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MONITORING THE IMPLEMENTATION
OF SMALL ARMS CONTROLS (MISAC)

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**Central and
Eastern Europe**

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Monitoring the Implementation of Small Arms Controls

Central and Eastern Europe

A REGIONAL ASSESSMENT OF SMALL ARMS CONTROL INITIATIVES

Suzette R. Grillot

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Eurasia Series No. 1

International Alert – Security and Peacebuilding Programme

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Acronyms

CEE	Central and Eastern Europe
CFE	Conventional Forces in Europe Treaty
COCOM	Coordinating Committee on Multilateral Export Control
EAPC	Euro-Atlantic Partnership Council
EU	European Union
ETA	Euskadi Ta Askatasuna
IANSA	International Action Network on Small Arms
IRA	Irish Republican Army
KLA	Kosovo Liberation Army
MFA	Ministry of Foreign Affairs
NGO	Non-Governmental Organisation
NATO	North Atlantic Treaty Organisation
OSCE	Organisation for Security and Cooperation in Europe
RACVIAC	Regional Arms Control Verification, Implementation, and Assistance Centre
SFPA	Slovak Foreign Policy Association
SALW	Small Arms and Light Weapons
UCK	Ushtria Clirimtare E Kosove (KLA)
UN	United Nations
WA	Wassenaar Agreement

About The Author

Suzette R. Grillo is an assistant professor of political science and international and area studies at the University of Oklahoma and works for International Alert as a consultant. She received her Ph.D. degree in political science at the University of Georgia in 1997 and has published numerous articles on arms control in various academic and policy journals.

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Preface

A key issue to improving conflict prevention and management is the challenge of curbing the proliferation and misuse of small arms and light weapons. The Monitoring and Implementation of Small Arms Controls Project (MISAC) of the Security and Peacebuilding Programme of International Alert is a three-year initiative to aid countries in Latin America, West Africa and Eastern Eurasia to better implement international and national small arms control measures. By working with governments, donors and NGOs its intention is not only to develop a better level of understanding regarding the scope and nature of international and regional small arms controls but to directly assist stakeholders in working towards the full implementation of small arms controls.

Through process orientated research and direct facilitation with governments, donors and civil society actors, the MISAC Project will undertake this work in three phases. The first is a mapping phase that creates a profile of the regional agreements and activities, as well as identify relevant actors and their capacities. This work is public and is published as a series of reports.

The mapping phase is then followed by regional assessment studies, which detail institutional capacities and challenges with regards to the implementation of small arms controls. These studies are directed towards supporting state institutions and activities as well as enhancing the capacity of civil society actors to deal with small arms issues. In the course of this work – comprising of analysis from International Alert and its partners as well as consultations with key stakeholders– state needs are brought to the attention of the international community so that financial and technical support can be provided as applicable.

Finally, the assessments are followed by the targeted assistance phase of the project. In this part of the work International Alert will, with local and international partners and stakeholders, seek to craft and implement supportive and sustainable policies to strengthen small arms control measures within a small number of previously identified states.

This report, *Central and Eastern Europe A Regional Assessment of Small Arms Control Initiatives*, is the first in a series of Assessments published by International Alert in English to support the exchange of knowledge and information about small arms controls in Eurasia.

This document, along with all the others in this series, is available for download on our website in PDF format at <http://www.international-alert.org/publications.htm#security>. Further information will later be available in digital format through the Magellan Database of the Security and Peacebuilding Programme.

Summary

The arms trade practices of the six Central and Eastern European (CEE) countries mapped in this study (Croatia, the Czech Republic, Hungary, Poland, the Slovak Republic and Slovenia) have received greater attention in recent years as weapons from the region have found their way to various conflict zones around the world. CEE governments – while often supporting the export of these weapons – have attempted to crack down on unscrupulous arms deals and install effective weapons control mechanisms. All countries in the region have had some success in doing so. Every CEE country has established a legal basis for arms control and a commission to oversee the licensing of weapons exports and imports. Small arms have only more recently been identified as a matter worthy of the attention earlier applied to heavier armaments or else unconventional weapons. CEE governments accept and adhere to export criteria whereby weapons deals are not made when conflict zones and human rights abuses are an issue. Customs authorities and police activities against illegal small arms and light weapons (SALW) activities are evident as well.

There remains a gap between policy developments and the institutional implementation of SALW policy. In general, CEE countries suffer from a lack of human and financial resources, which ultimately inhibits their ability to implement arms control procedures.

In addition to the elements of an effective arms control system, such as licensing and enforcement, CEE countries could also improve in the areas of openness and transparency. Few CEE countries currently report detailed information on their arms export practices, although they recognise the importance of doing so. All CEE governments stress that they have plans to share more information about weapons transfers, and acknowledge that transparency in arms sales is essential. Two problems, however, remain. Firstly, scarce resources often work against the task of compiling and sharing arms trade data. Secondly, the international community does not necessarily set an admirable example on the issue of transparent weapons deals. Ultimately, all CEE countries stress that greater arms trade transparency internationally would undoubtedly lead to greater openness in their region.

The enhancement of civil society action on and involvement in arms trade issues in the CEE region is required. Very few domestic groups or individuals in Central and Eastern Europe are currently active in the weapons proliferation area, as historical and cultural circumstances seemingly work against a strong civil society in the region. The legacy of the communist era, where political action was ‘top-down’, still lingers, and this includes the slow growth of civil society actors. There is some limited non-governmental interest in weapons issues in a few of the CEE countries, but there remains a need for Western partners to strengthen such efforts.

Finally, the role of EU integration and NATO expansion cannot be overstated in terms of their impact on the behaviour of CEE countries. All the countries in this report have aspirations to join the EU and NATO. CEE governments admit that this means they are motivated to play by the rules of the Western community. The importance of controlling the flow of SALW has also been reinforced by the events following the terrorist attacks in the United States of America in September 2001 and the resulting western ‘War on Terrorism’. Capitalising on this reality in the CEE countries in order to enhance weapons-trade practices is essential.

1. Introduction

This report is the first in a series of sub-regional mappings of Eastern Eurasia (the other two being the Black Sea Region and Central Asia). This report profiles the national control agreements and capabilities to address matters pertaining to small arms and light weapons (SALW) in Central and Eastern Europe (CEE). Six countries (Croatia, the Czech Republic, Hungary, Poland, the Slovak Republic and Slovenia) were selected because they represented a broad range of the key issues and problems regarding the export of SALW across the entire region. The research involved both significant amounts of desk-based research including the examination of relevant reports, government publications and newspaper articles, as well as direct in-country engagement in the form of interviews with officials, academics and non-governmental organisations (NGOs) in each of the countries studied. The report has then been subject to the evaluation of a number of individuals who are known for both their interest in the region and their expertise in the area of small arms.

Since the end of the Cold War, the weapons trade in Central and Eastern Europe has come into focus for many around the world, due in part to the so-called "peace dividend", the apparent rise in intra-state warfare in parts of the developing world, and because of the sale of surplus weapons from the Cold War stockpiles to support these conflagrations.¹ The large arsenals that remained after the fall of the Soviet bloc and the continued industrial capability to produce more weapons heightened concerns that the state structures in many of the newly independent countries of the Central and Eastern European (CEE) region were inadequate to control the flow of dangerous

weaponry. Serious economic strain in the region has also contributed to the perceived need to sell military assets without much consideration for the appropriateness of the buyer. Moreover, the numerous violent conflicts in much of the developing world, including in the Balkan area of South-eastern Europe, have increased the demand for the arms that CEE countries have to sell. These factors working together have led to a massive proliferation of weapons from the region.

Throughout the 1990s, CEE countries supplied weapons to numerous state and non-state actors in Africa, the Middle East, Europe, Central America, and South Asia. The transfers were of all types: sales sanctioned or semi-sanctioned by governments; individual government officials or military members brokering deals; private brokers arranging for sales between parties of all kinds; and theft and sale of weapons by organised criminal groups or individual black-marketers. There is not one method or avenue for the arms trade in the CEE region, nor is there is a single type of impact resulting from those transfers. Arms control efforts, therefore, have had to address all aspects of the weapons trade in the region – and each country has had varying success with developing, implementing, maintaining, and enforcing an effective weapons control system. The growth in the number of Regional Agreements in the region as well as the expansion of regional institutions such as the EU, NATO and the OSCE have also had an impact on domestic legislation in the countries covered as well as impacting on the regional security environment (see the table below).

