfare" are under the direct and extensive control of the German government. The *Kriegswaffenkontrollgesetz* (KWKG, War Weapons Control Act), introduced in 1961 covers all major weapon systems and components, from fighter aircraft and warships, to tanks, armoured personnel carriers (APCs), artillery including semi-automatic small arms. To export arms listed in the KWKG, an export licence from the German government is obligatory. The law prohibits any export of the listed weapons, if:

- they might be used in an action disturbing peace,
- obligations under international law would be violated, and
- good and peaceful relations with other countries would be threatened.

The second law *Außenwirtschaftsgesetz*, (AWG, Foreign Trade and Payments Act) was also introduced in 1961 and deals with other weapons, ammunition, fabrication equipment, nuclear, chemical and biological goods as well as “dual use” goods and licences. The AWG provides for similar export restrictions as those in the KWKG, but the restrictions under the AWG are not obligatory. Transfers of goods under the AWG, listed in the accompanying decree (*Außenwirtschaftsverordnung*, Foreign Trade and Payments Ordinance) may be restricted. Due to arms and technology transfers to Iraq and Libya disclosed during the Gulf War in 1991, the German legislation, especially the AWG, was changed, adding better regulations for dual-use goods (such as chemicals or insecticide plants), and more recently, Germany adopted the common EU regulations for controlling exports of dual-use goods.

However, until 1997 neither the KWKG nor the AWG controlled the export of police and security equipment such as "non-lethal" weapons and electroshock and restraint equipment (stun batons, hand, leg and thumb cuffs). In April 1997 the German government passed an amendment to the export list²³¹ to introduce controls on electroshock equipment as well as thumbscrews and leg shackles.

²³⁰ <http://www.bafa.de/1/en/index.htm>

²³¹ Part I Section B Number 0101 of the annex AL to the Foreign Trade and Payments Ordinance, 18.04.1997

6.2.1 Export Criteria

Any company wanting to export military equipment must apply for an export licence. In most of the cases, a FRG authority "*Bundesamt für Wirtschaft und Ausfuhrkontrolle*, (Federal Office of Economics and Export Control –BAFA- an agency of the Federal Ministry of Economics) makes the licensing decision. In more serious or controversial cases, mostly covered by the KWKG law, such as submarines for Taiwan or main battle tanks for Saudi Arabia, the decision is made by the government itself (usually by an intra-governmental committee). Any decisions on arms export licence applications are supposed to take account of the 'Political Principles' governing the Export of War Weapons and other Military Equipment. These Political Principles were introduced in 1973, and amended in 1982 and 2000 but are not legally binding.

Following many years of campaigning by Amnesty International and other NGOs and the political change of the 1998 elections, the Social Democratic and Green parties committed themselves to introducing a more restrictive arms export legislation incorporating a human rights criterion for export licences. It also took another year and public pressure for the new Federal German government to adopt a new version of the Political Principles governing arms exports. The German government has now incorporated the human rights and other criteria in the EU Code of Conduct that must be considered for arms export licences to third countries (although not for EU, or NATO destinations), and in line with the EU Code has also announced the publication of an annual report on arms exports to be submitted to the parliament and to the public.

6.3 Direct Exports

All planned or authorised weapon exports from Germany are considered confidential or secret. Governmental (non-commercial) transfers such as NATO support or military/police assistance programs are also confidential but are regularly discussed by elected Members of Parliament. However, MPs have little or no participation in decisions about arms transfers or the application of controls.

Such government secrecy and lack of transparency makes it very difficult to ensure parliamentary oversight and public accountability for the German arms trade. German companies claim, as one has, that "*Export declarations are no problem to the company - irrespective of Germany's strict legislation - as we do not manufacture any "dual use products"*".²³² The company, *Metallwerk Elisenhutte GmbH* (MEN) is a small arms ammunition manufacturer and its company brochure shows a world map highlighting some of its clients which it says include the following places: Canada, USA, Latin America, Ireland, UK, France, Spain, Italy, Scandinavia, North Africa, South Africa, Pakistan, Indonesia, Australia, New Zealand.

²³² Metallwerk Elisenhutte GmbH product information brochure 18/3/2001

In 2001, the German government issued individual export licences for arms, ammunition and other military goods with a value of some 7.2 billion DM to countries all around the world including many countries with systematic, serious and widespread human rights violations. Exports of "war weapons" alone amounted to some 718 million DM. Unfortunately, the figure for exports of "war weapons" does not include all arms, ammunition and other MSP equipment for which the German government issued export licences. Due to this statistical gap it is impossible to get a realistic official figure for all arms transfers from Germany.

When Amnesty International has questioned German MSP transfers to countries because of human rights concerns, the German government answers that human rights are always "taken into account" and that arms transfers are restrictively and responsibly controlled. However, the very limited data presented in the German governments annual reports on arms exports²³³ means that it is almost impossible for Members of Parliament or the public to assess whether human rights criteria are taken into account before arms exports are permitted. In practice, the German government's application of arms export controls appears inconsistent.

Despite the human rights concerns raised about past arms exports, the German government continues to issue export licences for questionable transfers such as the export of small arms components to Saudi Arabia and Mexico, and ammunition to Yemen and many other countries.

Nepal

Each year between 1999 and 2001 the German government authorised the export of equipment for the production of small calibre ammunition to Nepal, despite the ongoing internal armed conflict and increasing human rights abuses in Nepal during this period.²³⁴

In 2002, the German government refused to issue an export licence for the export of H&K G36 rifles to Nepal, after Amnesty International's German Section raised concerns about the possible impact of such a transfer on human rights in Nepal.²³⁵

In February 2002, *Jane's Defence Weekly* reported that "the Royal Nepalese Army has selected the H&K G36E 5.56mm assault rifle to fulfil a longstanding requirement for some 65,000 weapons. The initial delivery of some 5,000 weapons is intended for this month,

²³³ Report of the Government of the Federal Republic of Germany on its Policy on Exports of Conventional Military Equipment covering the Year 1999 (1999 Military Equipment Export Report), Berlin, 25 September 2000; Report of the Government of the Federal Republic of Germany on its Policy on Exports of Conventional Military Equipment in 2000 (2000 Military Equipment Export Report), Berlin, 23 November 2001; Bericht der Bundesregierung über ihre Exportpolitik für konventionelle Rüstungsgüter im Jahre 2001 (Rüstungsexportbericht 2001), Berlin, 18 December 2002

²³⁴ Military Equipment Export Reports of the German government (1999, 2000, and 2001)

²³⁵ Berliner Zeitung, May 8, 2002

but German export controls may yet block the deal. Deliveries of the full order will be phased over 10 years with the bulk obtained over the initial 2-3 year period. All details of the contract are not yet known.”²³⁶ In 2003, *Jane’s Infantry Weapons* reported that G36 rifles are now in service in Nepal.²³⁷

The German company H&K has had a long-standing licensed production arrangement with Royal Ordnance, a UK company. In 2001, the UK government issued an export licence for the export of 6,780 assault rifles to Nepal.²³⁸

In the absence of meaningful transparency by the German government concerning arms export deliveries, Amnesty International has not been able to ascertain whether these rifles were exported to Nepal directly or indirectly from Germany. However, given the serious reports of firearms being used by the Nepalese security forces for serious human rights violations, Amnesty International is calling upon the German and UK governments to announce a freeze on the export of such equipment to the Nepalese forces until the danger of deliberate and serious misuse no longer exists.

6.3.1 Armoured Personnel Carriers

In addition to small arms and light weapons, Germany delivered several times other equipment to countries with a poor human rights record, such as 105 BTR-60 APCs to Turkey in 1992 or 115 Hermelin APC in 1999 and 60 BTR-70 in 1998 to Macedonia.²³⁹

The German company, Thyssen Henschel has exported armoured vehicles to many countries worldwide. With upgrades, such vehicles often remain in service for decades and in many countries are used by police forces rather than by the military. For example, Thyssen has exported UR-416 armoured personnel carriers to at least 17 countries including: Ecuador, El Salvador, Germany, Kenya, South Korea, Morocco, Netherlands, Nigeria, Pakistan, Peru, Philippines, Qatar, Saudi Arabia, Spain (National Police), Togo, Turkey, Venezuela.²⁴⁰

The UR-416 armoured personnel carrier is still in service in Venezuela. In August 2002, nine people were injured - the majority with gunshot wounds - in violent disturbances in Caracas, Venezuela, after the Supreme Court decided not to put on trial four military officers accused of orchestrating an uprising against President Hugo Chávez in of the same year. Pro-Chávez protesters clashed with police outside the court, which was protected by members of the metropolitan police and troops backed by armoured vehicles and at least one tank. Three policemen were also reportedly wounded.²⁴¹

²³⁶ *Jane’s Defence Weekly*, “Nepal Chooses G36E Rifle”, 20 Feb 2002

²³⁷ *Jane’s Infantry Weapons* 2003-4

²³⁸ UK Annual Report 2001, p222 states export licence granted for 6780 rifles to Nepal in 2001.

²³⁹ UN Register of Conventional Arms

²⁴⁰ *Jane’s Armour & Artillery* 94/5: UR-416 Armoured Personnel Carrier.

²⁴¹ *Venezuela: Political violence puts rights in jeopardy*, 9 August 2002 (AI Index: AMR 53/01/2002)

6.4 Indirect Exports

Recently, the German government has authorised the Fritz Werner Company to sell equipment for the construction of a munitions plant in Turkey.²⁴² Since the Turkish government has a past record of tolerating its own armed forces' human rights violations, as well as a weak practice of controlling arms exports, this factory will vastly increase the danger of munitions falling into the hands of human rights abusers either within Turkey or its trading partners such as Indonesia.

6.4.1 Proliferation of small arms production

The ineffectiveness of German arms export controls is illustrated by the widespread proliferation and use of German designed and made small arms in war torn countries or by human rights violators. For example Heckler & Koch (HK) G3 rifles are used in about 50 countries including Myanmar (Burma), Turkey and Iran, while MP5 submachine guns are used in 40 countries. Human rights violations committed by security forces using these weapons have been documented in countries ranging from Brazil, where the military police killed 111 prisoners in October 1992 during a prison riot at São Paulo²⁴³ to Thailand where silenced MP5 submachine guns (MP5SD) delivered from Germany were used to execute prisoners at various times during the mid-1980s.²⁴⁴

Many H&K weapons were regularly exported directly from Germany with licences issued by the respective German government. However, more recently, these weapons have been found in countries which had never been official recipients of German arms export licences. For example, in Sierra Leone after the horrific abuses committed in the armed conflict, the UN reported the collection of some 940 G3 assault rifles out of a total of 12,695 small arms and light weapons collected as of May 2000.²⁴⁵ Many countries have been authorised by successive German governments to undertake the licenced production of Heckler & Koch small arms. These countries have included Turkey (G3, MP5, HK55), Iran (G3), Pakistan (G3, MP5), Mexico (G3) and Saudi Arabia (G3). The H&K-designed weapons that reached Sierra Leone might have come from one of these, or might have re-sold or

²⁴² 'Political storm over Turkey sale', *Jane's Defence Industry*, 1 January 2000

²⁴³ *Brazil: extrajudicial execution – killing of 111 inmates in São Paulo prison*, 5 October 1992 (AI Index: AMR 19/024/1992). In February 1995, in answer to a question by Member of Parliament Bury, who quoted the serial numbers of the weapons used, State Secretary Kolb confirmed that the export of MP5s had been licensed by the German government.

