

MONITORING THE IMPLEMENTATION
OF SMALL ARMS CONTROLS (MISAC)

Small Arms Control in
**The Czech
Republic**

The Czech Republic

1.1 Background and Overview

During the Warsaw Pact era, Czechoslovakia was the second largest weapons producer in the Eastern bloc and the seventh largest exporter in the world.¹ Like other CEE countries, however, the arms industry in Czechoslovakia, and then the Czech Republic (once it separated from the Slovak Republic), underwent significant restructuring and suffered from a deep financial crisis.² An important factor in the state of the country's defence industry was then President Vaclav Havel's policy immediately following Czechoslovakia's democratisation in 1989 of greatly reducing arms production and exports. Coming from a 'human perspective', ex-President Havel and his administration viewed the country's past experience with weapons sales as 'immoral' and 'inconsistent with democratic principles and human rights'.³ Defence industry downsizing was, therefore, introduced and weapons manufacturing slowed considerably in the very early 1990s. In 1993, however, an official policy change emerged in the Czech Republic as the perspective concerning arms production and exports shifted away from being a moral issue to an important economic one.⁴ Today, as defence restructuring and privatisation continues, approximately two dozen Czech companies produce and export small arms and light weapons in a competitive environment.⁵

Stockpiles and surplus SALW

Regarding surplus weaponry, Czech officials suggest that because there is 'no internationally accepted definition of what constitutes surplus', excess arms are often stored in the event that they are needed or can be exported.⁶ Although a policy to destroy superfluous weapons does exist, the Czech government's National Report to the UN Department of Disarmament Affairs notes that there is still no codified legislation requiring the destruction of all unserviceable and surplus SALW, and of SALW seized in criminal or administrative proceedings.⁷ Most surplus weaponry is stockpiled and secured by the army or the police.⁸ In some circumstances, surplus arms are sold to private Czech firms for them to sell on the international market. The Ministry of the Interior in 2000 and 2001, for example, sold much of its surplus weaponry to various enterprises in the Czech Republic, which then sought to sell them abroad.⁹

Accusations of illegal SALW transfers:

Czech weapons sales in the 1990s have not been without flaw. Czech arms have reportedly been transferred to undesirable end-users in Sierra Leone, Liberia, and the Democratic Republic of Congo. Questionable weapons deals have also been struck with Sri Lanka, Somalia, and Georgia.¹⁰ In 2001, 1,700 Czech firearms were transferred to Bangladesh, and approximately 100,000 hunting rifles were sold to Yemen.¹¹ In April of 2001, Bulgarian authorities delayed a Ukrainian aircraft that was stocked with Czech weaponry (30 tonnes of automatic weapons and ammunition). Acting on a tip-off from the US, Bulgarian officials were concerned that the weapons were bound for Eritrea, which was under a United Nations embargo. The Czech government argued that the shipment was destined for Georgia, and that the sale was completely legal. Georgian officials confirmed the Czech claim. After several days, the plane and its cargo were released. Much confusion, however, surrounds the incident.¹² Other controversial Czech arms transfers include shipments to Yugoslavia, Iraq, North Korea, Indonesia, and Angola.¹³ On a positive note though, Czech officials have recently denied licences for exports to Burkina-Faso, Niger, Uganda, and

Yemen.¹⁴ However, the announcement by the Czech government in February 2002 that it would sell 45,000 police pistols and news from August 2002 that it would sell its redundant tanks, despite its checkered record of export controls has raised concerns about the efficacy of the control of arms exports in the under the EU Code of Conduct.¹⁵ There is also concern about the so-called 'revolving door syndrome'- cases of former high-ranking military officials 'retiring' into jobs in private companies in related fields. A report by Transparency International highlights the deficiency of parliamentary controls and insufficiency of public controls over the arms trade in the Czech Republic, particularly the shortcomings of the Public Procurement Act and the secrecy surrounding individual contracts.¹⁶

1.2 Elements of the Czech SALW control system

Legislative basis:

Czechoslovakia was one of the first post-Communist countries in the Central and East European region to establish a legal basis for the controls of military exports with a decree passed in 1990. The Czech government continued building a complex system of arms control with Act 38 of 1994, which Czech officials assert is compatible with EU regulations and legislation.¹⁷ Despite the existence of a solid legal base, however, officials suggest that occasional adjustments are required in the Czech law so that international commitments can be put into practice. Because of a constitutional requirement that Czech citizens and firms be ruled by a system of laws, all Czech commitments must go through the law-making process. Such a process is, of course, rather time-consuming. It takes approximately six to nine months to revise existing laws, leaving loopholes between international and national practices in the meantime. This said however, the Government Resolution No 915 of 17 September 2003 attempted to close some of the gaps and thus eradicate some of the flaws in Act 38 of 1994, so that it covers the handling of military material in the Czech Republic, not just foreign trade.¹⁸ However, according to officials, the Czech Republic is less able in general to implement the weapons control law and related regulations. They argue, that when it comes to arms export control, they have been much more effective in policy development than in its implementation.¹⁹ Civil society voices would go further and claim that Czech legislation on arms exports still has many shortcomings and loopholes. For instance, Czech law does not have adequate mechanisms to prevent re-export of Czech arms, leaving it possible for Czech arms to be re-exported to third countries.