Table 1. Participation of CEE states in Regional SALW Regimes and Regional Security Organisations

	Military Expenditure (% of GDP)	EU Code of Conduct on SALW	EU Joint Action	Ottawa Convention	OSCE SALW Document	OSCE Principals	NATO	PIP	EAPC	Stability Pact	Wassenaar Arrangement
Croatia	3.0	2002	no	S-12/4/97	S- 2000	S- 1993	No	S 2000	yes	yes	no
Czech Republic	2.0	A- 1998	A-1999	R- 1999 S- 12/3/97	S- 2000	S 1993	J 1999	S 1994	yes	yes	S-1995
Hungary	1.5	A- 1998	A- 1998	R- 1998 S- 12/3/97	S- 2000	S 1993	J 1999	S 1994	yes	yes	S- 1995
Poland	1.9	A- 1998	A- 1999	S- 12/4/97 Not Ratified	S- 2000	S 1993	J 1999	S 1994	yes	yes	S- 1995
Slovak Republic	1.8	A- 1998	A- 1998	R- 1999 S- 12/3/97	S- 2000	S 1993	E 2004	S 1994	yes	yes	S- 1996
Slovenia	1.2	A- 1998	A- 1999	S- 12/3/97	S- 2000	S 1993	E 2004	S 1994	yes	yes	no

Key: Aligned= A, Deposited= D, E= Expected date of entry, J=Joined NR= Not Ratified R= Ratified, S= Signed,

Because it has been known for a number of years that CEE countries have engaged in improper and/or illegal arms deals, and that the control systems in place have been insufficient, this report focuses on six countries in the region in an effort to highlight specifically what their recent status is regarding defence production, surplus weaponry and arms control mechanisms. Taking a closer look at these factors helps us identify exactly where the problems are, where attention is needed, and where to focus assistance efforts. Moreover, this report highlights country perspectives about the SALW problem and their reasons for establishing control mechanisms. In doing so, we may better understand the motivations behind state behaviour in CEE countries, and may, therefore, be better situated to affect it.

The sections that follow focus on the countries of Croatia, the Czech Republic, Hungary, Poland, the Slovak Republic, and Slovenia. For all six states, attention is given to the following issues:

1. the state of and emphasis on the defence industry, current SALW production, the protection, control, and accounting of surplus arms, and existing measures for weapons destruction;
2. the legal basis for the control of the arms trade, both licit and illicit, in the form of government laws or decrees;
3. licensing procedures for the control of arms exports, imports, re-exports, transits, and civilian possession, as well as for weapons producers, brokers, and transportation companies;
4. the interagency process that governs and oversees the licensing procedures and all other facets of SALW control;
5. the acceptance of, adherence to, and incorporation of export criteria in the weapons licensing process;
6. customs authorities and border security efforts that control points of entry and exit and oversee investigation and enforcement of the arms trade;
7. verification activities regarding the use of import certificates, delivery checks, end-use, and end-user statements and the confirmation of their validity;
8. police enforcement of the arms trade law and actual criminal and civil penalties for its violation;
9. transparency measures for the sharing of information internationally and domestically on arms sales and controls;
10. regional and international activities in which CEE countries are engaged and which the countries accept and support;
11. the role of civil society and the domestic pressure that exists to control the arms trade or not; and
12. country perspectives on the SALW issue (is it seen as a problem of security, economics, crime, terrorism, human rights, or something else?), as well as perspectives on motivation (is their behaviour affected by EU integration, NATO membership, perceptions of non-proliferation norms and standards, identification with a Western community, or some other factor?).

2. Croatia

Croatia is a country that stands apart from the others in this report in that it is the only one to have experienced a period of prolonged violent conflict in recent years. The issues it faces regarding SALW accessibility and diffusion are somewhat different from and, in some ways, more serious than other countries in the CEE region. Moreover, unlike its counterparts, Croatia has had far fewer years to establish an effective arms control system. Nonetheless, the country is taking steps to do so.

2.1 Small Arms and Light Weapons in Croatia

Similar to its regional neighbours, Croatia once had a defence industry that was substantially larger than it is today. Although still well established, the defence sector has been downsizing in recent years to the point where it is 'no longer a significant part of the economy'.² Approximately three companies currently produce a range of SALW, including pistols, rifles, sub-machine guns, mortars, and ammunition.³ The largest weapons producer is a semi-government agency named RH Alan. It manages, organises, and facilitates nearly all defence-related exporting and importing for the Ministry of Defence.⁴ Other manufacturers operate under license with foreign companies, such as Springfield in the US. Some weapons companies reportedly produce other foreign weapons designs, such as the 9 mm submachine gun and 9 mm Uzi, without a license to do so.⁵

Excess arms in Croatia are perhaps of greater concern, given that the citizenry remained overly militarised in the wake of war.⁶ Arms availability among the general population, therefore, has been targeted with weapons collection programmes. A 1997 UN programme operating in cooperation with the Croatian government sought to buy dangerous weaponry from Croatian residents in an effort to decrease the numbers of weapons in circulation. Arms that have been prohibited for civilian ownership include automatic rifles, light machine guns, sub-machine guns, various explosives, and hand-held rockets. The UN Transitional Administration for Eastern Slavonia managed the 'buy-back' programme for ten months and oversaw the collection of approximately 10,000 firearms, 50,000 explosive arms such as grenades, and 2.5 million rounds of ammunition, all worth approximately USD 6 million.⁷ After the buy-back programme concluded, the



Croatian government allowed an amnesty period for people to turn in weapons without any penalty. After 30 June 1999, any individual found to possess an unregistered weapon could face a 6-month to 3-year term in prison and a fine of between USD 3,000 and USD 21,000.⁸ Officials claim that the Farewell to Arms programme has been very successful, but that generally 'every household still has some kind of weapon'.⁹ US officials knowledgeable about civilian gun ownership in Croatia assert that 'if someone wants a weapon, they can get one'.¹⁰ Moreover, surplus arms in Croatia are reportedly not targeted for destruction. Although some officials report that collected weapons are 'usually destroyed', others say that they 'keep and store the surplus because it is cheaper than destruction'.¹¹ The Stability Pact in South Eastern Europe, however, is reportedly urging and facilitating greater efforts at weapons destruction in Croatia, as well as in other countries in the region.¹²

2.2 SALW Problems, Allegations, and Misconduct in Croatia

Many reports have surfaced regarding illegal arms activities in Croatia. Croatian individuals, for example, have been accused of masterminding arms deals with organisations such as various factions of the Irish Republican Army (IRA) and *Euzkadi Ta Askatasuna* (Basque Fatherland and Liberty-ETA).¹³ Croatian citizens have also been arrested in neighbouring states attempting to smuggle arms.¹⁴ The Croatian government has not been free of criticism as well – especially during the war years. One high-profile case in particular emphasised the connection between the then-Argentine president and Croatian military forces. Argentina reportedly sold and smuggled large quantities of arms and ammunition to Croatia for a number of years against the UN arms embargo on the country.¹⁵ The Croatian government has also been implicated in weapons transfers to the Palestinians.¹⁶ Moreover, the Croatian territory has been highlighted as a place where arms smugglers operate with few constraints – even transiting illegal arms shipments 'under the guise of humanitarian aid deliveries'.¹⁷

2.3 Elements of the Croatian SALW Control System

The legal basis for the control of arms transfers in Croatia reportedly resulted from a law passed in 1996 and revised in 1999 and 2002. In March of 2002, the Croatian parliament accepted a package of laws that addressed and outlined the country's national security and defence strategy. This package included laws on: (1) the defence responsibilities of the country, including accountability in defence activities; (2) service in the defence forces regarding a civilian military; (3) international operations and defence activities outside of Croatia; (4) early retirement and the downsizing of military forces; (5) the import and export of military items; and (6) intelligence agency activities in the national defence sector.¹⁸ Although there appears to be a legal basis for the control of weapons in Croatia, no official was able or willing to produce the legislation – and no database currently includes the laws for public use.