²⁴⁴ "Rüstungsexporte und Menschenrechte - Ein Bericht von amnesty international", Publikation der Sektion der Bundesrepublik Deutschland Bonn, May 1986. A press release of AI Germany (November 9, 1984) quoted an interview of October 1984 with the vicedirector of the Corrections Department of the Ministry of Interior of Thailand, who confirmed the purchase of two MP5SD, which were installed on April 16, 1984 at the high security prison Bangkwang, in addition, he affirmed the execution of 5 convicts between April and October.

²⁴⁵ Eric Berman, *Re-Armament in Sierra Leone: One Year After the Lomé Peace Agreement*, December 2000.

brokered by arms dealers operating in other countries. Whatever their route, German weapons ended up in a country which would not have been a recipient of official German arms exports.

Such uncontrolled or under-regulated licensed production has had a serious impact on the proliferation and misuse of small arms and of production technology. More recently Iranian produced MP5 submachine guns have been reported to be in Herat, Afghanistan.²⁴⁶ A 1998 Iranian Defence Industries company brochure shows photographs of arms production machines including one clearly marked "Fritz Werner".²⁴⁷

Pakistan

In 1992, a top company officer from Pakistan Ordnance Factories (POF) in a remarkably frank interview, claimed that "we [POF] provide end-use certificates to Germany to cover shipments to Kuwait."²⁴⁸ One reason for this "service" was perhaps because arms exports to the Middle East were illegal under German law, and frequently aroused controversy. By going through Pakistan - a legal destination - many German companies had found a convenient route to enter the Middle East market. Some of Germany's largest weapon manufacturers have granted production licences to the Pakistan Ordnance Factories over the years, so sales to Pakistan barely raised eyebrows in Bonn. The same company officer said that another variation of the EUC scheme was for German companies to negotiate the contract with a Middle East destination, and then turn it over to POF for the actual deliveries, in essence, "selling" their contract to the Pakistanis.

6.4.2 Direct and Indirect Exports

Other German small arms companies have received government permission to directly export weapons to countries with poor human rights records as well as to establish licenced production in other countries with weaker arms controls. For example, *Mauser-Werke* has licenced SACO Defense Inc (USA) to produce the Mauser MK25 x 137mm Model E cannon for the North American market and has exported the 20mm MK20 Rh 202 automatic cannon to the Armed forces in: Argentina, Germany, Greece, Indonesia, Italy, Nigeria, Norway, Pakistan, Portugal, Saudi Arabia, Spain, Thailand and others.²⁴⁹ In 2001, Carl Walther claimed to have more than 500,000 pistols in service with police and armed forces worldwide.²⁵⁰ Walther also has a co-operation agreement with Smith & Wesson (USA), with licensed production based on the P99 pistol.

²⁴⁶ <http://news.bbc.co.uk/10/2/2002>: *Vying for power in Heart*: "We have seen police in the streets carrying new guns - who paid for those guns?". They are Iranian-made copies of the Hector (sic) and Koch MP5, a standard of special forces everywhere.

²⁴⁷ Company Information (Defendory 98) 98: Photograph shows lathes marked "Fritz Werner"

²⁴⁸ *Middle East Defense News* - Technology Watch 20/1/92: Pakistan serves as German arms export front.

²⁴⁹ *Jane's Infantry Weapons* 1999-2000

²⁵⁰ Company information 18 March 2001

The 7.92mm MG42 and 7.62mm MG1, MG2 and MG3 machine guns, produced by *Rheinmetall Industrie* AG are reported to be in service with the armed forces of Austria, Chile, Denmark, Greece, Iran, Italy, Norway, Pakistan, Portugal, Spain, Sudan and Turkey.²⁵¹ In addition the MG3 is made under licence in Greece, Iran, Pakistan and Turkey.²⁵² Rheinmetall ammunition was also reportedly made under licence in Saudi Arabia.²⁵³ In 2002 it was reported that Diehl had tested MLRS bomblet submunitions in Slovakia and that the company had suggested the establishment of a "a production line in Slovakia for joint procurement from this source."²⁵⁴

6.5 Security Equipment

German companies also manufacture and distribute a range of police and security equipment ranging from tear gas and stun grenades, to electroshock weapons and restraint equipment such as leg irons and shackles.

Afghanistan

In 2002, the UK *Independent* newspaper reported on a raid by US and Afghan forces on the village of Hajibirgit in Afghanistan. The report quotes a villager who said: "*the Americans were throwing stun grenades at us and smoke grenades. They were throwing dozens of them at us and they were shouting and screaming all the time. We didn't understand their language, but there were Afghan gunmen with them too. Afghans with blackened faces. Several began to tie up our women - our own women - and the Americans were lifting their burqas, their covering, to look at their faces. That's when the little girl was seen running away.*"²⁵⁵ The little girl referred to was three years old and called Zarguna. Terrified by the use of stun grenades she ran away and fell into the village's 60ft deep well, where she drowned, her back apparently broken during the fall. The next day the few villagers who had

²⁵¹ *Jane's Infantry Weapons* 1999-2000

²⁵² *Jane's Infantry Weapons* 1999-2000 Greece - Hellenic Arms Industry MG3. Iran - Defence Industries Organisation MG3. The German Rheinmetall 7.62mm MG3 machine gun is manufactured under licence in Iran at the Mosalsalsasi weapons factory run by the Iranian Defence Industries Organisation, Armament Industries Group. Pakistan - Pakistan Ordnance Factories MG3. Turkey - MKEK, MG3.

²⁵³ APS-Diplomat Strategic Balance in the Middle East 17/5/93: Saudi Arabia - Domestic Arms Production. A factory in Al Kharj produces rifles, machine guns, submachine guns, rockets, ammunition and some electronic equipment. Most of these are produced under licence and with technological assistance from the US, Germany and Belgium. Rifles are being made under licence from Heckler & Koch of Germany and Colt Industries of the US. Several varieties of ammunition are produced in collaboration with Rheinmetall GmbH of Germany. A local Saudi company that has won many defence-related contracts is Dallah Establishment, owned by the Kamel family and relatives of Oil Minister Hisham Nazer.

²⁵⁴ Company Information (IDEE 2002) May 2002: MLRS bomblets are a proven and highly effective submunition. The firing of this MLRS ammunition from the RM-70 launcher was successfully tested in Slovakia in October 2001.

²⁵⁵ Robert Fisk: 'The return to Afghanistan: collateral damage', *The Independent* 6 August 2002

run away collected the stun grenades, small cylindrical green pots with codes and names stamped on them, such as "7 BANG Delay: 1.5 secs NIC-01/06-07)". These were the stun grenades that terrified Zarguna.

Such stun grenades are reportedly a regular part of US Special Forces equipment and are manufactured in Germany by Nico-Pyrotechnik of Hamburg.²⁵⁶ In 1981, Nico-Pyrotechnik started the Chartered Pyrotechnic Industries Pte joint venture in Singapore together with Chartered Industries (now known as ST Kinetics).²⁵⁷ Nico-Pyrotechnik also manufactures the Tracer Impact Marker ammunition and CS/OC grenades for the General Dynamics Armament Systems (USA) MK19 40mm Grenade Launcher which was in service during the Iraqi conflict.²⁵⁸

6.5.1 Electro-shock weapons

Since 1990, Amnesty International has documented at least 30 German companies offering electroshock equipment. Despite the introduction in 1997 of legal restrictions for the export of such equipment, several companies supply catalogues or offer electroshock weapons as well as restraint equipment via the internet in various languages or offer their goods at so called "security fairs". In August 1998, in response to a parliamentary inquiry, the German government reported for the first (and since then only) time some statistical data about exports covered under number B0101 of the export list. Over the period from April to December 1997, 22 export licences worth a total of DM 167,013 (some € 80.000) were granted. Most of these licences were for the export of "electric cattle prods" or "electric pincers to stun pigs". However, in three cases electro shock weapons for "personal protection" purposes were granted. Recipient countries included Botswana, Canada, Czech Republic, Lithuania, Namibia, Norway, Poland, Saudi Arabia, Switzerland, Slovenia, South Korea, Thailand and the USA.

Abuse of persons in custody using modern electro-shock weapons has been spreading but is often difficult to detect.²⁵⁹ This is what "Muhammad" allegedly experienced in a prison in Saudi Arabia.

*" For many hours they tortured me on the soles of my feet. Being hit with an electric baton not only made me vomit, but I lost control of everything. I lost control of my bowels, my water, I just could not control anything in my body. I was left in my own vomit and urine all night. That is how they want you to be during a torture."*²⁶⁰

²⁵⁶ Robert Fisk: 'One Year On in Afghanistan', 5 August 2002.

²⁵⁷ www.nico-pyro.de/info/geschichte/index_en.php?headline=history

²⁵⁸ General Dynamics Armament Systems Brochure Copyright 2001.

²⁵⁹ Amnesty International, "Stopping the Torture Trade" (AI Index: ACT 40/002/2001)

²⁶⁰ *The Torture Trail*, "Dispatches", Channel 4, 11 January 1995

6.6 Arms brokering and trafficking

In Germany, Section 4a of the 1961 War Weapons Control Act²⁶¹ requires a licence for: “(1) Anyone who intends to broker a contract on the acquisition or transfer of war weapons located outside federal territory or to show that an opportunity exists for concluding such a contract shall require a licence; and (2) Anyone who intends to conclude a contract on the transfer of war weapons located outside federal territory shall also require a licence.”²⁶² However, if a German-based arms broker does not take possession of the arms and s/he is involved outside the territory of Germany in mediating and negotiating an arms deal, then the activity falls outside current German law.

Documents found in the offices of the ousted government of the Republic of Congo showed that, between June and September 1997, an arms broker of German nationality and a Belgian arms broker supplied millions of dollars worth of military equipment to the forces of the beleaguered President in Brazzaville²⁶³. The German dealer negotiated orders totalling \$42.4 million, and received \$27.1 million based on finance from Congo’s oil supplies²⁶⁴. The German broker operated from South Africa and Namibia using companies registered in a number of countries, including French, Belgian and UK bank accounts²⁶⁵. The dealer also used a trading company in London.²⁶⁶ Arms appear to have been shipped from South Africa and Central Asia using large Ukrainian-registered Ilyushin 76 cargo aircraft that flew via airports in Egypt and Namibia.²⁶⁷ The arms were used by government forces in the civil war during which several thousands of civilians were killed indiscriminately and over 300,000 fled into the forests to escape violence.²⁶⁸

²⁶¹ Other laws and regulations include the Ordinance on Reporting Requirements for Specified War Weapons of January 24, 1995; Foreign Trade and Payments Act of 28 April 1961 (as amended); and the Foreign Trade and Payments Ordinance of 18 December 1986 (as amended).

²⁶² See Coflin 2000, p. 18 and Wood and Peleman, op. cit., p. 109, for more information on the German system.

²⁶³ The current government in Brazzaville compiled the documents and published a three-volume “White Paper” on former president Lissouba’s wrongdoings. It seems worth mentioning that president Sassou N’Gusso and his Cobra-militia had their own networks of arms suppliers, some of whom seem to overlap with those in Lissouba’s network that are being accused in the White Paper (hereafter WhP). We used the documents reproduced in the White Paper, not the annotations.

²⁶⁴ WhP, Vol.1, Document copies reproduced on p. 124-125.

²⁶⁵ FIBA, Belgolaise and Barclays Bank.

²⁶⁶ The Jersey company was Ibar Management and Trading and the London company was Winston Investments Ltd.

²⁶⁷ See Brian Wood and Johan Peleman, *The Arms Fixers* (NISAT, Oslo, 1999), pp46-47

²⁶⁸ This case is based on a forensic analysis of documents. See Brian Wood and Johan Peleman, *The Arms Fixers* (NISAT, Oslo, 1999).

