

MONITORING THE IMPLEMENTATION  
OF SMALL ARMS CONTROLS (MISAC)

Small Arms Control in  
**Poland**

# 1. Poland

## 1.1 Small Arms and Light Weapons in Poland

Within the Warsaw Pact, Poland's defence industry ranked third in size behind that of the Soviet Union and Czechoslovakia. After the fall of the Soviet Union and the dissolution of Czechoslovakia,<sup>1</sup> Poland emerged as the largest weapons producer in Central and Eastern Europe.<sup>2</sup> Like other countries in the region, however, Poland's weapons-manufacturing complex suffered from substantial decreases in international and domestic markets, and experienced various attempts at restructuring during the early years of its independence.<sup>3</sup> As a result, defence production declined by 80%, and 50% of the industry's employees lost their jobs.<sup>4</sup> Throughout the 1990s, Polish governments debated the degree of emphasis that should be placed on the defence industry, with different approaches emerging from one government to the next. Various perspectives ranged from completely privatising the industry and ending state control to the government actively supporting and subsidising the industry.<sup>5</sup> It appears that the Poles ultimately settled on a mid-range option, as the weapons industry remains largely state-owned, although many joint-stock companies now operate and larger-scale privatisation is planned in the future, depending on foreign investment.<sup>6</sup> Polish defence enterprises have, however, lost most of the privileges they enjoyed during the Cold War era, such as guarantees of raw material supplies, financial credits, large-scale state investment, and tax benefits.<sup>7</sup>

Polish arms manufacturers produce a variety of equipment, including SALW. The small arms segment of the industry is reportedly 'dying', however, as the focus is instead on the production and sale of high-tech weaponry.<sup>8</sup> Officials suggest that the profits available for SALW are too small and the competition is too great. Only four companies, therefore, produce and are licensed to export SALW.<sup>9</sup> The Norwegian Initiative on Small Arms (NISAT) database, however, lists 21 companies in Poland that produce small arms of some kind.<sup>10</sup>

In addition to arms production, Poland possesses 'very large stockpiles' of surplus weaponry. Ten years ago, the Polish government created a semi-state body called the Military Property Agency to control, manage, and account for surplus arms, most of which emerged following reductions in military personnel from 400,000 troops to 180,000. According to official statements, many of the excess SALW were moved from the military to police and law enforcement agencies, while much of the large weaponry has been destroyed in line with Poland's obligations under the conventional Forces in Europe (CFE) Treaty.<sup>11</sup> As for the security of surplus stockpiles stored at military warehouses, officials assert that all arsenals are properly safeguarded by trained guards and accounted for by a computerised system. They suggest that it would be 'extremely difficult to steal or otherwise divert weapon from these facilities'.<sup>12</sup> Moreover, when asked about the 'cascading' effect that reportedly results from NATO membership, Polish officials report that they have not seen any evidence of such a problem, due to weapons destruction and redistribution to law enforcement. The same officials state, however, that they would have preferred to sell the majority of their surplus arms because of the serious economic needs of the country.<sup>13</sup>

## 1.2 SALW Problems, Allegations, and Misconduct in Poland

Various published reports have drawn attention to Polish weapons sales or transfers to questionable end-users, as well as to arms trafficking and smuggling in, through, and out of the country. A US Senate Committee report in 1994, for example, suggested that Poland has 'sold arms to almost any nation that wanted them', and listed country destinations such as Iran, Iraq, Mozambique, and Syria – as well as non-state actors such as the Contras in Nicaragua and the Palestine Liberation Organisation – as recipients of Polish arms.<sup>14</sup> Other reports indicate that Poland has made arms deals with Yemen and that Polish arms have been discovered in conflict zones in Africa.<sup>15</sup> Ultimately, Polish government officials assert that exports of this nature were strictly the result of improper behaviour on the part of unscrupulous defence companies. Reportedly, the government sent them a 'clear message' via prosecution that this behaviour will not be tolerated (see below about enforcement practices).<sup>16</sup>

## 1.3 Elements of the Polish SALW Control System

### Legislative basis

The control of domestic arms manufacture and trade is regulated by the Law on Economic Activity in the Sphere of Manufacturing of and trade in explosives, arms, ammunition and technology of military or police use, of 22 June 2001.<sup>17</sup> Control is executed by the Minister for Internal Affairs, the Minister for Economy and state organs specializing in controlling the given type of activity. The law on firearms and ammunition of May 1999 was amended in February 2003 in order to regulate private, non-commercial transportation of weapons across Poland, their import and export, and the rules of possession of arms by foreigners. The law introduces, inter alia, the institution of the European firearms pass, principles of pneumatic weapons, and procedures for deactivation of firearms. The amendments were introduced in order to harmonise Polish regulations with EU law, prior to Poland's accession into the EU in May 2004.