According to Croatian officials, the licensing system in their country is 'very strict'.¹⁹ Weapons companies reportedly must be licensed to engage in the arms trade and must apply for an

individual export license for specific transactions. Officials admit, however, that military imports for the Ministry of Defence are not subject to licensing – and neither are government-to-government weapons deals. The transiting of weapons through Croatian territory does not require a license and is handled by the Ministry of Internal Affairs, which is responsible for conducting checks on items entering the country. Officials report that an interagency committee, including members of the Ministries of Defence, Foreign Affairs, the Economy, and Internal Affairs, is involved in considering license applications for weapons transfers. The committee operates on a consensus basis, with all agencies having to approve of a license before it may be issued. Finally, officials say that only a very small number of people work on issues of arms control and non-proliferation in Croatia, perhaps 1–2 people per ministry, and that the lack of personnel constrains their work.²⁰

Regarding export criteria, Croatian officials report that they adhere to the EU Code of Conduct on weapons transfers. The specific criteria are not, however, incorporated explicitly in the law governing the arms trade. Instead, officials stress that the Ministry of Foreign Affairs (MFA) is charged with making sure the appropriate criteria are followed. The MFA's involvement in the licensing process, officials suggest, is evidence of and imperative for ensuring the country's interest in abiding by international ideas about responsible arms practices. In addition to the lack of export criteria, no list of controlled items or destinations exists in Croatia – and officials admit that difficulties remain with their ability to determine who is an acceptable partner and what is an acceptable export.²¹

The border security and customs authorities in Croatia are in great need of improvement. Officials suggest that they are working on strengthening their border controls and enhancing their ability to engage in verification activities, but presently they are very limited in what they can achieve. With a long coastline and a long border with Bosnia, there is much work to be done. The border with Bosnia, for example, is said to be very weak and porous, due to the fact that few people are now located in that part of the country. Most of the population once living there fled during the wars of the mid-1990s and not many have returned. There are numerous gaps in the Croatian/Bosnian border, therefore, that can be exploited for smuggling purposes. Moreover, the verification of arms shipments is equally difficult for the Croatians. Procedures for conducting checks may be there, officials say, but they are unable to implement them. Officials stress that they are short on personnel, skills, technology, equipment, and money. Ultimately, they say, 'Croatia is resource poor'.²² US assistance programmes are just getting under way in Croatia in an effort to tighten border control and enhance customs activities, but nearly all of that support will be focused on weapons of mass destruction.²³

Despite serious problems with effective weapons control and verification at the borders, Croatian police have been involved in successful enforcement activities. Arms shipments destined for improper end-users, for example, have been seized. Individual arms smugglers have also been arrested, prosecuted, and sentenced for engaging in illegal arms deals. Arm shipments going to the Provisional IRA in Northern Ireland were halted by Croatian authorities, and five people accused of smuggling arms to the *Ushtria Clirimtare E Kosove* (Kosovo Liberation Army, KLA/UÇK) in Kosovo, Yugoslavia were charged and sentenced to a range of 5–11 months in gaol.²⁴ The Croatian police have not been without their problems, however, as several members of the police force were reportedly arrested for selling Ministry of Interior weapons with false licenses.²⁵ The specific penalties for the violation of arms trade laws, however, are unknown, as officials interviewed for this report did not know what the penalties were. Moreover, some officials claim that penalties are mentioned in the law governing the weapons trade, while others say that specific punishments are listed only in the country's penal code. All officials report, however, that they believe that the legal penalties available for prosecution of those who break the arms trade law are too weak and do not provide a strong-enough deterrent.²⁶

The law governing the arms trade in Croatia reportedly does not require any agency to report on weapons imports, exports, or other activities directly to the government, parliament, or public.

Although officials admit that to compile and provide such a report would be costly both in time and money, many stress that they would be willing to do so.²⁷ In fact, Croatian officials say that ‘if we are asked, we supply arms trade information’, but they believe they are ‘under no obligation to do so’. Any reporting that is done, therefore, is entirely *ad hoc*. Croatian officials do emphasise their view, however, that ‘transparency is a very important part of [Croatia’s] national strategy. Transparency in all defence activities will only make us more secure’.²⁸ The willingness exists, they argue – they just simply do not have the resources necessary to engage in systematic reporting on this issue.

Croatian officials stress that they are very supportive of and involved in regional and international activities on SALW. Aiming to make all their practices compatible with the EU, officials say they accept and adhere to the EU Code of Conduct. Croatia also reportedly accepts and adheres to the OSCE document on SALW as well as the UN Programme of Action. Although not a member of many international non-proliferation export control regimes, Croatian officials emphasise their hope and interest in joining the Wassenaar Arrangement (WA) as soon as possible. Within the South-east European region, Croatia works closely with the Stability Pact on issues of weapons trafficking, and has been closely involved in one of the Pact’s ‘most successful programmes’ – the creation of the Regional Arms Control Verification, Implementation, and Assistance Centre (RACVIAC) near Zagreb. This centre organises and hosts seminars and workshops for area governments on weapons control issues – and officials report that it has been very helpful to them in their work.²⁹

The role of civil society in Croatia on the issue of arms control is very weak. Only one Croatian NGO (the Croatian Medical Students International Committee) is registered with the International Action Network on Small Arms (IANSA), and its contact information is invalid.³⁰ All the officials interviewed for this report have said that domestic NGOs dealing with this issue are non-existent and that they have faced no domestic pressure of any kind in the area of arms control or trade.³¹ There is much room, therefore, for the bolstering of citizen interest and action on weapons issues in Croatia.

2.4 Croatian SALW Perspectives and Realities

As with other countries in Central and Eastern Europe, Croatia is highly motivated by its interests in joining the EU and NATO. Officials consistently report that all of their activities, including those regarding SALW, are inspired by EU and NATO membership prospects. Regarding NATO, officials suggest that their interest in security relates to a desire for stability – that, ultimately, NATO expansion will bring with it a wider zone of stable relations and peace.³² Other security concerns are voiced in Croatia, however. One official says that, regardless of Croatia’s interest in NATO membership, the country’s actions on SALW are meant to ‘prevent global damage and make ourselves more secure’.³³ Moreover, connections have also been made in Croatia between weak border controls, arms transfers, and terrorism.³⁴ Regarding EU integration, Croatian officials make connections between smuggling and their chances for EU membership. One official remarked that cracking down on arms and other smuggling ‘is a great opportunity for us to expose ourselves as a serious and credible partner’.³⁵ Ultimately, the long-term benefits of Western integration, whether they are security- or economic-oriented, reportedly outweigh the short-term costs of establishing and maintaining a system of arms control in Croatia. Outside of concrete costs and benefits, however, Croatian officials report that factors such as non-proliferation norms and standards, the rule of law, and democratic responsibilities also matter when it comes to arms control. Knowing that their behaviour is in the spotlight, and believing they are destined to be a part of the Western community, officials stress that irresponsible weapons-related practices are out of the question.³⁶

3. The Czech Republic

3.1 Small Arms and Light Weapons in the Czech Republic

During the Warsaw Pact era, Czechoslovakia was the second largest weapons producer in the Eastern bloc and the seventh largest exporter in the world.³⁷ 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.³⁸ An important factor in the state of the country's defence industry was President Vaclav Havel's policy immediately following Czechoslovakia's democratisation in 1989 of greatly reducing arms production and exports. Coming from a 'human perspective', President Havel and his administration viewed the country's past experience with weapons sales as 'immoral' and 'inconsistent with democratic principles and human rights'.³⁹ 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.⁴⁰ Today, as defence restructuring and privatisation continues, approximately two dozen Czech companies produce and export small arms and light weapons in a competitive environment.⁴¹

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.⁴² Although a policy to destroy superfluous weapons does exist, most surplus weaponry is stockpiled and secured by the army or the police.⁴³ 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.⁴⁴

3.2 Czech SALW Problems, Allegations, and Misconduct

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.⁴⁵ In 2001, 1,700 Czech firearms were transferred to Bangladesh, and approximately 100,000 hunting rifles were sold to Yemen.⁴⁶ In April of 2001, Bulgarian authorities delayed a Ukrainian aircraft that was stocked with Czech weaponry (30 tons 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.⁴⁷ Other controversial Czech arms transfers include shipments to Yugoslavia, Iraq, North Korea, Indonesia, and Angola.⁴⁸ On a positive note, however, Czech officials have recently denied licenses for exports to Burkina-Faso, Niger, Uganda, and Yemen.⁴⁹

3.3 Elements of the Czech SALW control system

Czechoslovakia was one of the first post-Communist countries in the Central and East European region to establish a legal basis for the control 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.⁵⁰ 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 6–9 months to revise existing laws, leaving loopholes between international and national practices in the meantime. Moreover, according to officials, the Czech Republic is less able in general to implement the weapons control law and related regulations. They argue, in other words, that when it comes to arms export control, they have been much more effective in policy development than in its implementation.⁵¹