6.7 Specific Recommendations

The government of Germany should actively promote the development of an international “Arms Trade Treaty” with provisions for arms export control based upon respect for international law, especially international human rights and humanitarian law. The German government should also take steps to strengthen efforts to address the trade in small arms, light weapons and security equipment, and to prevent the use of indiscriminate weapons [for details on these measures, see the final recommendations at the end of this report]

In addition, the German government should:

- Improve the transparency and parliamentary scrutiny of German arms exports, particularly with regard to foreign co-production or licensed production deals. Parliament should be provided with clear, detailed, regular and comprehensive information regarding all transfers by both private companies and government agencies. The recent "Military Equipment Export Report" of the German government is not sufficient.
- Ensure that the export control legislation covers a comprehensive list of arms particularly small arms, "non lethal weapons" such as tear gas and stun guns, security equipment (electro shock weapons, tear gas, rubber bullets), ammunition and “dual use” technologies.
- Regulate the activities of all German-based arms brokers and shipping agents including nationals and companies who conduct an arms brokering deal entirely outside Germany. The government should introduce a strict "Register" for all brokers and shipping agents with all arms brokering deals being subject to the licensed approval of the government.
- Establish effective end-use monitoring systems of German-supplied arms in order to ensure that if such arms are used for serious human rights violations this will result in the cancellation of future contracts, and the provision of spare parts and servicing to the abusing party.
- Strictly control all foreign licensed production arrangements by German companies so that German government agreements will prevent any arms sales or exports from foreign production facilities to recipients who are likely to use such arms for serious human rights violations.
- Prohibit the production and trade of equipment whose inherent effects result in torture or cruel, inhuman or degrading treatment, and prevent the export of all other security and police equipment in cases where there is a reasonable assumption that it will be used for cruel, inhuman and degrading treatment.

- Support the adoption of the European Council Regulation concerning the trade in certain equipment and products which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (COM 2002 - 770).

7. Italy

7.1 Production and Trade

Italy is one of the largest producers of handguns, shotguns and corresponding ammunition. These small arms and munitions have been exported to almost 100 countries including Turkey, Algeria, Brazil, Philippines, Lebanon, the Republic of the Congo, Peru, Thailand, Slovenia and the USA, where the most important buyers are located. But while the turnover of Italian companies specializing in the small arms sector has increased, the state controls governing this trade have been reduced.²⁶⁹

Establishing the final destination of small military weapons authorized by the Italian government is difficult; companies invoke the need for commercial confidentiality, and government data on exports lacks transparency. Finding information about the export of “civil arms”, using the data compiled by the Italian Institute of Statistics concerning foreign trade, is easier.

In 2002, Italy authorized arms transfers worth 920 million Euros and, in 2001, 827 millions Euros. NATO countries are the recipients of one third of the whole Italian exports and developing countries are the majority of destinations for Italian weapons with roughly 55 per cent of the total transfers.

7.2 Arms Export Control Principles

During the 1980s, Amnesty International and other civil society organisations and parliamentarians campaigned in Italy for a strict law on arms exports. Italian Law Number 185 was passed on 9 July 1990, which prohibits the export of arms to countries:

- Engaged in conflict (in violation of Article 51 of the U.N. Charter).
- Acting in contravention of Article 11 of the Italian Constitution (*“l’Italia ripudia la guerra come strumento di offesa alla libertà degli altri popoli e come mezzo di risoluzione delle controversie internazionali [...]”* – “Italy rejects war as an instrument of aggression against the freedoms of others peoples and as a means for

²⁶⁹ Emilio Emmolo, *Le esportazioni di armi Italiane nel 2001*,

settling international disputes [...]), violating international obligations, national security, the struggle against terrorism and good relations with other states.

- That are embargoed by the United Nations.
- Whose governments are responsible for proven human rights violations.
- Benefiting from Italian civil aid program whose military expenditure exceeds the requirement for self-defence.
- Where there are inadequate guarantees on final destination.

In 1998, the Italian Government declared its support for the *EU Code of Conduct on Arms Exports*. This Code has similar criteria to the 1990 law and requires regular cooperation and information sharing with other EU Member States, as well as an obligation for annual reporting on arms exports. However, the amount of publicly available information from the Italian authorities concerning arms exports from Italy has been reduced in recent years, apparently to protect the “commercial confidentiality” of Italian arms-exporting companies. This has reduced the oversight ability of the Italian Parliament with respect to arms exports.

More importantly, there is a growing body of evidence that the existing Italian arms export controls are being flouted or circumvented. Various Italian organizations, including Amnesty International Italy, have pointed out loopholes in the current regulations and inadequacies in the law that allow arms traded from Italy to fall into the hands of human rights violators. These loopholes in Italian law, and some examples of the terrible impact on human rights, are discussed further below.

7.3 Arms Exports

One serious loophole is that Italian legislation does not cover “civilian” small arms designated for hunting, sporting or personal protection. Italian research institutes “Archivio Disarmo”²⁷⁰ and “IRES Toscana” reported that there had been an increase in exports of such small arms in recent years, especially to countries where they are likely to be used to violate human rights.²⁷¹

Weapons routinely used by the police are normally not considered “war arms”. This categorisation has led to a liberalisation in the trade in most semi-automatics. The result in terms of human rights has been disastrous. Italy is able to export “small civil weapons” to countries devastated by armed conflict and gross human rights violations, even if the transfer of “military arms” to these same countries is under a UN or European Union embargo.

Sierra Leone

Italian small arms were supplied to the Sierra Leone government throughout the 10-year internal armed conflict which was officially declared over in January 2002. The conflict was

²⁷⁰ SIMONCELLI, M., *Armi Leggere Guerre Pesanti*, Rubbettino, 2002.

²⁷¹ IRES Toscana, *Il Commercio delle Armi*, http://www.irestoscana.it/commercio_delle_armi.html

marked by widespread and systematic human rights abuses against civilians. These included deliberate and arbitrary killings, torture, including rape and deliberate amputation of limbs, abduction and forced recruitment, including of children, by the armed opposition Revolutionary United Front. Government forces, including the Civil Defence Forces, were also responsible for extrajudicial executions, torture and ill-treatment, and recruitment of children.

Despite Italy's arms export law, between 1993 and 1997 Italian companies were the primary providers of explosives and small arms to government forces in Sierra Leone, supplying "civil arms" with a value of some US\$1.6 million. In 1997, 1.6 million rifle cartridge cases were sent from Italy to Sierra Leone. Between 1997 and 1998, arms to the value of US\$70,000 and US\$34,000 of explosives and detonators for industrial purposes were exported to Sierra Leone. Nothing about these exports was declared in the Italian government's public reports to the Italian Parliament.²⁷²

In Italy 14 companies, including the public-owned Finmeccanica (Breda Meccanica Bresciana), as well as FIAT and above all Beretta Holding S.p.A., supply small arms and light weapons and their related ammunition.

Beretta Holding S.p.A. is a family-owned multinational company controlling 13 companies and operating in more than 60 countries, with both civilian and military production. In 1999, Beretta's overall turnover was 448 billion lire, of which 207 billion was from firearms production.

Other companies, including Agusta S.p.A. and Alenia Marconi Systems are major exporters of conventional weapons and dual use equipment.

Republic of the Congo

Between 1993 and 1996, a time of escalating violent conflict and human rights abuse, Italy exported arms, munitions and explosives worth US\$7 million to the former Zaire. During the first months of 1997, at the height of the civil war, 15 tons of cartridges arrived from Italy. At the beginning of October 1997 armed clashes between different political factions in the country resulted in at least 5,000 deaths and many more injuries..

Yet the export of weapons did not diminish. During the first six months of 1998 Italy exported ammunition worth nearly US\$1.2 million to Congo and between 1997 and 1998 arms and munitions worth some US\$2.2 million and explosives worth US\$627,000 were exported from Italy to Congo.²⁷³

²⁷² Presidente del Consiglio dei Ministri, Atti Parlamentari – XIII Legislatura. Doc. LXVII n. 2. Anno 1998 and n. 3. Anno 1999.

²⁷³ Atti Parlamentari, Doc CVIII, Roma, Camera dei Deputati- Senato della Repubblica anni 1991-2001, www.iorestoscana.it

Algeria

Between 1996 and 1997 Italian companies exported pistols, rifles and ammunition worth 13 billion lire (approximately US\$6 million) to Algeria, a country which has been ravaged by serious human rights abuses resulting in the killing of more than 100,000 people by security forces, state-armed militias and armed opposition groups. In 1999, the Italian government authorized the export to Algeria of 5,000 sub-machine guns – type Berretta PM12S – worth about 2.875 lira or 1.5 million Euros, and these were transferred the same year. Italian licensing officials questioned by Amnesty International about this delivery could not verify any procedures carried out to ensure adequate levels of accountability and training of the Algerian security force units due to receive such weapons.

During 2000, the number of attacks by government and opposition forces escalated through ambushes, massacres, crossfire and bombing, and hundreds of civilians were killed, sometimes in groups of over 20 people in one attack. Nevertheless, in 2000 the Italian government authorised the transfer of “military items” to Algeria worth 2 million Euros and allowed the delivery of 13 million Euros of unspecified military equipment.

In 2001-2002, 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 the killings committed between April and June 2001 concluded that the security forces had repeatedly resorted to excessive use of lethal force during the demonstrations. Despite the authorities' repeated announcements that the security force personnel responsible would be brought to justice, as this report went to press only two had been. Torture remains prevalent and systematic in nearly all cases involving alleged links to what the government describes as "terrorist" activities. The overwhelming problem of impunity for human rights violations continued to block the search for truth and justice in relation to the thousands of reports of torture, "disappearances" and killings committed by the security forces, state-armed militias and armed groups since 1992.

In the first 10 months of 2001, more than 16 million euros-worth of Italian small arms arrived in Africa. Among the recipients were Nigeria (6 million euros) and Kenya (2.5 million euros), both countries where security forces persistently carried out gun-related human rights violations.

Nigeria

The Nigerian security forces continued to use excessive force in response to protests against oil company activities and during 2000 were allegedly responsible for large-scale killings of civilians in Benue State. No independent investigations were carried out into allegations in

connection with these incidents, or into other killings by the security forces since the return to civilian rule in May 1999.²⁷⁴ The Nigerian security forces had in their inventory Beretta M12 sub-machine guns and Beretta M951 9mm pistols.²⁷⁵

Kenya

In Kenya, security officials committed violations with impunity. In 2001, Kenyan police killed at least 18 people in circumstances suggesting that they may have been extra-judicially executed. Torture remained widespread and police used violence to disperse peaceful demonstrations by human rights groups, opposition politicians, environmental activists and others.²⁷⁶

Colombia

The principal civilian hostage rescue teams in Colombia were the Unidad Antisecuestro y Extorcion (UNASE) units. Founded in the summer of 1991 following a large number of kidnappings in the capital city of Bogota, the original UNASE received overseas training from several foreign units, including the Spanish Civil Guard in Madrid. Each unit is reportedly made up of 35 volunteers: a colonel commander, four officers, 15 NCOs and 15 special agents. Operatives are equipped with weapons such as AR-15 rifles, 9 mm Beretta pistols and specialized equipment including fast rope for rappelling and secure-voice communications. These units are in operation in most of the major Colombian cities, including Bogota, Bucaramanga, Barranquilla and Cali.²⁷⁷ Amnesty International has received credible reports that members of UNASE were involved in torture and human rights violations against suspected kidnappers and also in kidnapping themselves.

Brazil

Italian Beretta handguns are the second most numerous foreign small arms confiscated by the police in Brazil, a country where the government has failed to exercise due diligence in curbing the use of small arms by civilians, and sometimes by police, in persistent acts of murder, kidnapping, robbery and intimidation.