### Brokering, export criteria and licensing

Beginning in 1990, the Polish government began constructing from scratch a system of export controls in order to satisfy the Coordinating Committee on Multilateral Export Control (COCOM) requirement that would allow the transfer of Western technology to the newly independent country.<sup>18</sup> By December 1993, the Polish government had established a legal basis and appropriate licensing system for the control of dual-use goods and services. Not until 1997 did Poland create additional legislation that covered military items and services. Operating with two different licensing processes (one for dual-use and one for military goods) for three years, the Polish government eventually passed a comprehensive law in November 2000 that consolidated both dual-use and military controls under one umbrella with the same licensing and control processes that address exports, imports, and transits.<sup>19</sup>

The licensing process in Poland is governed primarily by the Department of Export Control at the Ministry of the Economy, but officials at the Ministry of Foreign Affairs, Ministry of Defence, Ministry of Internal Affairs, and the State Protection Office are also involved in an interagency licensing committee that meets once a week to consider license applications

of all kinds.<sup>20</sup> Reportedly, however, the Ministry of Defence views the process from a distance, unless it is directly involved in the sale of military items.<sup>21</sup>

The licensing committee grants three types of licenses to companies or individuals that have been granted a permit to engage in foreign trade: (1) global licenses, which cover trade of non-sensitive items to non-sensitive countries; (2) general licenses, which restrict trade to specific countries; and (3) individual licenses, which cover a specific good or service to a particular destination.<sup>22</sup> All munitions applications must receive an individual license prior to export, import, or transit.<sup>23</sup> Before any licenses may be granted, however, all defence enterprises in Poland must establish and maintain for three years an 'internal control and management system'.<sup>24</sup> This, in effect, decentralises the entire arms and export control system in Poland and requires companies to be responsible for all aspects of the export process, including verification of documentation and deliveries. Overburdened by work and a lack of funds, the creators of the Polish control system suggest that their goal was to shift the 'government burden and headache' of weapons controls to the parties exporting, importing, or transiting goods.<sup>25</sup> This includes individuals or brokers who in any way 'advise, expedite, or facilitate weapons sales or transfers of Polish arms in or out of Poland'.<sup>26</sup> The Polish licensing system, therefore, shifts responsibility to those engaging in the arms trade, but officials believe that their 'comprehensive approach' allows them to see the entire 'chain of transaction' from beginning to end.<sup>27</sup>

Poland's arms control system also addresses civilian possession, as Polish citizens must apply for gun licenses and submit their weapons for registration with the state. According to government sources, only 0.02% of the applications for civilian ownership are approved – and nearly all of them are for hunters and bodyguards.<sup>28</sup> Officials suggest that it is 'very difficult to own a gun in Poland'. Before a license for a personal gun can be obtained, the applicant 'must demonstrate that the weapon will be properly secured and responsibly handled'. No indication was given, however, of how an applicant would or should demonstrate these abilities. Nonetheless, officials report that the control of firearms within Poland and among its citizenry was 'essential for their protection'.<sup>29</sup> Guiding the licensing process in Poland are various control lists and export criteria. The Council of Ministers Decree of 14 September 1999 on Special Purpose Trade Ban and Limitation provides categories of arms that are either banned or limited for export. Two other lists guide the process in terms of destination. The 'prohibitions' or 'negative' list includes all those countries that are under a UN embargo, while the 'limitations' list details those countries that require extra attention by the licensing committee. Members of the committee report that the 'limitations' list includes, in effect, destinations that have recently been added to UN, EU, or other embargo lists, but have not yet been added to the 'prohibitions' list. Regarding export criteria, four considerations are included in Article 10 of the November 2000 law. Enterprises must demonstrate that the weapons: (1) will not be used to 'violate or suppress human rights and fundamental freedoms'; (2) should not pose 'a threat to peace or become detrimental in other ways to stability in the region'; (3) are not destined for a country that 'supports, facilitates or encourages terrorism or international crime'; or (4) will not 'be used for another purpose than the satisfaction of reasonable defence and security needs of the recipient country'.<sup>30</sup> Polish law imposes an obligation on brokers to refrain from facilitating trade in certain situations, that is, effectively holding