Brokering, export criteria and licensing:

Charged with overseeing the arms trade in the Czech Republic, the Ministry of Trade and Industry coordinates an interagency process that involves the Ministries of Foreign Affairs, the Interior, Defence, and Finance (Customs). The Ministry of Foreign Affairs is involved in all licensing decisions, while the Ministry of Defence takes part when 'important defence items' are to be exported. These agencies work together to grant licenses on a case-by-case basis for: (1) companies, including brokers, who want to participate in the foreign trade of weapons; and (2) specific exports, imports, or transits of arms into, out of, and through the Czech Republic.²⁰ Although brokers are included in the licensing process, Czech officials admit that controlling them remains a significant problem, largely because there are so many of them operating in the region. The Czech law does cover both goods and services (such as maintenance or repair of weapons), but goods owned or services

performed by non-Czech companies are not licensed by the Czech government – and neither are transport companies. Czech officials do suggest that they need to close these loopholes and require exporters to be responsible for arms shipments until they have arrived at their official, sanctioned destination.²¹

Although an interagency process that guarantees some oversight and accountability exists in the Czech Republic, at least within the executive branch, there remains some evidence that the interagency mechanism is not without its controversies. Government officials report, for example, that there is a significant amount of disagreement among the agencies about the sharing of information and the destinations of weapons exports. Regarding the former, some agency representatives suggest they are unhappy about the lack of information that they receive from other agencies regarding arms deals and activities. With respect to the destination of arms exports, various officials state that there is heated debate and a general lack of agreement about the kinds of end-users and destinations that are appropriate for Czech arms exports. This dilemma could be seen very early on in the democratisation process when the post-communist Czechoslovak Foreign Ministry, led by a former dissident, proclaimed an end of arms sales to regimes with questionable human rights records. Yet, the Department of Trade Industry issued export licences that resulted in major sales of tanks and aircraft to states such as Syria and Burma. Moreover, there is significant concern on the part of certain ministries about the fact that Ministry of Trade and Industry officials are responsible for both the promotion of trade and trade control functions. Reportedly, however, agencies working together on the issue of SALW have had a largely positive effect on arms control in the Czech Republic. Particularly since February of 2000, when an intergovernmental working group on SALW was established to prepare a report on the Czech Republic's SALW activities before the 2001 UN Conference on the topic, ministries have become more aware of what each is doing in the SALW area and have been better able to coordinate their efforts.²²

In addition to the disagreement that exists within the Czech Republic on export destinations, Czech officials also express concern about the various and differing opinions about end-users and controlled countries at the international level. Government representatives suggest that they believe there is not enough agreement on these issues within the international community, and that this sentiment lies behind their own difficulties with them. Nonetheless, Czech officials are adamant that their arms control efforts are compatible and in line with both regional and international principles and practices on SALW exports. Moreover, officials report that the national and international impacts of SALW transfers are always considered during the licensing process and throughout government discussions and considerations of weapons control policy. The Czechs state that they abide by and take seriously all commitments that have emerged from the OSCE, the EU, NATO, and the UN.²³ In fact, translations of the EU Code of Conduct and Joint Action on SALW were included in the Czech-language version of the SALW report the government published before the July 2001 UN conference to demonstrate the country's commitment to sharing these ideas and norms with enterprises and citizens in the Czech Republic. This being said, however, the Czechs still have not incorporated into their legislation specific export criteria that will prevent transfers of SALW to human rights abusers, zones of conflict, or areas where diversion may occur. One indication that the inclusion of such criteria into the Czech arms trade law would be problematic emerged

when a well-placed government official involved deeply in arms control processes stated, 'who are we to say who can or cannot have weapons anyway?'²⁴

Border Control:

Concerning the security of the Czech Republic's borders, and the power and ability to control them, the country's arms trade law authorises the Ministry of Trade and Industry, the Ministry of the Interior, and the Ministry of Finance (Customs) to audit weapons companies and traders and to physically check arms shipments and transfers. Despite this legal basis for inspection and verification, however, Czech officials report that physical searches of cargo and detailed investigations of companies are 'not common practice'.²⁵ Moreover, government representatives state that the verification of exports after shipments leave the Czech Republic is 'nearly impossible', given the tremendous lack of human and financial resources available.²⁶ The country does rely heavily on end-user certificates, which are required with all licence applications, but officials suggest that international differences in terminology (end-user certificates versus end-user statements versus international import certificates, etc.) are rather confusing for them. False documents are also problematic, as Czech officials struggle with their ability to confirm the legitimacy of all documentation. They would very much like to see, therefore, an effort to harmonise document terminology, format, and use internationally.²⁷

Enforcement and Penalties:

Although civil and criminal penalties are possible for the violation of the arms trade law, the enforcement of the law is highly questionable. According to the Czech criminal code, individuals and companies found guilty of breaking the law can receive up to ten years in prison, a fine of up to 30 million Czech koruna (approximately USD 800,000), and face the revocation of licences to engage in the weapons trade.²⁸ There have been, however, very few cases of prosecution for breaking the arms trade law, and incidents that have arisen have largely resulted in fines being levied. According to Czech officials, strict investigation of legal violations is rather difficult, as agencies involved are limited by the number of staff and amount of money they can commit to these endeavours.²⁹

Transparency:

In a significant step in the Czech Republic's efforts to be transparent regarding its SALW transfers and system of controls, the government published a report titled *The Czech Republic and Small Arms and Light Weapons* in 2001. Czech officials reportedly compiled the report to demonstrate the country's openness on the SALW issue at the July 2001 UN conference on SALW.³⁰ In general, the report outlined, among other things, the national control system, the role of customs authorities, the marking of SALW, and civilian possession. The report also provided information about the numbers of weapons permit and licence holders, and the value of exports and imports of arms and ammunition. Up until 2001, Czech reports on arms exports and imports, compiled by the Ministry of Trade and Industry, were classified and only available to the parliament. Figures about the arms trade are made publicly available by the Czech Press Agency each year, but only report general trends and statistics. The 2001 report for the UN conference, therefore, is a momentous step.³¹ Furthermore, contrary to speculation, the Czech Republic has maintained this momentum, submitting reports to the UN Department of Disarmament

Affairs again in 2003 and 2004. However, officials report that many within the SALW export control community in Prague believe they already share too much, and that some of the information included in the 2001 document should actually be kept secret. Nonetheless, all Czech officials interviewed for this study state that they would gladly share more information without hesitation if the international community shared more as well. If others lead the front on transparency, they argue, the Czech Republic will follow.³²

Civil society involvement:

Important to the fight against SALW weapons proliferation is the active participation of civil society actors such as NGOs. In the Czech Republic, very few NGOs are interested or involved in the SALW issue to any significant degree. Domestically, the Working Group on Arms Trade Control seems to be the most significant civil society player in the country, with its mandate of seeking greater arms trade transparency in the Czech Republic in accordance with the EU Code of Conduct and UN PoA. This group works on establishing regular contact and communication between the Czech civil society and Czech parliamentarians and officials on monitoring the arms trade, on analysing the existing Czech legislation on arms trade in order to identify its loopholes and on the publication of an annual report on all arms by the Czech government.³³ The organisation Ecumenical Network for Youth Action is also apparently concerned about SALW.³⁴ The organisation was not, however, responsive to the author's requests for interviews and discussion about its work. Based on governmental sources, the Czech organisation called People in Need has developed a project on small arms, and the organisation is registered as an IANSA member – and the international NGO Saferworld has been a presence in the country gathering information about Czech SALW activities.³⁵ Indigenous civil society activity on the small arms issue, therefore, is in need of facilitation. There is, however, a Czech organisation that works to ensure Czech companies receive contracts to supply the Czech army with weapons and to represent the military-industrial complex in its dealings with foreign partners. Created in 1997, the Defence Industry Association acts as an arms lobby in the Czech Republic, but numerous sources suggest that the association is not well organised and, therefore, not terribly effective.³⁶

1.3 Czech SALW Perspectives and Realities

In comparison with others in the Central and East European region, the Czechs consider themselves to be in the best position regarding SALW controls.³⁷ Very early in the democratization process, they recognised the need to control the movement and transfer of military items.