Turkey

In the Italian government report covering exports for the year 2001, Turkey was listed as a recipient of 45.2 millions euro of Italian weapons. During 2002, more than 50,000 light weapons were confiscated from the armed opposition PKK in Turkey and of these, the origin of production of about 16,000 have been identified. Italian landmines and light weapons were at the top of the list.²⁷⁸

²⁷⁴ AI Annual Reports for 2000 and 2001. See also *Human Rights abuses with small arms*, July 2001, (AI Index: POL 34/007/2001)

²⁷⁵ *Jane's Defence Weekly*, 6 September 2000

²⁷⁶ *The Terror Trade Times* No. 3, Amnesty International June 2002

²⁷⁷ 'Colombia's "Kidnapping incorporated"', p. 565 *Jane's Intelligence Review* 1 December 1996

²⁷⁸ ANSA, 29 May 2002

Central African Republic

On 29 October 2002, an Italian-made Aeromacchi warplane was used in an attempt by armed forces fighting for the President of the Central African Republic to bomb armed opposition targets in the capital city, Bangui. Several hundred Libyan troops and at least two aircraft were deployed to help the Presidential forces. At least 20 civilians were reportedly killed and civilians fleeing towards the border told reporters that there were many more casualties.²⁷⁹

7.4 Law on arms exports

Italy does not have a consistent legal framework to control the arms trade from Italy. The oldest law, dating back to 1931, is the “*Testo Unico delle Leggi di Pubblica Sicurezza*” (“Consolidation Act of Public Safety Laws”), followed by Law 110/75 (concerning civilian-use weapons) – passing through many regulations and norms – and the more recent and innovative Law 185/90 (concerning military-use weapons).

The regulation is divided into two sections, war weapons and common firearms, whose products fall within the UN definitions. While the legislation seems to be quite strict and clear in both cases, nevertheless it has discrepancies as far as the procedures for exports and sanctions are concerned.²⁸⁰

Italian arms export controls include provisions to ensure the protection of human rights. Applications for the authorization of arms exports must currently specify the type of weapon, the value, the payment to intermediaries, the name of the intermediary, and the final recipient. An end-user certificate issued by the authorities of the receiving country must be attached to the application. Current Italian legislation also requires a high degree of transparency by requiring that annual reports on arms exports from Italy are presented to Parliament. The report, drafted by the Prime Minister, contains detailed data on manufacturing firms, type of materials exported, value, final recipient and the banks involved.²⁸¹

In Italy, as in many other countries, the category “small arms” is not precisely defined. Officially a distinction is made between small arms for military purposes and civil arms generally used for sport, hunting and self-defence. “Military arms” require a specific government licence for export and their transfer is supposedly checked and monitored by parliament. The export regulations governing the second category of weapons — “civil arms”

²⁷⁹ Rory Carroll, “Rebels Bombed during Bangui Coup”, *The Guardian* 30 October 2002; *Central African Republic: human rights must be respected*, 29 October 2002 (AI Index: AFR 19/003/2002)

²⁸⁰ Chiara Bonaiuti, *La normativa italiana sul commercio delle armi in Armi Leggere Guerre Pesanti*, Rubbettino 2001.

²⁸¹ *The Terror Trade Times* No. 3, Amnesty International June 2002.

— are very weak and it is possible to export handguns from Italy by merely obtaining the permission of a local police commander.

A few small arms are categorized as military weapons or “war arms” and so come under the Arms Control (185/90) Law. Arms which fall within this category include rifles, machine-guns and machine pistols, which are automatic arms and specifically built for military purposes.

However, the vast majority of the individual weapons exported from Italy are categorized as intended for “civilian” use and so fall outside the remit of the 1990 Arms Control Law. Among the weapons exported under this category are not only semi-automatic firearms, but also manually charged *canna-rigata rifles*, *canna rigata* muskets, semi-automatic pistols, revolvers, and spare parts, ammunition and explosives that can, in any case, be used for military purposes. All such weapons can also be used for human rights violations. Companies are, therefore, able to exploit the lack of stringent categorization to export arms to countries involved in armed conflicts and to governments responsible for human rights violations — even though the Arms Control Law supposedly prohibits such exports.

7.5 Arms brokering and trafficking

Italian police arrested Leonid Minin near Milan on the night of 5 August 2000. A stack of documents were found in his hotel room reportedly detailing illegal sale of arms to one of the most brutal insurgencies in Africa – the Revolutionary United Front (RUF) in Sierra Leone.²⁸²

In June 2001, Leonid Minin was charged in Italy with illegal arms trafficking. However, Italian judges said they found it very difficult to prosecute a man accused of illegally trafficking arms that originated and were transferred outside of Italian territory. On 17 September 2002, the Italian Supreme Court stated it could not find any justifiable basis for Leonid Minin's prosecution, “not even in the fact that the trafficking of arms has taken place in violation of an embargo established by a UN resolution.” The Court said it could not act against Leonid Minin as long as he did not “threaten the internal security” of the state, and it demanded more evidence from the public prosecutor before a case could be made to convict him for arms deals in Africa and Ukraine.

On 18 December 2002 a court in Monza concluded that it was not able to prosecute in the case of Leonid Minin. As a result, he was temporarily released from prison, pending a final hearing on 17 June 2003. The assistant to the Monza public prosecutor publicly blamed the Supreme Court for stating that Leonid Minin's acts were not punishable on Italian territory. In a previous similar case, the Supreme Court had ruled that the law on arms trafficking “also

²⁸² This account is based upon court records and United Nations reports on violations of the UN arms embargoes on Sierra Leone and Liberia.

prevails with reference to arms that are not present on national territory and are not destined to enter there."

The documents discovered in Leonid Minin's possession included contracts, faxes discussing arms deals, weapons catalogues and forged end-user certificates. He was found with large amounts of cash, including Mauritian rupees, Hungarian forints and polished diamonds worth nearly \$US500,000. Minin, an Israeli citizen, was holding passports from the former Soviet Union, Russia, Germany and Bolivia.

In December 2000, a UN Panel of Experts reported that in March 1999 Leonid Minin had been responsible for delivering 68 tonnes of weapons from Ukraine via Burkino Faso to Liberia destined for the RUF in Sierra Leone. The UN also established that a BAC-111 plane owned by Leonid Minin had delivered arms from Niger to the RUF via Liberia in December 1998, just before widespread human rights abuses by rebel forces in Freetown in January 1999. In October 2001 the UN again reported Minin's involvement an arms delivery of 113 tonnes to Liberia via Côte d'Ivoire. The RUF and Liberia have been under a UN arms embargo since 1997 and 2001 respectively.

7.6 Italian NGOs' campaign

Since 2002, Amnesty International Italy has been running a joint campaign with a number of Italian organizations "*Contro i mercanti di armi. Difendiamo la 185/90*" (Against the arms industry lobby' -Let's defend the arms control law) to demand the full implementation and strengthening of existing human rights safeguards in Italian arms control legislation. During 2002 and 2003 the Italian Campaign sent more than 150,000 petitions to the Italian Parliament and organised meetings, conferences and a sit-in. The Parliament approved six important changes to the bill proposed by the government, impeding the government's original intentions to water down the existing Law. These six changes included, in particular, ensuring transparency and the highest standards of control over arms trading. Amnesty International and the other Italian NGOs presented a number of motions to the Parliament, and many of them were not accepted, but in recent months after a substantial discussion among politicians and the government, three of these motions, including the consultation of NGOs and the role of the Parliament in monitoring the new Law, were approved.

In February 2002, Amnesty International Italy joined a number of other organizations to campaign against a proposal to restructure the European defence industry. The supposed purpose of this restructuring is "to make the European defence industry more competitive in the global market place." However Amnesty International is concerned that these changes to the current regulations on arms transfers may further weaken already lax controls, leading to increased exports to forces that use arms and security equipment to violate human rights.

7.7 Specific Recommendations

The government of Italy should actively promote the development of an international “Arms Trade Treaty” with provisions for arms export control based upon respect for international law, especially international human rights and humanitarian law. The Italian government should also take steps to strengthen efforts to address the trade in small arms, light weapons and security equipment, and to prevent the use of indiscriminate weapons [for details on these measures, see the final recommendations at the end of this report]

In addition, the Italian government should close the existing loopholes in the arms exports legislation by:

- Including all small arms and light weapons, including “civil arms”, in a strict export control regime that prevents arm exports to forces that would use such arms for human rights abuses.
- Introducing legislation to regulate the activities of Italian-based brokers of small arms and light weapons, and to prevent illegal trafficking of arms by Italian citizens, residents and companies where the arms originate and were transferred outside of Italian territory.
- Establishing in law that a violation of a UN arms embargo by anyone resident or trading from Italy is a criminal act.
- Support the adoption of the European Council Regulation concerning the trade in certain equipment and products which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (COM 2002 - 770).

8. Canada

8.1 Production and Trade

Canada’s arms companies, among the largest of which are General Motors Defense Canada (purchased in March 2003 by US-based General Dynamics²⁸³), CAE Inc, Bombardier Inc,

²⁸³ General Dynamics news release, 3 March 2003

www.generaldynamics.com/news/press_releases/2003/March%203,%202003%20News%20Release.htm

General Dynamics Canada and Pratt & Whitney Canada, produce military equipment ranging from aircraft and helicopters and their components to light armoured vehicles, unguided rocket systems, mortars, automatic rifles, ammunition, electronic equipment and military training. A large proportion of Canada's military exports are of military aerospace or electronics products.²⁸⁴

The Canadian Government reported that it exported \$592 million²⁸⁵ of military equipment in 2001, the fourth year in a row that the amount had climbed. After adjustment for inflation, the 2001 figure was 22 per cent higher than the equivalent total for 2000, and the highest reported for the post-Cold War period since 1990.

The government has published an annual report each year since 1990, listing exports by country and weapons category. But it does not list exports to the United States, the largest importer of Canadian arms – a long standing policy, the government says, dating from the integration of the North American defence industry during World War II.²⁸⁶ So the figure of \$592 million does not represent all of Canada's military exports. Project Ploughshares, an NGO that tracks Canada's military exports, says: "*it is safe to assume that the value of Canadian military exports to the US in 2001 exceeded the estimated figure of \$950 million for 2000. It is likely that the US total for 2001 was close to twice the value of Canadian military exports to all other countries combined.*"²⁸⁷

8.2 Arms Export Control

Military exports are controlled through the Export and Import Permits Act (EIPA) administered by the Department for Foreign Affairs. Permits are required for the export of military goods to anywhere except the US; the definition of "military goods" is based on that of the Wassenaar Arrangement's munitions list, that is, items especially designed or modified for military use. This means that items such as target pistols and hunting rifles are included, regardless of whether the foreign recipient is a private, non-military end user or a government and/or military end user.

Direct exports are strictly controlled, says the government, to countries that (a) pose a threat to Canada and its allies, (b) are involved in or under imminent threat of hostilities, (c) are under UN Security Council Sanctions and (d) 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."²⁸⁸

²⁸⁴ www.ploughshares.ca

²⁸⁵ All figures given in this chapter are in Canadian dollars.