brokers responsible for the application of the abovementioned criteria.<sup>31</sup> Although the guidance of export criteria is a positive sign, the principles included in the Polish legislation do not incorporate all of those listed in the EU Code of Conduct, to which Polish officials argue they adhere.

### Border control

As of March 2002, the Central Board of Customs was undergoing reorganisation and incorporation into the Ministry of Finance. Once complete, customs police, border guards, and civilian intelligence activities would be under one umbrella and therefore more capable of working together on issues of arms trafficking and organised crime. Spread out at 17 regional customs offices, officials report that they are very active in verifying imports and transits of military goods, but not exports.<sup>32</sup> As described above, enterprises and individuals engaged in the weapons trade are responsible for verifying documents and deliveries in collaboration with Polish missions abroad and importing governments. Customs officials do report that false documentation and weapons smuggling remain a problem in the region, but they are limited in what they can do to stop or prevent it. Border control agents are trained on the job to detect and stop improper arms transfers, but training sessions are reportedly too elementary and infrequent. They argue, therefore, that they need more advanced training on detection techniques and investigation methods. Nonetheless, Polish customs officials suggest they 'are doing the best they can' to strengthen their country's borders, but reports of border problems continue.<sup>33</sup>

### Enforcement and Penalties

If companies or individuals are found to be in violation of the arms trade laws in Poland, various civil and criminal penalties may be levied. Overall, penalties may involve anywhere from one to ten years in prison, somewhere between 100,000 and 200,000 zloty in fines (approximately USD 25,000 to USD 50,000), the potential for confiscation of property, and the revocation of permits to engage in the weapons trade.<sup>34</sup> Although Polish government officials report that law enforcement capabilities are weak due to a lack of personnel, funds, and advanced training, various accounts of weapons investigations, seizures, arrests, prosecutions, and convictions have emerged.<sup>35</sup> Ultimately, officials assert that they are making serious attempts to crack down on illegal arms deals and trafficking, but are struggling with the ability to translate their willingness into action and close the gaps between their policy and practice.<sup>36</sup>

### Transfers and Accountability

To date, Poland engages in no systematic reporting on SALW sales or transfers. Although officials claim that the government is 'consciously increasing transparency' and that 'openness is easier than secrecy', they have yet to offer a public report that will enhance greater awareness of their SALW activities.<sup>37</sup> They do share minimal information with their international counterparts by reporting arms sales to the UN, OSCE, and WA, but domestic accountability is hindered by the lack of transparency within Poland. In order to end the 'spirit of confidentiality' that has remained in Poland for decades on the issue of arms transfers, the government plans to publish its first report on the subject sometime in 2002.<sup>38</sup> Regarding transparency in arms control practices, however, Poland does share information about its control processes at international and regional meetings, as well as with companies and individuals that participate in the arms trade. Compact discs about

how to establish an internal control system, for example, are distributed to Polish enterprises, and various conferences are organised to heighten awareness of the arms and export control system within the arms industry. The government also claims it is putting as much information as possible on the Internet to educate any interested party about Poland's arms activities.<sup>39</sup>

### International Cooperation

Like other Central and East European countries, Poland has been quite active in regional and international activities and meetings, and claims to abide by regional and international commitments regarding SALW control. Poland is a member of all export control regimes and subscribes to the OSCE, EU, and UN actions on SALW.<sup>40</sup> The Polish government has worked together with the NATO-EAPC and Canadian government to host a regional conference about incorporating SALW issues into international peacekeeping activities, and with the EU to jointly sponsor a regional effort to enhance European collaboration on SALW controls.<sup>41</sup> Polish officials suggest that they are ultimately very open to joint and multilateral efforts regarding SALW. Moreover, Poland is clearly responsive to international interaction on arms controls, as they cite the development of their 1997 law on the control of military items as being a direct result of their WA participation.<sup>42</sup>