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.⁵² 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.⁵³

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 licenses 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.⁵⁴

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.⁵⁵ 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?'⁵⁶

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'.⁵⁷ 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.⁵⁸ The country does rely heavily on end-user certificates, which are required with all license 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.⁵⁹

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 licenses to engage in the weapons trade.⁶⁰ 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.⁶¹

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.⁶² 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 license holders, and the value of exports and imports of arms and ammunition. According to officials, this report is to be updated and published yearly so that the international community is aware of Czech activities regarding SALW. 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.⁶³ There remains debate, however, among government officials about the regularity with which and extent to which arms trade information should be shared. Although the Czechs have been praised for the 2001 report, and encouraged to continue the effort with future publications, 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.⁶⁴

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 organisation Ecumenical Network for Youth Action is apparently concerned about SALW, as it is the only registered participant from the Czech Republic on the IANSA website.⁶⁵ 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 international NGO Saferworld has been a presence in the country gathering information about Czech SALW activities.⁶⁶ 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.⁶⁷

3.4 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.⁶⁸ Very early in the democratisation 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.⁶⁹ 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.⁷⁰

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'.⁷¹ 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 prospective EU integration. Officials consistently remark that these two institutions are major motivating factors driving Czech interests in acting responsibly regarding weapons trade and controls.⁷² Continued international interaction with the Czech Republic, therefore, is warranted.

4. Hungary

4.1 Small Arms and Light Weapons in Hungary

Compared to other Central and East European countries, Hungary's defence industry is relatively small.⁷³ At its height in 1988, the defence sector in Hungary accounted for only 3% of industrial production.⁷⁴ After the Cold War ended, Hungary, like its neighbours, lost its main external markets (primarily the Soviet Union, other Warsaw Pact members, and a few countries in the Middle East), as well as its domestic markets due to military downsizing. Moreover, due to defence industry restructuring, Hungary's defence complex lost its 'unconditional official backing'.⁷⁵ About 60 defence companies remain in Hungary today, of which ten to 15 produce the overwhelming majority of military items. Of these, only seven produce SALW – mainly rifles, handguns, and ammunition.⁷⁶

To many, surplus weaponry in Hungary is of greater concern than newly manufactured arms. Officials report that surplus weapons are exported regularly, although the surplus 'is not the best equipment – it is old and not in very good shape'.⁷⁷ The problem, officials recognise, is that the only markets for such weaponry are current or potential conflict zones. Nonetheless, there are strong pressures in Hungary to sell surplus arms, because the costs of storage, maintenance, and destruction are quite high.⁷⁸ Regarding the control and accounting of surplus weapons, officials admit that the procedures are complicated and not well understood. Several years ago, the State Property Agency was given authority over surplus arms, because government officials became concerned that the Ministry of Defence was regularly selling them. This agency reportedly caused a host of problems as well, given that ultimately Hungarian law does not address the issue of surplus weapons at all, and that there were huge gaps and discrepancies in this law as to how superfluous weapons should be handled.⁷⁹ Despite the problems, however, Hungarian officials assert that because surplus weapons are subject to the same licensing requirements as newly manufactured arms, the problems surrounding surplus accounting and security 'are not as bad as they could be'.⁸⁰

4.2 SALW Problems, Allegations, and Misconduct in Hungary

In contrast to many of its CEE counterparts, allegations of improper Hungarian SALW transfers are significantly few in number. In 1999, Moldovan officials detained a Ukrainian cargo aircraft carrying 5,000 Hungarian-made handguns.⁸¹ The documentation that accompanied the transport stated the weapons were bound for Yemen, but the Moldovans suspected that the documents were false and that the shipment was actually headed for Yugoslavia. Moldovan officials, therefore, grounded the flight and entered into discussions with the Hungarians and Ukrainians to clarify the



situation. Eight days later, after officials from the three countries agreed to better specify items on the documentation, the plane was released.⁸² Also in 1999, Hungary stood accused of illegal arms transfers to both Yugoslavia and the Kosovar Albanians. Hungarian officials, however, denied the allegations.⁸³ Despite these few reports of arms transfers in the late 1990s, 'no direct transfers of [Hungarian] arms to sensitive destinations have been detected since 1997'.⁸⁴

4.3 Elements of the Hungarian SALW Control System

In 1991, the Hungarian government established the legal basis for an arms export control system with Decree 48 on the 'Export, Import, and Re-export of Military Equipment and Services'.⁸⁵ Since then, the decree has been amended and updated on several occasions in an effort to tighten control procedures and harmonise them with those of other countries and multilateral arrangements. Although Hungarian officials do not agree about the necessity of a comprehensive law on the subject of arms control, as opposed to a government decree, a draft law has reportedly been submitted to parliament, but has yet to be discussed.⁸⁶ The draft law primarily adds details about permits for the civilian possession of firearms, outlines procedures for stockpile security, storage, and destruction, and defines the technical issues related to weapons marking. Regarding SALW, the Hungarian government passed a resolution after the July 2001 UN conference that requires officials to engage in a comprehensive review of all control procedures as they relate to small arms. Officials indicate that early reports from this review suggest the government will be submitting several decrees to make minor changes relevant for SALW control.⁸⁷ No detailed indication was given, however, as to what these changes would entail. One official did suggest that the issue of arms brokering, which currently is not covered by Decree 48, is to be addressed in forthcoming decrees.⁸⁸ Overall, Hungarian officials contend that their arms control system is 'very simple, but very strict'.⁸⁹

The licensing process established by Decree 48 requires government approval for the import, export, or re-export, but not transit, of arms. Operating on three levels, licensing procedures obligate defence enterprises to apply for and receive licenses to: (1) engage in the arms trade; (2) enter into negotiations for an arms deal; and (3) actually export, import, or re-export specific military items. An updated license is required if at some point in the transaction additional partners are added. An Interagency Commission, composed of representatives from the Ministries of Foreign Affairs, Internal Affairs, Defence, Finance, and the Civil Security Service, meets once a month to consider license applications on a case-by-case basis. There must be 'full agreement' among the commission's members before a license will be granted. Moreover, a higher-level Inter-ministerial Military Operation Committee composed of the first deputies from the above-mentioned ministries meets approximately once a year to consider political issues related to the arms trade.⁹⁰

Regarding the criteria that guide the licensing process in Hungary, no licenses will be granted for the export of arms to: (1) countries that are currently involved in violent conflict; and (2) countries where armed conflict is possible.⁹¹ The Annex to Decree 48 includes a list of military items that are subject to licensing procedures.⁹² No list of prohibited countries exists, however.

In addition to weapons exports, imports, and re-exports, the Hungarian government also controls civilian possession of firearms. According to officials, however, procedures for control of civilian gun ownership are not stringent enough, which is why the government is currently undertaking efforts to tighten controls in this area.⁹³ Gun possession among the general public is, after all, on the rise in Hungary. In 1996, for example, 163,000 gun permits were granted, while in 1998, 211,300 guns were reportedly owned by Hungarian citizens. The growth in civilian possession has, some believe, led to an increase in violent crime and widespread fear among the population, which, some argue, leads to higher numbers of gun owners in response.⁹⁴

The Hungarian Customs Service, housed in the Ministry of Finance, is responsible for the verification of arms exports, imports, and re-exports. This includes the validation of documents such as end-user or international import certificates, as well as the confirmation of deliveries.⁹⁵ Despite the Customs Service's authority to verify arms transfers, however, government officials report that they only verify an arms shipment 'when there is a huge question' about its validity. Ultimately, officials contend, 'verification is not seen as a crucial activity', given limited resources.⁹⁶

Despite apparent weaknesses with and negative attitudes about verification activities in Hungary with respect to weapons transfers, numerous reports have been published regarding Hungary's enforcement actions. Also a task of the Customs Service, enforcement of the provisions of the arms trade decree is evident. Numerous reports of seizures of weapons and arrests of arms smugglers have emerged.⁹⁷ Accounts of actual prosecution for the offences, however, are less obvious. In fact, government officials suggest that very few, if any, individuals who have been accused of violating the arms trade decree have actually been prosecuted to the full extent of the law. Although penalties for such activities are not addressed in Decree 48, they are outlined in Sections 207 and 208 of the Hungarian penal code. Prison sentences from three to five years, revocation of arms trade license, and fines (no specific amount is mentioned) are possible if convicted of breaking the provisions of the decree.⁹⁸