²⁸⁶ Figures from the Department of Foreign Affairs and International Trade, henceforth DFAIT.

www.dfait-maeci.gc.ca/eicb/military/military_export-en.asp

²⁸⁷ briefing paper to be published by Project Ploughshares shortly

²⁸⁸ www.dfait-maeci.gc.ca/trade/eicb/military/export_control-en.asp

The Canadian Commercial Corporation, a government corporation that assists Canadian companies with export sales to foreign governments and acts as a guarantor, identifies the Philippines, Saudi Arabia and United Arab Emirates as among the Canadian defence industry's target markets: all countries about whose human rights violations Amnesty International has expressed concern in recent years.²⁸⁹

Moreover, since 1987 Canada has directly shipped military goods valued at almost \$400 million to countries involved in hostilities, often where human rights abuses are prevalent.²⁹⁰ During 2001 military goods were transferred to five countries engaged in hostilities: Colombia, Indonesia, Israel, Philippines and Turkey. Military goods were also transferred to twelve countries where government armed forces were involved in serious violations of human rights, including Saudi Arabia, Philippines, and China.²⁹¹

Philippines

The Philippines is a regular recipient of transfers of Canadian military equipment. Canadian aircraft parts and engines as well as handguns (see further below), worth \$11.6 million in total, were transferred to the Philippines between 1990 and 2001.²⁹² It appears that reliable reports of indiscriminate aerial bombardment of civilians by the Philippines Air Force as part of the government's attempts to defeat opposition groups were not taken seriously by the Canadian authorities when considering such exports.

In 1993 Amnesty International detailed full military operations in the Cordillera mountains in Northern Luzon, an important base area for the New People's Army (the armed wing of the Communist Party of the Philippines), including aerial bombardment, forced evacuations on a massive scale and widespread destruction of property.²⁹³ Again, in 2000 Amnesty reported periodic aerial bombardment of villages suspected of harbouring members of opposition groups that led to mass displacement of civilians, particularly in Mindanao;²⁹⁴ and in 2001 it said that over 400,000 civilians in central Mindanao were internally displaced amid reports of indiscriminate aerial bombardment of civilian areas suspected of containing forces of the Moro Islamic Liberation Front.²⁹⁵ Aircraft parts and aircraft engine parts continued to be transferred to the Philippines during 2000 and 2001.²⁹⁶

²⁸⁹ www.ccc.ca/eng/abo_ind_def.cfm

²⁹⁰ Project Ploughshares *Monitor*, Spring 2003

²⁹¹ www.dfait-maeci.gc.ca/trade/eicb/military/miliexport01-en.asp and Project Ploughshares briefing paper in response to the Canadian government's report

²⁹² DFAIT

²⁹³ *Philippines: extrajudicial execution: Chris Batan*, February 1993 (AI Index: ASA 35/002/1993)

²⁹⁴ Amnesty International Annual Report 2000 (AI Index: POL 10/001/2000)

²⁹⁵ Amnesty International Annual Report 2001 (AI Index: POL 10/001/2001)

²⁹⁶ www.dfait-maeci.gc.ca/trade/eicb/military/section03-en.asp?#6 and www.dfait-maeci.gc.ca/trade/eicb/military/table3-en.asp

Israel

During the 1990s \$3 million worth of military vehicles, tank weapon control systems, thermal imaging equipment, ammunition and other electronic equipment were transferred to Israel.²⁹⁷ During 2001, vehicle, aircraft and weapons systems parts worth \$660,000 were transferred.²⁹⁸ In November 2000, shortly after the beginning of the current *intifada*, Amnesty registered its concern at the escalation in violence leading to further human rights abuses. It urged governments to refrain from the supply of those types of arms likely to be used in serious human rights violations and breaches of international humanitarian law.²⁹⁹

Indonesia

Government figures show that during the 1990s, \$24.9 million worth of equipment was transferred to Indonesia, including tanks, helicopters and specialised military training equipment. In a 1998 report Amnesty International registered concern at the continuing high incidence of excessive use of force by the Indonesian army when dealing with both violent and peaceful demonstrations,³⁰⁰ as did other Amnesty International reports on Indonesia throughout the 1990s. In 2000, the Indonesian armed forces were engaged in widespread extra-judicial executions, "disappearances", torture and arbitrary detentions.³⁰¹

8.3 Indirect Arms Trade

Licensed production of Canadian military technology abroad as part of a joint venture by Canadian companies does require a government permit, the issuing of which takes into account the risk that the final destination might not be one to which Canada would sanction a direct arms transfer. However, detailed information of permits granted for licensed production is not made available to the public.³⁰²

During the late 1990s, the Sudamex Export Trading Company was registered in both Canada and the USA as providing a wide range of police, military and prison equipment including leg irons and electro-shock weapons. The company had its head office in Montreal and stated that 1998 had "proved very successful" and that the company had "gained wide acceptance from suppliers and importers alike. Sales to the Latin American market as of 1998 had recorded remarkable growth."³⁰³

²⁹⁷ DFAIT

²⁹⁸ www.dfait-maeci.gc.ca/trade/eicb/military/table3-en.asp

²⁹⁹ *Israel and the Occupied Territories: Imported arms used in Israel and the Occupied Territories with excessive force resulting in unlawful killings and unwarranted injuries*, November 2000 (AI Index: MDE/15/65/00). AI called for a halt particularly of military helicopters, tanks, armoured vehicles, missiles and munitions, and including spare parts and technologies.

³⁰⁰ *Indonesia: Paying the price for "stability"*, February 1998 (AI Index: ASA 21/01/1998)

³⁰¹ For a summary, see Amnesty International Report 2001, pages 126-128.

³⁰² Interview with a DFAIT official, 25 April 2003

³⁰³ Company Information 1/1998

Currently, the brokering of military and security goods that originate in Canada is subject to the usual permit regime. But for military goods that originate elsewhere, the only control on Canadians' foreign arms dealing activity is when automatic firearms are involved: it is illegal to export automatic firearms from Canada or anywhere else to a country that is not on Canada's Automatic Firearms Country Control List³⁰⁴. Anti-terrorism laws cover the brokering of equipment that would "facilitate the commission of an act of terrorism", regardless of destination. Otherwise, there is no control on Canadian nationals, residents or companies brokering military equipment that originates outside Canada, even if the destination is under UN embargo.³⁰⁵

A glaring loophole is that millions of dollars worth of Canadian military and security equipment and parts have been transferred without transparency to the USA. These can in turn be exported from the US to armed forces that violate human rights [see Chapter 1 on the USA]. Interlocking company ownerships between the US and Canada can help facilitate such trade.

Jet fighter parts for Israel

US-made F-16 fighter jets have been transferred to Israel. In July 2002 Amnesty documented that the Israeli Defence Forces (IDF) responded to the attacks from Palestinian forces and suicide bombers, using armour piercing rounds, grenade launchers, F16 aircraft and missiles from Apache helicopters against installations of the Palestinian security services and Palestinian residential areas. By the end of February 2002 more than 860 Palestinians had been killed, including more than 180 children.³⁰⁶ The Canadian government should have suspended the transfer of computer parts for F-16s to the US, given the US's transfer of them to Israel and the Israeli Government's ongoing and documented use of F-16s to commit such grave human rights violations.

³⁰⁴ Throughout the 1980s Diemaco, which makes the C7 Combat Rifle (a version of the US colt M16), lobbied the government to change the law so that it could export automatic rifles, contributing to the 1991 legislative changes that created the Automatic Firearms Country Control List (AFCCL) of prescribed countries eligible to buy automatic weapons from Canada. To be eligible for the AFCCL, a country must have a defence development relationship with Canada, although, as Project Ploughshares notes, "it appears that such a relationship is readily established if a sale is imminent or threatened." When General Motors of Canada sold light armoured vehicles equipped with US-made machine guns to Saudi Arabia, for example, the defence relationship was arranged and Saudi Arabia was added to the AFCCL. See www.dfait-maeci.gc.ca/trade/eicb/military/annex1-en.asp for the AFCCL list.

³⁰⁵ Interview with official at DFAIT, 25 April 2003 and 8 May 2003. He added: "Brokering presents huge enforcement problems if the definition covers goods located outside Canada, or activities carried out in a third country. A more sensible approach is to work with countries known to have a permissive regime to improve their controls and administer them in a responsible way."

³⁰⁶ *Israel/Occupied Territories: Mass detention in cruel, inhuman and degrading conditions*, May 2002 (AI Index: MDE 15/074/2002)

Helicopters to Colombia

Amnesty International Canada reported that between September 1998 and February 2000, 40 Huey military helicopters were sold and transferred to the US State Department, 33 of which were upgraded in the US and then redirected to the Colombian military as part of Plan Colombia, a US aid package purportedly to dismantle the drugs trade. That the helicopters were sold to the US State Department shows how this huge loophole in Canadian export policy can be exploited.

Canadian law requires that a permit be issued for the transfer of military equipment to any country other than the US. This system is intended to control the transfer of Canadian military goods to their final destination, i.e. the point where they enter into military use. But if they are refurbished or used in manufacturing in another country they do not require a Canadian permit for transfer to their final destination.

Canadian arms trade policy would not have allowed these helicopters to be sold directly to the Colombian military precisely because of the danger that the helicopters would be used to commit human rights abuses [see further below].³⁰⁷ However, the sale was permitted because under Canadian export policy, the end user was considered to be the US and not Colombia.³⁰⁸

A letter from the Canadian Department of Foreign Affairs and International Trade (DFAIT) explained to Amnesty International Canada that:

“Canada’s policy regarding exports of military goods to the US is based on a long-standing defence production arrangement which continues to serve the mutual interests of Canada and the US. Military goods exported to the US do not require export permits nor does the US provide re-export assurances. Further regulation of defence exports to the US would simply result in the movement of production to the US or the replacement of Canadian suppliers with suppliers from other countries. The only impact would be a loss of jobs for Canadians with no benefit to global peace and security.”

It continued:

“Forty surplus Canadian Forces CH-135 helicopters, originally manufactured in the US, were sold by the Department of National Defence to the US government. The helicopters were to be reconfigured and used for State Department assistance programs in a number of different countries. Military goods which are destined to the US, i.e. where there is a US end-user, or where the goods will be incorporated in a US product or modified in the US, do not require an export permit. Once these helicopters were sold to the US government, they ceased to be “Canadian” and became subject to the very stringent export control process of the US government.”³⁰⁹

³⁰⁷ www.dfait-maeci.gc.ca/trade/eicb/military/export_control-en.asp

³⁰⁸ Amnesty International Canada website: www.amnesty.ca/actnow/actColombia3.htm

³⁰⁹ letter from DFAIT to AI Canada, 10 September 2002

This loophole in Canadian export policy is a serious one, because many Canadian military exports are of components and systems used in the importing country, once they “cease to be Canadian”, to manufacture weapons which are then sold on to third countries.

8.4 Small arms and light weapons

Canada ranks as a “small” rather than medium or large producer of small arms, according to the Small Arms Survey in Geneva.³¹⁰ but its exports of small arms and light weapons can still contribute to human rights abuses.