Although weapons production and sales were once perceived as immoral, but then came to be seen as just another part of the economy, Czech officials continue to suggest that the unchecked spread of SALW is potentially inhumane. Officials, in other words, admit that SALW proliferation can and does have a significant impact on human security and increases the likelihood of humanitarian disaster.³⁸ Moreover, Czech officials report that the terrorist attacks on the US of 11 September 2001 seriously affected their perceptions of the terrorist threats that exist around the world, and suggest that they have become more strict regarding arms transfers in order to prevent terrorist activities.³⁹ Despite these

views, however, other sentiments endure in the Czech Republic that work against greater and tighter controls on SALW. Various parliamentarians and members of governmental agencies, for example, reportedly remain reluctant to tighten weapons controls, as they 'do not see weapons proliferation and illicit trade as a problem'.⁴⁰ Moreover, difficulties with divergent and various interpretations of what constitutes a 'small arm', 'light weapon', 'military weapon', 'civilian weapon', or 'surplus weaponry', as well as what export criteria, if any, should guide the arms trade process, continue to hamper efforts to stem proliferation in the Czech Republic. Finally, significant gaps between policy and practice in the Czech Republic are real and recognised by government officials and experts. Although the political will apparently exists in the Czech Republic to enhance arms trade controls, the ability to do better is presently questionable.

Notwithstanding the problems noted above, the Czech Republic, like other countries in the region, is positively influenced by its NATO membership and recent EU integration. Officials consistently remark that these two institutions are major motivating factors driving Czech interests in acting responsibly regarding weapons trade and controls.⁴¹ Continued international interaction with the Czech Republic, therefore, is warranted.

Table 1. Participation of the Czech Republic in Regional SALW Regimes and Regional Security Organisations

SALW Control Agreement/ Regional Security Organisation	Czech Republic's Commitment
EAPC	yes
EU Code of Conduct on SALW	Alligned, 1998
EU Joint Action	Alligned, 1999
Ottawa Convention	Signed, 12/3/97; Ratified, 1999
OSCE SALW Document	Signed, 2000
OSCE Principals	Signed, 1993
Nato	Joined, 1999
PfP	Signed, 1994
Stability Pact Regional Implementation Plan	Yes
UN Convention Against Transnational Organised Crime	Signed, 14/12/00; yet to ratify
Wassenaar Arrangement	Signed, 1995

1.4 Recommendations

- **Export controls:** The Czech Republic's export practice is bound by certain rules as a member of the UN and the EU. But most of these regulations are not enforced and can be easily violated. The Czech Republic therefore needs good quality national legislation on arms exports in line with international law. Such legislation should include the provision of proper end-user controlling mechanisms such as end user certificates which declare that the product will be used in the country which it was approved for, criteria to cover conditions for re-export, and sanctions related to the violation of such rules.
- **Transparency:** The Public Procurement Act currently in place is insufficient and opaque, which leaves room for bad practice. More transparency and simplification of the selection process for the procurement of arms is necessary to ensure scope for corruption is removed.
- **Stockpile management:** Czech legislation currently contains no provisions requiring the destruction of all unserviceable and surplus SALW, and of SALW seized in criminal or administrative proceedings. As such, these weapons are stored, and are susceptible to theft and/or sale to unfavourable parties. The government's existing policy to destroy superfluous weapons should be codified into formal legislation and reinforced with measures for effective enforcement.
- **SALW awareness raising:** Czech civil society involvement in SALW issues is limited and civilian awareness of small arms concerns is low. There is therefore a need for awareness raising and capacity building to foster greater local civil society awareness of and activity on the small arms problem.
- **Border control:** Stricter implementation is necessary of the legal requirements on the verification of documentation, companies and end-users and the checking of consignments of goods being moved across the border. For this to come about, greater financial resources must be secured for technical equipment and training of relevant personnel.