Regarding transparency and the sharing of information on the arms trade in Hungary, there is much room for improvement. Decree 48 requires the Ministry of Economic Affairs to submit an annual report to the Foreign Policy, Defence, and National Security Committees of the Hungarian parliament outlining the details of the country's arms trade and control activities.⁹⁹ Only information pertaining to large weapons sales is provided to international organisations to which Hungary belongs, and no information about weapons activities is regularly made available to the Hungarian public.¹⁰⁰ Government officials suggest that they would like and plan to enhance their openness regarding arms sales and transfers, but assert that there remain many countries that do not do so as well. Like other countries in the CEE region, Hungary would reportedly share more information and increase transparency if others, especially the US, would set the example and take the lead.¹⁰¹

Hungary has been quite involved in international and regional activities regarding SALW. The country is a member of all international control regimes and subscribes to the UN, EU, and OSCE processes concerning small arms. Hungarian officials consistently mention their interests in multilateral activity in this area, as they understand SALW proliferation as a transnational problem that requires collective solutions.¹⁰² Accordingly, therefore, Hungary has taken some initiatives to enhance multilateral efforts in the region. The Hungarian government has been very involved, for example, in the South Eastern Europe Stability Pact's SALW activities. In November 2000, the Hungarian Ministry of Foreign Affairs, the Szeged Centre for Security Policy, and the international NGO Saferworld co-sponsored a regional meeting to tackle SALW availability in South-eastern Europe. What resulted was an informal course of action known as the 'Szeged Process', which centred around a concrete implementation plan to reduce the number and increase the control of small arms. In September of 2001, Hungary hosted a follow-up session to discuss progress that had been made in the area, and since that time has continued its efforts within the region.¹⁰³

Civil society activities in Hungary on the issue of SALW are rather limited. Although not a single Hungarian non-governmental actor or organisation is registered with IANSA, government officials report that a few groups have expressed interest and participated in a couple of the government's meetings on SALW issues.¹⁰⁴ Those same officials report, however, that the 'natural progression of political activity in Hungary is from the top down and not the bottom up.'¹⁰⁵ They would not expect, therefore, to see much civil society involvement in this or any other issue. Nonetheless, the Hungarian government is reportedly supportive of 'civil society arms control initiatives and recommendations through its participation in relevant EU committees'.¹⁰⁶

4.4 Hungary's SALW Perspectives and Realities

Similar to other countries in the Central and East European region, national security concerns greatly motivate Hungarian behaviour in the area of SALW. Officials stress that they are very aware of conflict 'hotspots' in the international community, and recognise that armed hostilities can and do often spill over to affect other territories. Although Hungarian officials say they are not concerned about a direct armed attack, they are conscious of the indirect effects of warfare, such as refugees, immigration, crime, and economic pressures. The salience of regional and global terrorist activities has also risen in Hungary in the wake of the 11 September attacks – and officials draw direct connections between SALW proliferation and a greater potential for terrorist acts. Moreover, the increase in violent crime over the past several years in Hungary has enhanced government interest in controlling SALW availability domestically as well as internationally.¹⁰⁷

The control of SALW in Hungary is also seen as an obligation based on the principles, norms, and values of the international community. Irresponsible weapons activities, in other words, are considered inconsistent with the international obligations to which Hungary subscribes and reportedly adheres. Officials assert that they cannot simply 'pick and choose the international non-proliferation rules to abide by – all international rules and obligations are there to obey'.¹⁰⁸ Presumably, then, as international SALW rules, norms, and values strengthen, so will Hungary's efforts to live by them.

Despite these positive sentiments, Hungarian officials do report that they are 'painfully aware' of the revenue they forego when implementing strict arms controls. This view is coupled with the perception on the part of some officials that 'the trade in small arms will always be with us, despite the best rules or best intentions'.¹⁰⁹

5. Poland

5.1 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.¹¹⁰ After the fall of the Soviet Union and the dissolution of Czechoslovakia, Poland emerged as the largest weapons producer in Central and Eastern Europe.¹¹¹ 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.¹¹² As a result, defence production declined by 80%, and 50% of the industry's employees lost their jobs.¹¹³ 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.¹¹⁴ 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.¹¹⁵ 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.¹¹⁶

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.¹¹⁷ 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.¹¹⁸ The Norwegian Initiative on Small Arms (NISAT) database, however, lists 21 companies in Poland that produce small arms of some kind.¹¹⁹

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.¹²⁰ 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'.¹²¹ 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.¹²²

5.2 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.¹²³ Other reports indicate that Poland has made arms deals with Yemen and that Polish arms have been discovered in conflict zones in Africa.¹²⁴ 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).¹²⁵

5.3 Elements of the Polish SALW Control System

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.¹²⁶ 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.¹²⁷

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.¹²⁸ Reportedly, however, the Ministry of Defence views the process from a distance, unless it is directly involved in the sale of military items.¹²⁹

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.¹³⁰ All munitions applications must receive an individual license prior to export, import, or transit.¹³¹ 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'.¹³² 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.¹³³ 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'.¹³⁴ 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.¹³⁵

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.¹³⁶ 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'.¹³⁷

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'.¹³⁸ 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.

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.¹³⁹ 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.¹⁴⁰

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.¹⁴¹ 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.¹⁴² 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.¹⁴³

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.¹⁴⁴ 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 2002.¹⁴⁵ 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.¹⁴⁶

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.¹⁴⁷ 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.¹⁴⁸ 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.¹⁴⁹

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.¹⁵⁰ 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.¹⁵¹ 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.¹⁵² 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.¹⁵³ 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.¹⁵⁴

5.4 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.¹⁵⁵ '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'.¹⁵⁶ 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.¹⁵⁷

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.¹⁵⁸

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.¹⁵⁹ This viewpoint may, and presumably does, negatively affect the government's ability to implement a strong and effective system of arms and export controls.

6. The Slovak Republic

6.1 Small Arms and Light Weapons in the Slovak Republic

The Slovak Republic's defence industry has undergone significant crises and restructuring since the end of the Cold War.¹⁶⁰ While Czechoslovakia was the second largest weapons producer within the Warsaw Pact, most of that production was located in Slovak territory. Once Czechoslovakia dissolved in 1993 and the Slovak Republic gained its independence, the country inherited the largest segment of the former Czechoslovakia's weapons complex – and the largest portion of the social and economic hardship that accompanied it. As reported in the Czech Republic 'map', President Havel had ordered at Czechoslovakia's independence in 1989 that the new country would move substantially away from arms production and sales. This action had a tremendously negative economic and social effect on the Slovak Republic, as most of the heavy arms production was located there. After the 'velvet divorce', the new Slovak government vowed to make the arms sector a priority, and arms sales were seen as the fastest way to gain hard currency. Despite dissenting views, President Meciar sought to facilitate and subsidise the weapons complex and 'presented [it] as a guarantee of internal security since it offered the only means of economic survival for thousands of people'.¹⁶¹ Nonetheless, defence production in the country floundered and continued to suffer from severe economic and other problems.

Today, approximately 140 defence companies remain in the Slovak Republic, all of them primarily state owned. Only about 2,000 people are employed in the industry, however; down from approximately 40,000 in the 1980s.¹⁶² Of the arms producers operating in the Slovak Republic today, only eight manufacture small arms and light weapons -- mainly pistols, machine guns, sub-machine guns, grenades, grenade launchers, mortars, ammunition, and explosives.¹⁶³ Moreover, compared to its potential for large weapons sales, the Slovak Republic reportedly exports less than USD 1 million of SALW annually.¹⁶⁴

Surplus weaponry, on the other hand, is of greater concern. Officials report that most of the arms exported from the Slovak Republic are considered surplus.¹⁶⁵ Excess weapons are sold to Slovak defence companies so that they may be sold on the global market. Moreover, the status of weapons stockpiles – their security, management, control, and accounting – is difficult to determine. Information about surpluses is not publicly available, and government officials say they do not have adequate information either.¹⁶⁶ A lack of knowledge and information about this issue may indicate that surplus stockpiles are not as secure as they should be.¹⁶⁷