Philippines

In addition to larger military items sent to the Philippines, the export controls report for 2000 details a transfer of large-calibre ammunition components to the Philippines,³¹¹ where Amnesty International has publicised reports of alleged drugs dealers, including street children, being shot dead in the community by suspected police officers or other armed men;³¹² of extrajudicial executions allegedly carried out by members of the security forces;³¹³ and of the shooting of a human rights worker by a government-backed militia.³¹⁴

Canada’s small arms companies include Para Ordnance, which builds handguns for the military, police and civilian markets and claims “export experience” in the Philippines in its report to Industry Canada;³¹⁵ as well as SNC Industrial Technologies, which produces ammunition and hand grenades for the Canadian Armed Forces and increasingly for foreign military customers worldwide, including the Philippines.³¹⁶

Serious human rights abuses, including unlawful killings, have been committed in the Philippines by government forces and opposition armed groups in the context of the continuing conflicts in the country. Through loss, theft or illegal sale, Philippine government munitions sometimes end up in the hands of criminal and armed political groups. The lucrative black market for small arms can prove an irresistible temptation to underpaid and ill-

³¹⁰ www.smallarms.org

³¹¹ www.dfait-maeci.gc.ca/trade/eicb/military/section03-en.asp?#6

³¹² Amnesty International Annual Report 2002, (AI Index: POL 10/001/2002)

³¹³ Amnesty International Annual Report 1999, (AI Index: POL 10/001/1999) and Amnesty International Annual Report 2002, (AI Index: POL 10/001/2001)

³¹⁴ *Philippines: extrajudicial execution: Chris Batan*, 26 February 1993, (AI Index: ASA 35/002/1993)

³¹⁵ see “Canadian Company Capabilities” on <http://strategis.ic.gc.ca>

³¹⁶ www.snetec.com/about/about.asp

disciplined soldiers. In Mindanao, for example, over 70 per cent of the population owns one or more guns.³¹⁷

Argentina

The latest Canadian export controls report details transfers of \$100,000 worth of firearms to Argentina during 2001.³¹⁸ Amnesty International has repeatedly expressed its concern over police killings and excessive use of force in Argentina. In July 2002 Amnesty International reported that two demonstrators were killed and many others injured during clashes between police and demonstrators as crowds protested at the continuing economic crisis. Although police sources initially claimed that the men were killed by infiltrators among the demonstrators, photos subsequently released to the media clearly demonstrated police involvement in the events leading to their deaths.³¹⁹

Turkey

Firearms were also transferred during 2001 from Canada to Turkey,³²⁰ where Amnesty International has expressed concern at excessive use of force by the police. Amnesty International called for an investigation in November 2001 after four protesters died and 14 others were wounded when Turkish police forces conducted a raid on the Istanbul neighbourhood of Küçükarmutlu, which had been the centre of hunger strikes against a new prison system. Eyewitnesses reported that the police repeatedly fired their weapons both at specific targets and at random as they moved towards the fast house. The eyewitnesses alleged that there was no armed resistance from the protesters.³²¹

8.5 Exports of “Dual Use” Technologies

Canada regularly exports equipment categorised as civilian to military forces and thus these exports are excluded from its reports on military exports. The Export Control List already contains a “dual-use” category which should be expanded to include all equipment, including helicopters, which, although built to commercial standards, is sold to foreign militaries.

³¹⁷ *The Terror Trade Times* No 4, Amnesty International, May 2003. There is already a thriving illegal market in small arms in the Philippines and there are fears that the injection of military equipment from the US – which includes small arms – may contribute to a further proliferation of these weapons.

³¹⁸ www.dfait-maeci.gc.ca/trade/eicb/military/table3-en.asp

³¹⁹ Argentina: *Fear for Safety* - Claudio Pandolfi (m), Lawyer and Human Rights Defender (AI Index: AMR 13/006/2002)

³²⁰ www.dfait-maeci.gc.ca/trade/eicb/military/table3-en.asp

³²¹ Turkey: *Amnesty International calls for investigation into Küçükarmutlu operation* (AI Index: EUR 44/080/2001)

Turkey

Bombardier Aerospace, currently the third largest Canadian military contractor,³²² was contracted at the end of 1999 to build and deliver a \$21.8 million Challenger 604 aircraft to the Turkish National Intelligence Agency for cross-border operations.³²³

The Challenger 604 aircraft transfer did not appear, however, on the government's export list, which illustrates another loophole in the Canadian export licensing system. Items that are certified as being for civilian use, even if the end user is a military one, do not need to appear on the list, even as dual-use items. This happens most frequently with aircraft and helicopters, items which have both military and civilian use and whose makers are engaged in manufacturing for both civilian and military markets. Project Ploughshares estimates that in this way, up to \$100 million worth of additional transfers are not recorded on the publicly available export control lists.

The Turkish government is one of Canada's larger customers for military equipment. \$27.7 million worth of equipment was transferred between 1993 and 2001,³²⁴ including Bell helicopters in 1993 as well as aircraft for cross-border operations in 1999.³²⁵ During 2001 another \$31,500 worth of aircraft parts and \$343,000 of electronic aircraft equipment were transferred.³²⁶ In August 2000 thirty-eight civilians, including women and children, were killed when Turkish jets bombed a group of pastoralists near Kendaxor, near Irbil, in Northern Iraq.³²⁷

Colombia

In 2001 Vector Aerospace Corporation overhauled and supplied components for aircraft owned and operated by the Colombian armed forces, but military export permits were not required because the specific aircraft and parts were designated as civilian.³²⁸

Likewise, when Bell Helicopter Textron Canada shipped 12 Bell 212 helicopters to the Colombian police and military between 1994 and 1996, the transfers did not require Canadian export permits because the 212 helicopter, a model based on an earlier military design, had received commercial certification from Transport Canada. Both of these contracts contributed to the operations of the Colombian military forces whose units were involved

³²² (www.ploughshares.ca/content/MONITOR/mond02i.html)

³²³ *Defense News* 20 December 1999. The article also notes that in a cross-border operation earlier that year into Kenya to capture the PKK leader Abdullah Ocalan, the Turkish secret services had used a rented aircraft.

³²⁴ DFAIT

³²⁵ SIPRI

³²⁶ www.dfait-maeci.gc.ca/trade/eicb/military/table3-en.asp

³²⁷ Human Rights Watch *Turkey and War in Iraq: Avoiding Past Patterns of Violation*, March 2003

³²⁸ *Ottawa Citizen* 21 February 2001

with impunity in serious human rights violations and protected paramilitary groups responsible for gross human rights abuses.³²⁹ Therefore, the contracts should first have been subject to the licensing control system.³³⁰

China

It is not just arms manufacturers who are involved in trade that is implicated in human rights violations. Technology developed for commercial purposes by Nortel Networks, Canada's telecommunications giant, is reportedly being used by police and security forces in China to refine the targeting and repression of political dissidents.

Amnesty International has documented the cases of democracy activists in China who have been detained or tortured for Internet-related offences perceived as "subversion".³³¹ Forty two people in China believed to be prisoners of conscience were detained or are serving long sentences in prison or labour camps for Internet-related offences. Three have died in custody, two of whom reportedly died as a result of torture, and there are reports that others have been tortured or ill-treated in detention. Internet use is increasing rapidly in China – 73 per cent up between June 2001 and June 2002 – and as a result, the so-called "Great Firewall of China"- the Chinese government's previous attempt to control Internet traffic through a handful of international "gateways"- is giving way under the increasing weight of traffic. It is being replaced by a new, much more comprehensive system, Golden Shield.

Ultimately the aim of Nortel Network's supply of technology for China's "Golden Shield" project is to create a gigantic online database with an all-encompassing Chinese government surveillance network of smart cards, credit records, closed-circuit TV, voice and face recognition and Internet use surveillance. The Chinese authorities envisage the system offering immediate access to records on every citizen in China, while linking to networks of cameras to increase police efficiency. Crucially, with the help of Nortel's technology, Internet surveillance and filtering of available content is being moved from the international gateway level down to the level of individual computers in homes, Internet cafes, universities and businesses, in direct conflict with the rights to freedom of information and expression. Nortel is also reportedly involved in research on voice recognition technology to facilitate the automatic surveillance of telephone conversations, and in providing technology that allows video surveillance data to be transported from remote cameras back to a centralised surveillance point.³³²

³²⁹ Amnesty International reports for 1996 and 1997.

³³⁰ www.ploughshares.ca/content/BRIEFINGS/brf013.html .

³³¹ *People's Republic of China: State control of the internet in China*, 2002 (AI Index: ASA 17/007/2002)

³³² *China's Golden Shield: Corporations and the Development of Surveillance Technology in the People's Republic of China*, published 2001 by the International Centre for Human Rights and Democratic Development; and *People's Republic of China: State control of the internet in China*, 2002 (AI Index: 17/007/2002)

Between 1995 and 2000, Export Development Canada (EDC), a government agency, provided nearly \$842 million in financing and risk insurance to Canadian companies doing business in China in the field of advanced technologies and telecommunications. There is no process for screening the end uses to which technology exports supported by the EDC will be used. Some projects in China have reportedly been turned down because they were considered unsuitable on human rights grounds, but EDC will not release a detailed breakdown on what projects have received financing or insurance, despite its recently improved disclosure policy.³³³

8.6 Specific Recommendations

The government of Canada should actively promote the development of an international “Arms Trade Treaty” with provisions for arms export control based upon respect for international law, especially international human rights and humanitarian law. Canada should also take steps to strengthen efforts to address the trade in small arms, light weapons and security equipment, and to prevent the use of indiscriminate weapons [for details on these measures, see the final recommendations at the end of this report]

- The Canadian Government should undertake a comprehensive review of the military, security and policing goods export control system. The Department of Foreign Affairs and International Trade should implement immediately a more strict interpretation of its existing export control guidelines, especially those calling for strict control of military exports to countries at conflict or with a record of human rights violations.
- Arms export permits should be required for any commercial equipment or components sold to foreign military, security or police end-users.
- There should be meaningful transparency of arms and security equipment and technology export data to allow for effective parliamentary oversight and public accountability. The current reports lack sufficient detail about the numbers and types

³³³ Briefing paper: *Canada’s Trade Promotion and Human Rights Activities in China*, by the International Centre for Human Rights and Democratic Development, 2001. It is also hard to establish details of EDC transactions supporting transfers of military equipment, as descriptions of goods in the publicly available information are not detailed, and even then it is only the financing transactions which are published, not those involving risk insurance. A spokesman said that EDC does not provide financing or insurance for sales of ammunition.

While EDC has a separate framework for taking environmental considerations into account; with human rights it states that “under no circumstances will we do business with countries that are human rights abusers” and that it “recognizes the sovereignty of other national governments with respect to human rights and it conducts business with these governments when doing so is consistent with the policies of the Government of Canada.” (www.edc.ca/corpinfo/csr/social_faq_e.htm) An EDC spokesman said that advice is sought from DFAIT for transfers to countries where there is a possibility of human rights issues.

of equipment being transferred for an adequate assessment to be made of their impact on human rights.

- Permits or licences should be required for all military and security exports to the US and should be refused if there is a danger that the US recipient will in future transfer the items to others likely to commit human rights violations.
- More meaningful information about Canadian licensed production of military and security technology should be published in order to ensure that equipment manufactured abroad under licence is not diverted for use in countries where it is likely to contribute to human rights violations.
- Arms brokering activities outside Canada, or where the arms in question are transferred outside Canada, by Canadian citizens, residents and companies should be brought within the law.
- Canada should ratify and implement two key international conventions related to small arms to which it is a signatory:
 - the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials, which it signed in 1997;
 - the UN Protocol Against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition, which it signed in 2002.