Civil society actors are few and far between regarding the issue of SALW in Poland. Government officials report that they face very little domestic concern about weapons proliferation of any kind.<sup>43</sup> The Polish government has, however, collaborated with a couple of NGOs, namely the Polish Institute for Public Affairs and Saferworld, to host conferences on SALW control.<sup>44</sup> On the other hand, there is a growing domestic arms lobby that is pressuring the government to support the defence industry. Thousands of unemployed arms industry workers came to Warsaw in 2001 to protest the loss of jobs in and overall decline of the weapons-producing industry. Defence companies are particularly unhappy about the requirement for strict internal control programmes in order to engage in the arms trade. They say they are 'fed up with lazy officials' who impose a 'most restrictive' arms law that 'handcuffs' the activities of the industry, especially those of small firms. They call for the government to act as the 'real owners' of state-owned defence enterprises and promote their work.<sup>45</sup> In order to facilitate their activities, military companies have established the Polish Chamber of the Producers for National Defence, which thus far has been successful in beginning a discussion within the parliament about re-evaluating current arms trade practices.<sup>46</sup> This lobby also asserts that the Polish people, in general, are supposedly supportive of the industry, and that they do not want to see it die.<sup>47</sup>

## 1.4 Poland's SALW Perspectives and Realities

Various and perhaps even competing perspectives exist in Poland regarding the SALW issue. There is a great deal of consensus among officials that Polish security concerns underlie all their activities on SALW control. Poland is first and foremost aware of possible security threats, and SALW proliferation is seen as potentially harming the country's national security.<sup>48</sup> 'After 300 years of foreign supervision', one official states, 'Poland is understandably obsessed with security. All arms control activities in our country reflect that obsession'.<sup>49</sup> From a global perspective, Polish officials also suggest they are concerned about the state of international security – and the unchecked spread of SALW,

they believe, certainly damages the international security environment, thereby decreasing the security of the international community's membership. Because Poland is ultimately interested in enlarging and enhancing 'zones of stability' throughout the region and the world, preventing SALW proliferation is a must. In addition to security perspectives, officials see the trafficking of weapons as a problem that greatly affects the amount of violent crime that exists in their country and around the globe.<sup>50</sup>

The 'human factor' is also important to Polish officials, as they believe direct connections can be made between SALW availability and an increase in human rights abuses and a decrease in human security. Moreover, non-proliferation norms, standards, and principles also reportedly guide Poland's arms control activities, as officials assert that uncontrolled SALW sales and transfers are incompatible with responsible behaviour.<sup>51</sup>

Despite the numerous perspectives that positively influence Poland's behaviour in terms of SALW control, some officials continue to perceive arms and export control as a 'burden' and a 'headache'. Moreover, some who are charged with maintaining, implementing, and enforcing government weapons control policies and procedures express the sentiment that the problem of SALW proliferation is not a great one.<sup>52</sup> This viewpoint may, and presumably does, negatively affect the government's ability to implement a strong and effective system of arms and export controls.

## 1.5 Recommendations

- **Export controls:** Current levels of verification of exports must be increased. Presently, the onus to trade responsibly is on brokers and individuals, which is highly susceptible to misconduct. This stipulation should be amended or tightened with greater checks in place on brokers to limit illegal conduct. Further, advanced training, increased funds, and more personnel are necessary to ensure that Polish arms legislation and export controls are properly implemented.
- **Transparency:** Poland claims that it is attempting to increase transparency and openness, and has begun to offer limited information to the UN, OSCE and the Wassenaar Arrangement. However, domestic transparency is low – there is no systematic reporting on SALW transfers, and no information is available to the public. Annual reports should be produced, offering comprehensive information on SALW sales, and control processes. These reports should be made available to the public as well as regional and international organisations.
- **Border control:** As is the case across the region, Poland suffers from weak border controls due to inefficient capacity. Training sessions apparently do take place, but these are sporadic and often not targeted to needs. More specific advanced training on detection and investigation techniques is needed and this training needs to be supported with more up-to-date equipment so that it can be implemented.
- **Tackle unemployment:** Significant steps have been taken to downsize the Polish defence industry, however this has led to increased growth of the domestic arms lobby spurred by dissatisfaction about the resultant unemployment of arms workers. The

Polish government must intervene with effective steps to minimize the negative socio-economic of reforming the defense industry, with measures such as conversion programmes, retraining schemes, and compensation to address the inevitable unemployment problem. Such measures should also quell the resistance to further arms control reforms from domestic lobbies.