6.2 SALW Problems, Allegations, and Misconduct in the Slovak Republic

Throughout the 1990s and early 2000s, various reports and allegations have emerged highlighting improper Slovak arms transfers. In 1996, the Slovak Republic was accused of shipping huge amounts of ammunition to Afghanistan.¹⁶⁸ In 1998, Slovak arms, ammunition, and explosives destined for Chad were reportedly diverted to Sudan.¹⁶⁹ Slovak weapons have also allegedly made their way to Sierra Leone, Angola, and Algeria.¹⁷⁰ In the most publicised report of questionable Slovak arms deals, a United Nations 2001 publication implicated the country in arms transfers to Liberia, via Uganda and Guinea, in violation of a UN arms embargo.¹⁷¹ Ultimately, reports suggest, the main airport in Bratislava serves as a 'hub for illicit ... arms trafficking'.¹⁷²

6.3 Elements of the Slovak SALW Control System

Not until 1998 did the Slovak government establish the legal basis that directly addressed the weapons trade. Act 179 of 15 May 1998 outlines the appropriate licensing measures required for engaging in the arms business. In a two-step process, licenses are granted to: (1) engage in arms deals; and (2) export, import, or re-export specific military items.¹⁷³ Munitions that transit the Slovak territory or that enter and remain in the country for less than seven days do not require government approval in the form of a license. Moreover, arms brokers are not sufficiently addressed in the 1998 law. In an attempt to tighten obvious loopholes in the Slovak arms control system, the government passed Decree 45 in April of 2002, 'On Trading with Military Equipment'. This decree serves as a draft for the amending of Act 179, and currently awaits parliamentary approval.¹⁷⁴ The amendments offered in Decree 45 address a number of weaknesses in the Slovak weapons control law. Significantly, the new legislation limits and controls the activities of brokers. Once the law is passed, only Slovak companies and individuals, both inside and outside the Slovak territory, may be licensed to engage in the country's arms trade. The amended law also clarifies current licensing practices, stresses the importance of Slovak international obligations regarding arms sales, and gives greater authority to customs operations to investigate, scrutinise, audit, and confiscate shipments of arms that are suspected of being illicit. The new law does not, however, address the issues of: (1) control over weapons in transit; (2) greater transparency in reporting arms deals; (3) stricter penalties for violations of the law; and (4) transport companies operating without licenses. There is still much room, therefore, for legal improvements in the Slovak arms control system.¹⁷⁵

Regarding export criteria that guide the arms-licensing process in the Slovak Republic, government officials stress that they adhere to the EU Code of Conduct on SALW. These criteria, however, do not appear in the country's arms trade law and were not added to the recent amendments being considered by the parliament. Act 179 does, however, include a list of controlled arms.

An interagency process facilitates licensing procedures in the Slovak Republic. According to Act 179, representatives from the Ministries of the Economy, Foreign Affairs, Defence, and the Interior compose the licensing commission that meets once a month to consider, on a case-by-case basis, license applications for

arms export, import, or re-export. These officials report that they are very serious about controlling the trade of sensitive military items and that they work closely with defence companies to make sure that the arms trade law is being followed. Nonetheless, serious problems have emerged regarding the licensing commission. Officials and experts report, for example, that there continues to be a great deal of debate within the commission about what exactly does or does not constitute a legal arms sale. There is also substantial disagreement, according to officials, about which destinations and what kinds of end-users are or are not appropriate for receipt of Slovak weapons.¹⁷⁶ More serious, perhaps, is the report that nine members of the licensing commission were arrested and charged with ‘abuse of public powers and legalisation of income from criminal activity’.¹⁷⁷ These officials are also suspected of money laundering.¹⁷⁸ Some government officials have, however, defended the actions of the nine commission members, five of whom remain in their posts.¹⁷⁹ One particular official also stated, when asked about the number of licenses the commission handles in a year, that ‘the more business we do, the more money we will have’.¹⁸⁰ Such sentiments are worrying when, at the same time, in the wake of the license commission arrests, a Slovak police official was quoted as saying that ‘the licensing commission only has about 10 percent of the total arms trade under control’.¹⁸¹ In an apparent attempt to rein in the activities of the licensing commission, therefore, the National Security Office will reportedly now screen its members.¹⁸²

The issue of verification deserves attention in the Slovak Republic, as it is apparent that this activity is rather weak. The Ministry of the Economy is responsible for checking, investigating, inspecting, and verifying arms transfers – their comings and goings as well as their supporting documentation.¹⁸³ What authority does exist in this area, however often does not translate into action, as officials report that a lack of resources hampers their work. Verification of weapons deliveries, for example, is rarely if ever conducted, as Slovak embassies abroad are not necessarily always in existence in the right locations – and when they are, they too are subject to poor resources. The Slovak government, therefore, has to rely heavily on the assistance of others to become aware of potential and actual problems with arms sales or diversions. This fact, according to officials, will not change even when the legislation provides officials with greater power and authority. Their ability to use their authority more fully is, they argue, the missing key.¹⁸⁴

Despite the reported problems associated with verification in the Slovak Republic, a number of cases have emerged that highlight the country’s enforcement of the arms trade law. Weapons have been seized in various locations throughout Slovak territory, as well as at the airport in Bratislava.¹⁸⁵ Other shipments have been detained while authorities confirmed the validity of the transaction.¹⁸⁶ Ultimately, however, few of the cases have involved arrests and prosecutions. Officials indicate that they are unaware of any incident where individuals or companies have been prosecuted for illegal arms deals – largely, they believe, because the arms trade law does not specify any criminal penalties.¹⁸⁷ Instead, Act 179 exclusively provides for fines (from 10,000 to 10,000,000 koruna – approximately USD 250 to USD 250,000) as penalties for violating the law.¹⁸⁸ Although most officials believe that the punishments possible for breaking the arms trade law are too low and, therefore, not much of a deterrent, the amendments to Act 179 reportedly do not make the costs associated with illegal weapons deals any higher.¹⁸⁹

Unfortunately, the heritage of state secrecy in the Slovak Republic reportedly works against the full and open disclosure of information regarding the arms trade.¹⁹⁰ The Slovak government does share data about its weapons sales with the EU and UN, but these reports are often one simple line that states the global value of Slovak arms exports and number of licenses granted for a given year.¹⁹¹ The government will supposedly provide upon request a report giving details about its ‘total arms exports by destination country’.¹⁹² In a positive step, the Slovak Foreign Policy Association (SFPA) is said to be working with the Ministry of Foreign Affairs to develop an appropriate method for reporting on arms sales every year.¹⁹³ Currently, however, there remains much room for improvement regarding transparency on Slovak arms exports.

Like other countries in Central and Eastern Europe, the Slovak Republic has been involved in and supportive of various regional and international SALW efforts. Officials report that they adhere to the EU Code of

Conduct and implement EU embargoes. They also express complete support for the OSCE document on SALW and the UN Programme of Action. Moreover, the Slovak National Council made explicit its interest in international non-proliferation and weapons control efforts when it included in its new defence strategy a promise to 'contribute to the preparation and realisation of agreements on armament control, disarmament and nonproliferation'. It continued, '[t]he Slovak Republic will be participating in asserting a broader, more complex and better-verified process for international controls. National arms export control is a component of this effort and the Slovak Republic will strictly harmonise it with its own integration interests'.¹⁹⁴

Although there are no Slovak NGOs registered with IANSA, several independent and non-governmental actors have been quite active in the area of SALW control in the country. There has reportedly been a growing civil society in the Slovak Republic since the early 1990s, due to the adverse political realities that Slovak citizens had to face before the end of the Meciar regime in 1998.¹⁹⁵ Citizen groups supposedly began forming in the country's early days of independence to debate and facilitate democratic reform in the Slovak Republic. This activity led to the development of a number of NGOs in the country, some of which are involved in SALW issues. The SFPA, for example, has been incredibly active in the small arms area. It worked with the international NGO Saferworld to sponsor in October 2000 the first meeting of NGOs and research institutes on SALW in Central and Eastern Europe.¹⁹⁶ Attempts to coordinate a regional network on SALW resulted from that meeting. The SFPA also organised a meeting in February 2001 that brought together government officials and NGOs from 17 different countries to discuss the problems of and potential solutions for SALW proliferation.¹⁹⁷ All of these activities have led to the development of a Slovak NGO working group that is composed of the SFPA, Citizen Eye Foundation, Amnesty International, and People in Peril Foundation. Ultimately, they seek to facilitate civil society and government action on SALW.¹⁹⁸

In addition to civil society actors that are working to control the arms trade in the country, an arms lobby has emerged as well. The Association of Defence Industries of the Slovak Republic was founded 'to facilitate research, production and the modernisation of the defense industry'.¹⁹⁹