9. Japan

9.1 Production and Trade

Japan is not one of the world's major arms exporters, but it nevertheless has an international responsibility to improve the control of its arms and dual use exports so they do not contribute to human rights violations. In 1967 Japan banned military exports to communist countries, those under UN embargo, and those in or near a state of hostility. In 1976 this ban on military exports was effectively extended worldwide, and included defence production equipment and technologies. Japan's domestic arms industry is restricted by law to supplying the country's own forces.³³⁴

³³⁴ During 2001, the Japanese Government's submissions to the UN Register of Conventional Arms reported the procurement of 18 new type-90 battle tanks, 36 armoured combat vehicles, 27 large calibre artillery systems, 12 F2 combat aircraft, a warship, a submarine, and two guided missile boats for the

However, in 1983 the Japanese government signed a bilateral Exchange of Technology Agreement with the US, which makes an exception to the 1976 ban on arms exports and allows for cooperation in the sharing of military technology.³³⁵

9.2 Transfers of Advanced Technology

The flow of technology between Japan's military and civilian sectors runs in a different direction to that of many other arms-producing countries, particularly the US. Whereas in the US, research on military technology developments is done by the big arms contractors and "spin-off" technology then benefits the civilian sector, in Japan civilian research and development activity takes the lead, with "spin-on" into the defence sector. Even the big manufacturers such as Mitsubishi have relatively small defence arms, so there is greater reliance on technology from the civilian sector. Japan is regarded as advanced in its putting to use of civilian technologies in the military field.³³⁶

But the fact that most Japanese arms manufacturers also make civilian goods raises the question of dual usage. As is the case with other G8 nations, that a particular technology can have both a civilian and military application means that items categorised as civilian can find their way to military end-use by those with a history of human rights violations, even though Japanese law prevents exports of military goods. There is no airtight definition of arms, and the operation of the controls is dependent on the changing interpretations of the Government. During the 1980s, for example, Japanese jeeps went to the Nicaraguan army, helicopters were sold to military or paramilitary forces in Burma and Saudi Arabia, while aircraft and trainer aircraft went to the Philippines, all countries with disturbing human rights records.³³⁷

Japanese armed forces. Japanese military expenditure came to a total of US\$38.5 billion in 2001, which represents between four and six per cent of the world total. (On a similar level with France, Russia and the UK but considerably behind the US which made up 36% of the world total.) This is about 1% of Japanese GDP, a figure that has remained stable for the past decade.

³³⁵ During the 1980s this resulted in little substantive action, but in the 1990s the pace of cooperation increased with the joint – if at times fraught - development of the FSX fighter plane to replace Japan's aging domestically developed F-1 fighter, and since 1999 a joint project on ballistic missile development. In 1993, for example, Mitsubishi signed a contract with the Pentagon to transfer radar technology to the US, technology that had been developed for the FSX fighter.

³³⁶ telephone interviews with Dr John Swenson-Wright, University of Cambridge and Dr Chris Hughes, Centre for the Study of Globalisation, University of Warwick

³³⁷ *Arms Production in Japan: The Military Applications of Civilian Technology*, West View Press, 1986

9.3 Foreign Licensed production

Japanese law does not permit licensed production abroad of military technology. Civilian technology can be produced under licence in other countries.³³⁸ However, civilian technology can easily be adapted to military purposes.

Helicopters to Indonesia and Iraq

Kawasaki Heavy Industries has a joint venture with Germany's MBB to produce the BK 117, a dual-use light transport helicopter which is most often used for purposes such as medical evacuations. However it has "hardpoints" or 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 BK 117 was unveiled at the Paris airshow, fitted with eight anti-tank missiles, a roof-mounted sight for the missiles, a sight for the 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.³³⁹

Japan has had agreements with Indonesia to produce Kawasaki's BK 117 helicopter under license in that country as the IPTN NBK 117.³⁴⁰ Amnesty International has reported instances of helicopters being used to violently disperse otherwise peaceful protests in Indonesia. In April 1994, tens of thousands of workers from factories around the city of Medan were involved in a peaceful demonstration over wages and working conditions. Open clashes erupted as thousands of workers from the industrial centres outside Medan were prevented by security forces from entering the city to meet the Governor. They were met by thousands of fully-armed troops of the Police Mobile Brigade, soldiers from the District Military Command (KODIM), as well as crack airforce troops (LINUD), military police (POM), and regular police units. At least nine armoured vehicles were deployed nearby and helicopters patrolled overhead. An estimated 25,000 workers, unable to enter Medan, gathered and continued their protests in the surrounding industrial areas. In an attempt to disperse the crowd, troops fired their weapons over the heads of protesters, who sought cover

³³⁸ Telephone interview with Shinichi Kihara, Deputy Director of the Japanese Security Export Control Policy Division, 10 April 2003

³³⁹ *Aviation Week and Space Technology*, 22 July 1985. The publication's report on the Paris air show that year stressed that: "Emphasis on military versions of existing and future helicopters underscored the continuing turgid market for new civil helicopters."

Wackenhut Services Inc, a private security firm with the US government contract to police the Savannah River Site nuclear plant in South Carolina, employs a BK 117 helicopter equipped with a mounted M-60 machine gun with a laser sight. *Augusta Chronicle* 24 November 2000

³⁴⁰ *Jane's All the World's Aircraft* 8 July 2002

within the walls of nearby factories.³⁴¹ Cases such as this demonstrate the necessity of full transparency from the Japanese government about where its technology ends up.

Cabins and electrical equipment manufactured by Kawasaki for the BK 117 helicopter were still being transferred to Germany in 2001.³⁴² The resulting helicopters were exported from the German production line.³⁴³ This raises the question of end-use controls, as once those Japanese parts reach Germany, the issue of where the resulting helicopters end up and for what purpose is beyond Japan's reach.

Twenty BK 117 helicopters were on the Iraqi air force inventory in 1995; the fact that their point of origin is not easily traced, highlights the need for greater transparency in transfers of dual-use goods.³⁴⁴

In another example, Nissan's 4x4 Patrol utility vehicle and several other Nissan trucks are sold across the world under production arrangements with local distributors. The Jabalpur Ordnance Factory in Madhya Pradesh, India has adapted the 4x4 Patrol utility vehicle for military use. Such vehicles are used, among other purposes, as carriers for anti-tank missiles. The same Indian plant, which has been producing Nissan vehicles since the 1960s, has also produced Nissan's Z4W73 light military 4x4 truck under licence as a "carrier".³⁴⁵

9.4 Small arms

Japan is a very large exporter of "non-military" firearms, such as sporting and hunting rifles, but its exports of such weapons are not revealed by the government, thus making it very difficult for parliament to oversee or the public to hold the Japanese government accountable for ensuring the responsible management of small arms exports.

Exporters do have to apply first for a government license, but details of licenses granted are not made available to the public, so no oversight can be exercised over government export decisions.³⁴⁶ This trade was worth over US\$30 million in 1999. Japan is ranked third in the world, after Brazil and Germany, for exports of sporting rifles from companies such as Miroku Firearms, with 1999 exports valued at US\$15.1 million. In 1999, it was also the second biggest exporter, after Italy, of "non-military" shotguns, with total exports worth US\$15.2 million.³⁴⁷

³⁴¹ *Indonesia: Labour activists under fire*, May 1994 (AI Index: ASA 21/010/1994)

³⁴² *Jane's Defence Weekly*, 11 April 2001

³⁴³ *Jane's Sentinel Security Assessment – China and Northeast Asia* 19 March 2003

³⁴⁴ *Jane's Intelligence Review*, 1 February 1995

³⁴⁵ *Jane's World Defence Industry* May 1997, p123 and *Asian Age* 8 March 2002

³⁴⁶ Shinichi Kihara interview

³⁴⁷ *Small Arms Survey*, Geneva, 2002 p114

Amnesty International has documented the use of “non-military” guns such as hunting rifles in human rights violations. For example, it was reported in 1997 that large-scale massacres of civilians in Algeria were being perpetrated by death squads using, among other weapons, hunting rifles.³⁴⁸ In 1997 the organisation drew attention to the case of a Bulgarian traffic policeman who shot at and injured three teenage boys with a hunting rifle loaded with shotgun pellets.³⁴⁹

In 2000, Amnesty International reported that tensions between ethnic groups in the Solomon Islands, from Malaita and Guadalcanal island, escalated into violent conflict.³⁵⁰ In October 1998, armed political groups later calling themselves the Isatabu Freedom Movement (IFM), started a campaign of threats and intimidation against Malaitan settlers on Guadalcanal island, killing and injuring scores of civilians and causing an estimated 20,000 people to abandon their homes. In addition, up to 10,000 mostly Guadalcanalese indigenous people have fled into remote areas. The IFM is said to draw most of its fighters, estimated to number between 300 and 2,000, from impoverished villages along the rugged Guadalcanal south coast, known as the “weather coast”. They have, at times, included at least 100 child soldiers aged 12-17 and are armed with hunting rifles, some stolen police guns and explosives, traditional weapons and home-made pipe-guns or refashioned World War II rifles.

Clearly the designation of a gun as for recreational or hunting purposes does not prevent it being used to commit human rights abuses, and thus such weapons should be subject to the same controls as explicitly “military” goods. Canada, another member of the G8, includes hunting rifles in its definition of military goods to be subject to export controls.³⁵¹

9.5 Electronic equipment

High-specification electronic and radio equipment that appears on the Wassenaar Agreement’s list of dual-use technologies require an export license to be exported from Japan. However, standard police radios do not require licensing. As with hunting and sporting guns, information on licenses granted for export of high-tech electronic equipment are not made publicly available.³⁵²

³⁴⁸ Algeria: *Civilian population caught in a spiral of violence*, 1997 (AI Index: MDE 28/023/1997)

³⁴⁹ Bulgaria: *Growing incidence of unlawful use of firearms by law enforcement officials*, December 1997, (AI Index: EUR 15/012/1997)

³⁵⁰ Solomon Islands: *A forgotten conflict*, September 2000, (AI Index: ASA 43/005/2000)

³⁵¹ www.dfait-maeci.gc.ca/trade/eicb/military/documents/20qa-eng.pdf . Also on the subject of small arms, diode systems for laser aiming pointers sold in the US for use with small arms have been made by Japanese companies, according to *Jane’s Defence Systems Modernisation*, 1 March 1994, p23

³⁵² Shinichi Kihara interview

Indonesia

The Japanese ICOM Inc company makes portable police radios; it was represented at the International Police and Security Exhibition in Tehran in 2002. ICOM radio equipment is used by police forces worldwide, including, for example, in Indonesia.³⁵³ Reports by Amnesty International have highlighted the lack of accountability of the Indonesian police and their continued involvement in human rights violations.³⁵⁴

Secom, which manufactures and exports electronic surveillance and security equipment, set up joint venture security services operations in the 1990s with Indonesian companies affiliated with the Indonesian armed forces and police.³⁵⁵ The human rights record of these armed forces and police has long been a concern expressed by Amnesty International and other human rights organisations.³⁵⁶ Secom still had operations in Indonesia at the start of 2003, and the Indonesian armed forces and police were reportedly continuing to commit grave human rights violations.³⁵⁷

ICOM's radios have also made their way into military hands. ICOM HF-transceivers were being used in Sierra Leone in 1995 by Executive Outcomes, the now-dissolved South African mercenary company which supported the Sierra Leonean government in its fight against rebels of the Revolutionary United Front. Executive Outcomes' mercenaries were using them to communicate with company bases in Angola and, when conditions permitted, with their head office in Pretoria, South Africa.³⁵⁸ It is unknown whether Executive Outcome's equipment came from the Japanese, American, German, Australian or British branches of ICOM – which in itself demonstrates the lack of transparency about how such equipment came to be transferred to forces involved in hostilities.

The Yaesu Musen Company Ltd manufactures and exports radio transmitters that can have military and police applications. By 1998 they had been sold to over 100 countries, including China, India and countries in the Middle East.³⁵⁹

Japanese companies are moving into the field of cyber-security in China. Amnesty International has recently expressed its concern that foreign companies are reportedly

³⁵³ A distributor of ICOM radios and other security and surveillance equipment in Indonesia, Consolidated Services International, reports that it has Indonesian Ministry of Defense certification for its products for police use within Indonesia. www.swssec.com/indonesia.html (sic)

³⁵⁴ *Indonesia: Activists working with the Institute for Human Rights Study and Advocacy (ELS-HAM) in Papua and Jakarta*, October 2002, (AI Index: ASA 21/038/2002) and *Indonesia: Paying the price for "stability"*, 25 February 1998, (AI Index: ASA 21/12/98)

³⁵⁵ *Nikkei Weekly* 7 March 1994

³⁵⁶ *Indonesia: EU ban on military and security exports to Jakarta must not be lifted, for now*, January 2000, (AI Index: ASA 21/04/00)

³⁵⁷ See for example "Indonesia : Activist's arrest could undermine Aceh cease-fire", February 2003, (AI Index: ASA 21/006/2003) .