- **Enforcement:** Although Poland is adeptly bringing its firearms legislation in line with EU law, law enforcement of domestic firearms regulation is weak. Capacity of the Polish police force needs increasing, and more coordination between the police force and border control officials is necessary to effectively tackle small arms misconduct.

**Table 1. Poland's participation in Regional SALW Regimes and Regional Security Organisations**

| SALW Control Agreement/<br>Regional Security Organisation | Poland's Commitment                     |
|---|---|
| EAPC  | yes                                     |
| EU Code of Conduct on SALW                                | Aligned, 1998                           |
| EU Joint Action   | Aligned, 1999                           |
| Ottawa Convention   | Signed, 12/4/97; Not Ratified           |
| OSCE SALW Document  | Signed, 2000                            |
| OSCE Principals   | Signed, 1993                            |
| Nato  | Joined, 1999                            |
| PfP   | Signed, 1994                            |
| Stability Pact Regional<br>Implementation Plan            | Yes                                     |
| UN Convention Against<br>Transnational Organised Crime    | Signed, 14/12/2000; Ratified 12/11/2001 |
| UN Firearms Protocol                                      | Signed, 12/12/2002                      |
| Wassenaar Arrangement                                     | Signed, 1995                            |

## Endnotes

1. Kiss, *op. cit.*, p. 107.
2. *Ibid.*
3. *Ibid.*, pp. 113–16; and Saferworld report on Poland, at <http://www.saferworld.co.uk/Poland.pdf>, pp. 1–3, 6–8.
4. Kiss, *op. cit.*, p. 109.
5. *Ibid.*, pp. 113–18.
6. Author's interviews with government officials at the Ministries of the Economy, Foreign Affairs and Defence, and with representatives of the armaments industry in Warsaw, Poland, March 2002.
7. Kiss, *op. cit.*, p. 112.
8. Author's interviews with officials at the Ministry of the Economy and with representatives of the armaments industry, March 2002.
9. *Ibid.*
10. See Poland's country profile at <http://www.nisat.org>.
11. Author's interviews with officials at the Ministries of Foreign Affairs and Defence, March 2002.
12. Author's interview with officials at the Ministry of Defence, March 2002.
13. Author's interviews with officials at the Ministries of Foreign Affairs and Defence, March 2002.
14. See D.L. Clarke, 'Eastern Europe's troubled arms industries: Part I', *Radio Free Europe/Radio Liberty Research Report*, Vol. 3, No. 14, 8 April 1994, p. 42, as cited in Kiss, *op. cit.*, p. 110.
15. 'Poland's arms trade with Yemen eyed', *Warsaw Rzeczpospolita*, 3 March 2000, p. A7, in FBIS-EEU-2000-0307, at <http://www.nisat.org>; 'Arms flows to Central Africa/Great Lakes', 'United States Department of State Fact Sheet', November 1999, at [http://www.iansa.org/documents/gov/dec\\_99/state\\_africa\\_arms.htm](http://www.iansa.org/documents/gov/dec_99/state_africa_arms.htm); and Alan Lallemand, 'Belgian monsieur implicated in Polish arms traffick [sic] to Angola', *Le Soir*, 16 June 2001, p. 6, at <http://www.nisat.org>.
16. Author's interviews with government officials at the Polish Ministries of the Economy and Foreign Affairs and at the Customs Service, March 2002.
17. *Journal of Laws No 67*, item 679
18. *Ibid.*; and Saferworld report, pp. 3–4.
19. *Ibid.* For an English translation of the Polish Law of 29 November 2000 Concerning International Trade in Goods, Technologies and Services of Strategic Significance for State Security and Maintenance of International Peace and Security and Amending Selected Laws, see Appendix 1 in the Saferworld report and the Poland database at [http://www.first.sipri.org/db/dbf/export\\_reg\\_display](http://www.first.sipri.org/db/dbf/export_reg_display).