6.4 Slovak SALW Perspectives and Realities

Since 1998, the Slovak Republic has focused its political, economic, social, and military efforts on becoming a member of NATO and the EU. Feeling rather slighted by its failure to enter NATO in 1999 along with its Visegrad neighbours (the Czech Republic, Hungary, and Poland), the country is now concentrating on the steps it must take to ensure membership as soon as possible. This being said, the Slovak government is very receptive to the rules, standards, norms, and principles of the Western, democratic community to which it seeks to belong. Accordingly, Slovak officials stress that improper weapons activities are inconsistent with their interests in Western integration.²⁰⁰ Moreover, officials assert that they believe their country exists in a complex security environment and they are, therefore, quite concerned about SALW proliferation and the instability they believe it brings. Officials do, however, focus mostly on SALW availability in their own region and express less concern about arms accessibility in other parts of the world.²⁰¹ Ultimately, the Slovak government brings both its security and normative perspectives together regarding the possibility of terrorist activity and the need to control it. Officials report that the attacks of 11 September 2001 and subsequent terrorist confessions regarding weapons availability made the issues of arms transfers and controls much more salient.²⁰² In making this point, the Director of the Slovak National Security Office said arms control 'is a matter of basic values and the attitude one has toward security. Tolerating arms supplies to the countries threatening democracy goes against the democratic countries' own security'.²⁰³

7. Slovenia

7.1 Small Arms and Light Weapons in Slovenia

In the early 1990s, when Slovenia gained its independence from Yugoslavia, a substantially sized defence industry existed in the country. Weapons manufacturers, however, had been strongly tied to the Yugoslav National Army as major suppliers throughout the Yugoslav period. Because of those ties, the defence industry was considered 'tainted'.²⁰⁴ No one in the newly independent country wanted to be associated with the defence companies that had once supplied 'the enemy'.²⁰⁵ Most of these enterprises, therefore, went out of business or were bought by foreign companies. After a short period of transition, however, the Slovenian government targeted its defence industry and military forces for restructuring and revival. From the mid-1990s, there has existed a 'favourable climate for arms production' in Slovenia, with many new weapons contracts being awarded to arms manufacturers in order to equip the Slovenian army. Officials report that USD 2.5 billion is expected to be spent over the next couple of years to upgrade the Slovenian military forces to NATO standards.²⁰⁶

Today, approximately 46 companies are registered with the government as businesses, with 10–25% of production being defence oriented.²⁰⁷ These enterprises are largely privately owned (approximately 80%) with the remaining state-owned companies scheduled for privatisation in 2003.²⁰⁸ Regarding small arms, roughly four companies produce a range of light weapons, including sub-machine guns, ammunition, grenades, explosives, and rocket projectiles.²⁰⁹ Officials suggest that the overwhelming majority of manufactured weapons are for domestic military consumption and that little is actually exported. Other government representatives, however, admit that when defence and military items are exported, officials 'probably just don't know about it'.²¹⁰

The Ministry of Defence has complete responsibility for securing and accounting for surplus weapons – but the record of doing so is rather spotty. Weapons have reportedly been stolen from military warehouses in various places around the country, and officials were unable to say at the time exactly what was stolen, as the Ministry of Defence has a rather 'poor record of management'.²¹¹ Nonetheless, reports have emerged regarding Slovenian efforts to destroy excess arms.²¹² Moreover, the Slovenian government is taking more comprehensive steps to tackle problems with weapons security. The 2001 Law on Arms, for example, requires the government to develop and maintain an all-inclusive weapons management system, and to employ 'an effective regulatory system to govern the procurement, possession, use and destruction of small arms and light weapons'.²¹³



7.2 SALW Problems, Allegations, and Misconduct in Slovenia

Many reports of Slovenian involvement in illegal weapons imports, exports, and transits surfaced throughout the 1990s. Most of the country's trouble with arms transfers occurred during the Balkan wars. Officials have been accused of smuggling guns into Slovenia before and during the wars in the region in order to bolster its military capability. Officials, for example, reportedly 'used networks of their compatriots living in European nations to supply their army' during the 1990s.²¹⁴ With regard to arms sales to other countries in the region, the head of the Slovenian Intelligence Service was implicated in illegal arms deals with other Balkan nations from 1991 to 1993.²¹⁵ Slovenia also served as a major transit point for weapons going to its war-ravaged neighbours.²¹⁶

7.3 Elements of the Slovenian SALW Control System

Article 77 of the 1994 Law on Defence (Law 012-01/94-167) addresses in a rather short manner the issue of arms export, import, and transit control.²¹⁷ Specifically, the law specifies that: (1) the Slovenian government licenses the trade and transit of military weaponry; (2) the Ministry of Defence is charged with the authority to consider and license all military trade; (3) the Ministry of Defence must report all license activity to the government every year; and (4) the government is ultimately responsible for determining what constitutes military armaments.²¹⁸ No other details are given in the legislation regarding the control process or licensing procedure. A new law passed in January 2001 entitled the Law on Arms was intended to harmonise Slovenian arms control activities with those of the EU. According to a recent report, the Law on Arms 'divides weapons into four categories, and in addition to bringing in regulations that govern civilian possession, also includes provisions for record-keeping and regulations for handling and trading weapons'.²¹⁹

The licensing process for military items in Slovenia is the responsibility of the Ministry of Defence. The ministry must approve all exports, imports, and transits of weapons – as well as license companies to engage in the arms business. Conflicting reports exist, however, regarding the extent to which an interagency process operates in Slovenia to provide oversight and accountability on weapons transfers. A recent Saferworld report, for example, states that the 'processing of licenses is primarily undertaken ... in the Defence Production and Traffic in Arms Division' of the Ministry of Defence, which is 'responsible for examination, verification, advice, and consultation on licenses' and for 'obtaining unanimous approval for each license from all ministries involved'.²²⁰ However, the research for the present report indicates that a rather segregated system of licensing operates in Slovenia, with the Ministry of Defence solely handling military items, the Ministry of the Interior solely handling civilian gun possession, and the Ministry of the Economy overseeing a dual-use process that has only recently been created and has scarcely been tested.²²¹

Slovenian officials report that they do employ export criteria when considering license applications for arms transfers. Moreover, officials stress that the export criteria are consistent with those of the EU Code of Conduct. In general, the criteria considered during the licensing process include Slovenian foreign policy goals, international agreements, and international commitments, such as the EU Code. Specific criteria are not, however, stated in Slovenian arms trade legislation. Moreover, officials remark that they must rely on external sources to help them determine where arms should or should not go and who is or is not a safe and reliable end-user. Due to a lack of personnel and resources, Slovenian officials cannot implement a code of conduct without the assistance of others.²²²

The Slovenian Customs Authority in the Ministry of Finance is responsible for securing the country's borders, enforcing trade laws, and investigating sensitive exports, imports, and transits. By all accounts, customs officials report that although they may have the authority to secure, enforce, and investigate, in reality they are limited in what they can actually do. Officials indicate, for example, that they are not capable of carrying investigations or verifications through to their conclusion due to the lack of staff, funds, equipment, and specific training.²²³ The Customs Authority has been the focus of several US programmes to strengthen Slovenian borders and enhance customs checks, but all of that attention has focused on weapons of mass destruction and dual-use items rather than on military goods – and certainly not on SALW.²²⁴ Moreover, Slovenian officials suggest that they typically have to receive some information beforehand about an improper or illegal weapons transfer for them to engage in verification activities. The transiting of arms through Slovenia, they say, is particularly concerning – and also the most difficult for them to uncover and verify.²²⁵

Despite their problems with enforcement, however, Slovenian officials have successfully seized and prevented a few questionable arms shipments. Slovenian customs police uncovered a smuggling ring and caught a particular arms dealer with 5,000 handguns at the Slovenian-Croatian border.²²⁶ Customs police also recently seized a cache of weapons and explosives at another border crossing.²²⁷ In 2001, Slovenian officials suspected that a shipment of 46 tons of guns in Malaysian containers were headed to Macedonia and Kosovo and, therefore, stopped the transaction and seized the weapons. An Austrian man, who was licensed to import old weapons into Austria for a gun exhibition, was arrested and charged with illegally transporting the weapons through Slovenia, since the containers were declared to contain spare machine parts. Austria vouched for the man, who was then released.²²⁸ Although officials stress that the case remains open and the Austrian still faces prosecution in Slovenia, the investigation is reportedly going nowhere.²²⁹ Penalties for violating the arms trade law are not made explicit in the legislation, but officials report that both criminal and civil penalties are possible for engaging in the illegal, unlicensed trade in weapons. The same officials say, however, that civil penalties in the form of fines would be most likely – and that the amounts allowed were rather weak and insufficient to deter improper arms sales.²³⁰