³⁵⁸ *International Defense Review*, 1 November 1995

³⁵⁹ *Jane's Military Communications* 1999/2000

providing technology which could be helping the Chinese authorities to censor the Internet and monitor its use, given that democracy activists in China are being detained or tortured for Internet-related offences perceived as “subversion”.³⁶⁰

9.6 Security Equipment

Japan does not have any controls on the export of electro-shock stun weapons and leg irons.³⁶¹ In early 2003, for example, a Japanese company was reportedly involved in the manufacture wholesale and export of items including electric shock batons and tear gas sprays. These were advertised under the category of “self-defence”, along with its other product lines of used tyres and incense.³⁶²

Amnesty International continues to campaign for governments worldwide to ban the manufacture, promotion and trade to other countries of equipment whose use is inherently cruel, inhuman or degrading, including leg irons and electro-shock stun belts. Regarding electro-shock stun guns and batons, Amnesty International has called for such weapons to be suspended from export and use in law enforcement pending independent examination of the medical and other effects of each type, sub-type or class of such weapon to ensure that their usage would not contradict international human rights standards, particularly the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.³⁶³

9.7 Specific Recommendations

The government of Japan should actively promote the development of an international “Arms Trade Treaty” with provisions for arms export control based upon respect for international law, especially international human rights and humanitarian law. The Japanese government should also take steps to strengthen efforts to address the trade in small arms, light weapons and security equipment, and to prevent the use of indiscriminate weapons [for details on measures, see the final recommendations]

In addition, the Japanese government should specifically:

- Tighten up the controls on export of dual-use technologies so that the end-use is taken into account in order to prevent international transfers of weapons or technologies likely to be used for human rights violations;

³⁶⁰ Amnesty International, *People's Republic of China: State control of the internet in China*, November 2002, (AI Index: ASA 17/007/2002)

³⁶¹ Shinichi Kihara interview

³⁶² http://www.ktpc.or.jp/kp/401200/seihin3_e.html

³⁶³ Amnesty International: *Stopping the Torture Trade*, (AI Index: ACT 40/002/2001)

- Ensure greater transparency on exports of dual-use technology and small arms so that the Japanese parliament can be held accountable for respecting international human rights standards; “Non-military” sporting and hunting guns to be included in military export controls.
- Ban the export of “security” or “crime control” equipment that can easily be used for torture; suspend the export and use of electro-shock weapons pending independent studies to ensure any uses can be consistent with international human rights standards;
- Implement the principles included in the Wassenaar Arrangement, which Japan approved in July 1996, on transparency, exchange of information and greater responsibility in transfers of conventional weapons and dual-use technologies.

10. Overall Recommendations

The governments of the G8 should urgently review the human and other costs of their inadequate arms export policies and make a determined effort with their allies to reach an effective international agreement without delay to address the key problems outlined in this report. Given the long lifecycle of most arms and security equipment and technology - and therefore a risk of possible abuse for an extended period - there should be a rigorous interpretation of the basic principle that no exports of such goods should be permitted where it is reasonable to assume that these items will contribute to grave human rights violations.

10.1 Call for a Global Arms Trade Treaty

Amnesty International is calling on all governments, especially those of the G8, to negotiate an International Arms Trade Treaty which ensures full respect for international human rights and humanitarian law. This Treaty should include the following:

10.1.1 A Framework Treaty

Contracting Parties shall not authorize international transfers of arms:

- which would violate their obligations under international law - including the Charter of the United Nations, arms embargoes and other decisions of the United Nations Security Council and international treaties prohibiting the use of weapons that are indiscriminate or that cause unnecessary suffering.
- In circumstances in which they know, or should know, that the arms due to be transferred are likely to be:
 1. used in breach of the United Nations Charter or corresponding rules of customary international law, in particular those prohibiting the threat or use of force in international relations;

2. used to commit serious violations of human rights;
3. used to commit serious violations of international humanitarian law relating to armed conflict;
4. used to commit genocide or crimes against humanity;
5. diverted and used to commit any of the above acts.

Furthermore there should be a presumption against the authorisation of those arms transfers likely to:

- be used for or to facilitate the commission of violent crimes;
- adversely affect political stability or regional security;
- adversely affect sustainable development;

Contracting Parties will submit an annual report on international arms transfers from or through its territory or subject to its authorization to an International Registry, in accordance with the requirements of this Convention. The International Registry shall publish an annual report and other periodic reports.

10.1.2 A Protocol on the export of licensed arms production

Contracting Parties shall:

- Require that all Licenced Production Agreements are authorised by governments.
- Not permit the export of licenced arms production in circumstances where it would result in international arms transfers contrary to the International Arms Trade Treaty.
- Not permit the export of licenced arms production without a specific mutually binding agreement with the recipient state to seek prior authorization for any exports from a licensed production facility on a case-by-case basis, stating maximum production quantities to be exported and requiring in each case end-use certification and provision for end-use monitoring.

10.1.3 A Protocol on arms brokers and traffickers

Contracting Parties shall:

- Require that all arms brokers or traffickers operating or having residence or business dealings on their territory be registered.
- Not register anyone to act as an arms broker or trafficker if they have aided or committed crimes set out in the International Arms Trade Treaty, or been convicted of a crime of armed violence, illegal trafficking, or money laundering.
- Require a license for the conduct of any particular arms brokering or trafficking deal, wherever conducted by any of its nationals or permanent residents, and refuse such a licence if the applicant is not registered, or if the deal in question would result in arms transfers that violate the principles of the International Arms Trade Treaty.

10.2 Oppose Indiscriminate Weapons

Amnesty International calls on all parties to any international armed conflict to take all necessary precautions to avoid civilian casualties, in accordance with binding principles of international humanitarian law. These include a prohibition on direct attacks on civilians or civilian objects; attacks which do not distinguish between military targets and civilians or civilian objects; and attacks which, although aimed at a military target, have a disproportionate impact on civilians or civilian objects.

10.2.1 Chemical and biological weapons

The use of chemical and biological weapons in armed conflict is prohibited by international law. They are inherently indiscriminate weapons, incapable of being used in a manner that does not violate the principle of distinguishing between civilians and combatants -- a customary rule of international humanitarian law.

Even if they could be targeted solely against combatants, attacks with biological or chemical weapons are still prohibited because they cause superfluous injury and unnecessary suffering to combatants, and thus violate a customary rule of international humanitarian law.

10.2.2 Depleted Uranium

Amnesty International calls on governments to refrain from the transfer and use of depleted uranium (DU) weapons, pending the outcome of investigations into their long-term health effects. DU ordnance may pose a long-term threat to civilians and the environment. Some studies suggest that DU dust, which remains in the vicinity of targets struck by DU weapons, poses a significant health risk if inhaled or ingested.

10.2.3 Anti-personnel landmines

Amnesty International is completely opposed to the use, manufacture stockpiling and transfer of anti-personnel landmines. In many conflicts landmines are intentionally laid in areas where they will cause maximum disruption to civilian life. They continue to maim and kill unsuspecting civilians long after conflict has ended. Amnesty International calls on all governments to:

- sign, ratify, implement and monitor the 1997 Ottawa Mine Ban Treaty;
- ban the use, production, stockpiling, sale, transfer or export of landmines;
- provide resources for community-based de-mining and mine awareness programs;
- assist and help the victims of landmines.

10.2.4 Cluster bombs

Since October 2001, Amnesty International has called for a moratorium on the use of cluster weapons. Cluster bombs are munitions which carry hundreds of sub-munitions or bomblets. Cluster bombs present a high risk of violating the prohibition of indiscriminate attack, because of the wide area covered by the numerous bomblets released. At least five per cent of them do not explode upon impact, becoming *de facto* anti-personnel mines and remaining a continuing threat to people, including civilians on the move, who come into contact with them.

10.3 Curb Small Arms and Light Weapons Proliferation

The proliferation of small arms and light weapons encourages abuse and is a growing problem recognized by the international community. Amnesty International considers the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (July 2001) to be a positive step but insufficient to address the misuse of small arms for human rights violations by states' armed forces and law enforcement agencies. Amnesty International calls for full respect for international human rights and humanitarian law by all states with regard to the use and export of such arms. In addition to an International Arms Trade Treaty (see above), other stronger measures are required as follows:

10.3.1 Transparency

- All small arms and light weapon transfers should be included in a UN Register for global transfers; regional transfers should be included in regional registers.
- States should publish comprehensive and detailed annual reports on arms transfers and identify and set up mechanisms to ensure effective parliamentary scrutiny of arms transfer policy.
- Systems should be established for adequate and reliable marking of arms during manufacture or import and for adequate record-keeping on arms production, possession and transfer. These should include state-to-state, and international arrangements for tracing arms by relevant authorities.

10.3.2 Loopholes should be closed

- There should be strict national registration of each arms manufacturer, broker, transporter and financier, even if they only operate through "third countries". Those convicted of criminal offences involving money laundering, trafficking, and firearms-related violence should be removed from the register.
- Licences for export, transit and import should be controlled on a case-by-case basis, and should include full details of brokers, transporters and financiers involved. They should be issued by the sending, receiving and transit governments after direct consultation with each other and with the home governments of any brokers, transporters and financiers involved, only if the arms transfers proposed will not reach anyone likely to violate international human rights and humanitarian law standards.

10.3.3 Accountability

- National laws should conform to international law and standards, including standards on the use of force.

- Each national legislature should be notified in advance of arms transfers and of follow-up checks made on how the transferred arms will be used in order to prevent serious human rights abuse.
- An international framework should be agreed, based on international law which includes rigorous criteria for arms transfers, mechanisms for reviewing their implementation, and model regulations governing the import, export and transit of state-to-state transfers.

10.3.4 International assistance

- International aid projects to prevent the proliferation and misuse of small arms should promote strict adherence to international human rights standards and humanitarian law.
- Projects should include concerted efforts to increase the capacity of law enforcement agencies to control the proliferation and misuse of small arms, in accordance with international standards, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- An international fund should be established to provide resources to assist countries in the collection and destruction of small arms which are not in legal civilian possession or acquired for legitimate national defence or internal security purposes.

10.4 Police and Security Equipment

Amnesty International is calling on all governments, especially those of the G8, to:

- Ban the use of police and security equipment whose use is inherently cruel, inhuman or degrading. Ban the manufacture and promotion of this equipment and its trade to other countries. This should include: leg irons, electro-shock stun belts and inherently painful devices such as serrated thumb-cuffs.
- Suspend the use of equipment whose medical effects are not fully known, pending the outcome of a rigorous and independent inquiry into its effects. This should include equipment such as high-voltage electro-shock weapons. International transfers should be suspended pending the results of the inquiry.
- Conduct an independent and rigorous review of the use of equipment where its use in practice has revealed a substantial risk of abuse or unwarranted injury. Suspend the transfer of such equipment to other countries pending the results of the review. This should include equipment such as legcuffs, thumbcuffs, shackle boards, restraint chairs and pepper gas weapons.

- Introduce strict guidelines on the use of police and security equipment such as handcuffs and tear gas. Set up adequate monitoring mechanisms to keep the guidelines under review and to ensure that they are adhered to.
- Ensure that all relevant research on the safety of new law enforcement equipment and weapons is placed in the public domain before any decisions are taken on their deployment.