20. Author's interviews with officials at the Ministries of the Economy and Foreign Affairs, March 2002; and Saferworld report, p. 4.
21. Author's interviews with officials at the Ministries of the Economy, Foreign Affairs, and Defence, March 2002.
22. *Ibid.*; and Saferworld report, p. 5.
23. See Article 7 of the November 2000 law in the Saferworld report, Appendix, and in the SIPRI database at [http://www.first.sipri.org/db/dbf/export\\_reg\\_display](http://www.first.sipri.org/db/dbf/export_reg_display).
24. See Articles 10 and 11 of the November law in the Saferworld report, Appendix, and in the SIPRI database at [http://www.first.sipri.org/db/dbf/export\\_reg\\_display](http://www.first.sipri.org/db/dbf/export_reg_display).
25. Author's interviews with officials at the Polish Ministry of the Economy, March 2002.
26. *Ibid.*
27. *Ibid.*
28. Author's interviews with officials at the Ministry of Internal Affairs, March 2002.
29. *Ibid.*
30. See Article 10 of the November 2000 law, available in the Saferworld report, p. 17, and in the SIPRI Poland database at [http://www.first.sipri.org/db/dbf/export\\_reg\\_display](http://www.first.sipri.org/db/dbf/export_reg_display).
31. *Small Arms Survey*, 2004, Oxford, Oxford University Press, p. 157
32. Author's interviews with customs officials in Warsaw, Poland, March 2002.
33. *Ibid.* For more on Poland's weak border controls, see 'Polish border guard problems', *Warsaw Rzeczpospolita*, 16 February 2000, p. A6, in FBIS-EEU-2000-0217, at <http://www.nisat.org>.
34. See Articles 34–42 of the November 2000 law, available in the Saferworld report, p. 17, and in the SIPRI Poland database at [http://www.first.sipri.org/db/dbf/export\\_reg\\_display](http://www.first.sipri.org/db/dbf/export_reg_display).
35. Author's interviews with Customs officials in Warsaw, Poland, March 2002; 'Polish arms dealers to face court', *Warsaw Rzeczpospolita*, 6 January 2000, p. A4, n FBIS-EEU-2000-0107, at <http://www.nisat.org>; 'Polish court returns arms trade indictment to prosecution', *Warsaw PAP*, 18 April 2000, in FBIS-EEU-2000-0418, at <http://www.nisat.org>; and 'Polish court sentences 4 Moldovans, 1 Ukrainian on arms smuggling charges', *Warsaw Rzeczpospolita*, 29 July 2000, in FBIS-SOV-2000-0731, at <http://www.nisat.org>. For numerous other reports about Polish enforcement activities, see the Poland database at <http://www.nisat.org>.
36. Author's interviews with customs officials in Warsaw, Poland, March 2002.
37. Author's interviews with officials at the Ministry of the

Economy, March 2002.

38. Ibid.
39. Ibid.
40. Author's interviews with officials at the Ministries of the Economy, Foreign Affairs, and Defence and at the Customs Board, March 2002. Also see Saferworld report, p. 3.
41. Saferworld report, p. 5.
42. Author's interviews with officials at the Ministry of Foreign Affairs, March 2002.
43. Ibid.; and interviews with officials at the Ministries of the Economy and Defence, March 2002.
44. Ibid., and Saferworld report, p. 14.
45. Author's interviews with arms industry representatives in Warsaw, Poland, March 2002.
46. Ibid.; and correspondence with a member of the Polish parliament, March 2002.
47. Interview with arms industry representatives, March 2002.
48. Author's interviews with officials at the Ministries of Foreign Affairs, the Economy, and Defence and at the Customs Board, March 2002.
49. Interview with official at the Ministry of Foreign Affairs, March 2002.
50. Author's interviews with officials at the Ministries of Foreign Affairs, the Economy, and Defence and at the Customs Board, March 2002.
51. Ibid.
52. Interviews with officials at the Ministry of the Economy and Customs Board, March 2002.