1.5 Endnotes

1. Judit Kiss, *The Defence Industry in East-Central Europe*, London, SIPRI and Oxford University Press, 1997, pp. 13, 15. Also see Saferworld's report on the Czech Republic, at <http://www.saferworld.co.uk/CzechRep.pdf>, p. 3.
2. For details of the Czech Republic's defence industry since the end of the Cold War, see Kiss, *op. cit.*, pp. 34–55.
3. Author's interviews with Czech officials at the Ministry of Foreign Affairs and Prime Minister's office in Prague, December 2001. Also see Kiss, *op. cit.*, p. 38.
4. *Ibid.*
5. Czech companies produce a range of automatic and semiautomatic pistols, military, hunting, and sporting rifles, ammunition, and explosives, for both civilian and military use. See Saferworld report, pp. 9–10. For a list of the Czech companies that produce and export SALW, see the NISAT database at <http://www.nisat.org> and author's interviews with Czech officials at the Ministry of Trade and Industry in Prague, December 2001. On the competitive nature of the Czech arms industry and the tactics defence companies use to highlight competitor transgressions in order to gain more of the market share, see the author's interviews with officials at the Czech Ministry of Trade and Industry and Ministry of Defence, and current and former defence industry executives, in Prague, December 2001.
6. Author's interviews with officials at the Ministry of Defence, December 2001. Also see the Czech Republic country profile at <http://www.nisat.org>.
7. *The Czech Republic Assessment of the Implications of the UN PoA, 2004*, pg 4
8. *Ibid.*
9. Saferworld report, p. 14.
10. Saferworld report, p. 7.
11. 'Illegal Czech arms sold in Bangladesh', CTK, 24 August 2001, at http://www.iansa.org/news/2001/aug_01/czech_arms.htm; David Steiner, 'Czech daily queries government's plan to sell arms to Yemen', *Mlada Fronta Dnes*, 13 September 2001, at http://www.iansa.org/news/2001/sep_01/czech_quest.htm; and Nadia Rybarova, 'Government defends rising Czech arms sales to Yemen', *Associated Press*, 27 November 2001, at http://www.iansa.org/news/2001/nov_01/yemen_sales.htm.
12. 'Czech arms trading back in spotlight', *Infospace.com*, April 2001, at http://www.iansa.org/news/2001/apr_01/czech_arms.htm; 'Bulgaria wants Czechs to prove arms on board of detained plane all for Georgia', CTK [in English], May 2001, at http://www.iansa.org/news/2001/may_01/bul_want.htm; and 'Bulgaria impounds Ukrainian plane loaded with arms', *Reuters*, 29 April 2001, at http://www.iansa.org/news/2001/apr_01/bul_imp.htm.
13. 'Czech security notes illegal arms exports', *Mlada Fronta Dnes*, 26 March 1999, at <http://www.nisat.org>; 'Weapons trading group operated in Czech Republic', CTK, 12 October 1999, at <http://www.nisat.org>; Fabiola Desy Unidjaja, 'Czech Republic offers Indonesia wide-range defence equipment', *Jakarta Post*, 5 May 2002, at http://www.iansa.org/news/2002/feb2002/czech_indonesia5202.htm; Jacques Isnard, 'The government wants to control brokerage activities for arms exports', *Le Monde*, 3 May 2001, at http://www.iansa.org/news/2001/may_01/gov_want.htm; and 'Czech and Slovak firms allegedly involved in Angolagate affair', *Lidove Noviny*, 23 January 2001, p. 8, at www.nisat.org.
14. Saferworld report, p. 4.
15. 'Amnesty International Criticizes Czechs for insufficient Control of Arms Exports', May 14 2004, available at www.nisat.org
16. 'Transparency International report warns of corruption risks in Czech arms trade', *Pavla Horakova*, 26/7/04, at www.radio.cz
17. For an English translation of the 1994 law, see the SIPRI database at www.sipri.org
18. *The Czech Republic Assessment of the Implications of the UN PoA, 2004*, pg 10
19. For an English translation of the 1994 law, see the SIPRI database at www.sipri.org
20. Author's interviews with officials at the Ministries of Foreign Affairs, Trade and Industry, and Defence, December 2001.
21. Ministry of Foreign Affairs of the Czech Republic, *The Czech Republic and Small Arms and Light Weapons*, Prague, Ministry of Foreign Affairs, 2001, pp. 24–6.
22. Author's interviews with officials at the Ministries of Foreign Affairs, Trade and Industry, and Defence, December 2001.
23. *Ibid.*
24. *Ibid.*
25. Author's interview with an official at the Ministry of Foreign Affairs, December 2001.
26. Author's interviews with officials at the Ministries of Trade and Industry, Foreign Affairs, and Defence, and with experts at the Institute of International Studies in Prague, December 2001.
27. *Ibid.*
28. *Ibid.*
29. Saferworld report, p. 3; and SIPRI database.
30. Author's interviews with officials at the Ministries of Trade and Industry, Foreign Affairs, and the Interior, December 2001.

31. Ibid.
32. Saferworld report, p. 6.
33. See the IANSA website at
http://www.iansa.org/participants_v2/search_results3.asp
34. See the IANSA website at
http://www.iansa.org/participants_v2/search_results3.asp
35. Author's interviews with officials at the Ministries of Trade and Industry, Foreign Affairs, and Defence, December 2001.
36. Ibid.; and Saferworld report, p. 2.
37. Author's interviews with officials at the Ministries of Trade and Industry, Foreign Affairs, and the Interior, December 2001.
38. Ibid.
39. Ibid.; and author's interview with a member of the Czech parliament, December 2001.
40. Ibid.
41. Ibid.