The arms trade in Slovenia is far from transparent. Although Article 77 of the Law on Defence states that 'at least once a year the Minister [of Defence] shall report to the government on all licenses issued for the export, import and transit of military weaponry and equipment', in practice such reporting rarely occurs. Officials and experts say that the Ministry of Defence operates in a relatively secret manner when it comes to arms transactions.²³¹ Regarding imports, the Ministry of Defence has complete authority as to what it purchases for military purposes. There is little requirement to be open about the process of weapons procurement. The same is reportedly true for weapons exports. The Ministry of Defence operates largely on its own, without consulting with or reporting to other government agencies or actors. Moreover, information about weapons imports and exports is not made available to the public.²³² As one official said, 'the issue of sensitive goods is usually a very secretive one'.²³³ When another official was asked if this statement was accurate, the official disagreed and said that 'the arms trade in Slovenia is very transparent, but I am not really sure what I am allowed to tell you about it'.²³⁴

Although Slovenia is not a member of all non-proliferation export control regimes, it has been engaged in a few other regional and international efforts to combat the spread of SALW. Slovenian officials stress that they accept and adhere to EU and OSCE small arms initiatives, as well as the UN process that began with the July 2001 conference in New York.²³⁵ In addition, in 1997 Slovenia hosted a UN conference on arms smuggling.²³⁶ Most of Slovenia's efforts have been focused within its own region, however, with active participation in South Eastern Europe Stability Pact activities regarding SALW. In January of 2000, for example, the Slovenian government sponsored a Stability Pact workshop on small arms to discuss weapons collection, destruction, and safe storage in the South-east European region.²³⁷ Slovenian officials express an interest in and willingness to continue their regional and international interaction on the SALW issue.²³⁸

Evidence of an active civil society in Slovenia does exist, although little of its activity is thus far focused on the effective control of SALW. A chapter of Amnesty International is the only Slovenian NGO participant listed on the IANSA website.²³⁹ No other domestic NGOs in Slovenia are concerned about or active on the SALW issue. Government officials report that they have had no contact with or pressure from non-governmental actors on the control of arms transfers in Slovenia.²⁴⁰ Citizen action groups are mounting, however, on the issues of NATO membership and civilian possession of weapons. Regarding NATO membership, Slovenian citizens are reportedly becoming more vocal about whether this avenue is best for their country. They argue, for example, that Slovenia fought to separate from the bureaucracy of Belgrade and should not so easily and willingly join the bureaucracy of Brussels.²⁴¹ Regarding civilian possession of weapons in Slovenia, a number of hunting and sport-shooting enthusiasts have taken on the issue of strict gun laws that prevent gun accessibility for legitimate hobby or leisure interests. Members of this group believe that the laws on civilian possession in Slovenia are 'a product of the socialist system' in that gun control is about 'a division of power between the "haves" and "have-nots"'. Weapons, they say, 'are tools of power, so the government seeks to control access to them' – and this, they argue, is not always justified.²⁴² Moreover, regarding the defence industry, an arms lobby has emerged with the creation of a defence caucus within the Slovenian Chamber of Commerce. Its members seek to promote their military goods and services and have reportedly been given access to the Ministry of Defence's website to do so.²⁴³

7.4 Slovenian SALW Perspectives and Realities

Like other countries in the Central and East European region, Slovenia is motivated largely by its interests in joining the EU and NATO in the near future. The security and economic reasons a country might give for joining these organisations, however, are not that apparent, as Slovenian officials regularly and consistently highlight their overwhelming sense of simply 'being part of the West'. Security concerns and economic prosperity are reportedly of little concern to them, but the psychological satisfaction that comes with belonging to the Western community resonates with the Slovenian people and their leaders.²⁴⁴ The Slovenian government, therefore, takes its cues from the Western world regarding its behaviour, and thus far officials report that those cues have rarely involved issues pertaining to SALW. Officials state, for example, that they are 'given no indication that they need better controls on SALW or military goods'.²⁴⁵ The taking of cues is also evident in Slovenian statements about the importance of controlling migration and the trafficking of people in order to meet strict EU criteria. The trafficking of guns is much less salient for them. Moreover, Slovenian officials express sentiments that may actually work against greater emphasis on SALW control. One official, for example, claims that 'there is no longer any need for arms smuggling in the area as the region's wars are over. Arms smuggling and illicit trade is a problem of the past for us'.²⁴⁶ The official admits that for these reasons the government is much less likely to look for SALW problems. Another official stresses that 'Slovenia is bordered by many EU countries where the borders are stronger and more secure'.²⁴⁷ This perspective may well prevent Slovenian border guards or customs authorities from scrutinising any shipment that

comes from an EU country. Finally, when asked about potential problems with import, export, and transit documentation and the need for verification, an official stressed that 'Slovenia trusts other countries to handle these matters, so [Slovenia] doesn't have to'.²⁴⁸ A number of viewpoints related to the control of SALW in Slovenia, therefore, are causes for concern when it comes to the issue of enhancing control efforts in the country.

8. Conclusion

Across the cases in Central and Eastern Europe, a number of general findings may be highlighted regarding the various elements of SALW production, transfer, and control. Each aspect addressed in the study is presented below in an effort to provide a widespread and comprehensive picture of arms control practices in the CEE region.

- All CEE countries included in this report engaged in significant defence production throughout the Cold War, endured reductions and restructuring in the defence sector early in the post-Cold War period, and currently manufacture a range of SALW. Differing emphases are placed on the defence industry and weapons manufacturing throughout the region, but all the countries continue to produce and export arms. For many CEE countries, the status of surplus weaponry is more worrying, with varying degrees of control over excess stockpiles and varying perceptions about the purpose and utility of surplus arms.
- Every CEE country analysed above has some legal basis for the control of SALW exports. Not all countries, however, provide an adequate basis for the control of SALW imports, re-exports, transits, and transshipments. Although all the countries in this report license weapons manufacturers to engage in the arms trade, not all have in place effective procedures for licensing brokers.
- Similarly, all CEE countries presented in this report have established a licensing system to govern weapons exports, with varying approaches regarding weapons imports, re-exports, transits, transshipments, and brokers. An interagency licensing process exists in nearly all CEE countries, but most of them operate with low levels of information and training, and some of them work with some level of disagreement about controlled items and destinations.
- Regarding export criteria, all CEE countries stress that they accept and adhere to the EU and other internationally accepted criteria for governing weapons exports. Very few, however, have actually incorporated the criteria into their legislation or other policy documents. Moreover, nearly all countries express concern about the difficulty in determining who is and is not a legitimate partner for weapons deals. Many CEE government officials say they must rely on their international counterparts to make such determinations.

- For most of the CEE countries discussed in this report, customs authorities are charged with and provide the necessary power to control and secure borders and conduct appropriate checks on weapons transfers. Although the authority exists, however, all countries report that their ability to use it and actually implement their respective trade laws is problematic. Primarily citing resources as the problem, government officials stress that to bolster customs services, they need more personnel, equipment, technology, knowledge, and training, and better techniques.
- Verification interests and capabilities vary throughout the region. Some countries suggest that they trust others to act responsibly when it comes to arms exports and imports. The perceived need in these countries, therefore, to verify deliveries and documents is considerably less salient. Other countries report that verification is simply not an important arms control function. Still others stress that although they consider verification activities to be of tremendous significance, the ability to commit scarce resources to the process and actually verify weapons transfers is most problematic.
- All the countries on which this report focuses have had some success with enforcement activities, in that police and customs authorities have occasionally seized weapons, stopped illegal sales, and detained questionable shipments. Moreover, all states discussed here provide some level of criminal or civil penalties for illegal arms dealings. Most countries, however, have not actively engaged in prosecuting violators of arms trade laws. As with other aspects of arms control in the region, the lack of resources and technical capabilities is often to blame.
- There appears to be a significant amount of willingness in the CEE region to share information about arms sales and SALW control efforts. In practice, however, most of the countries in Central and Eastern Europe do not currently report much more than minimal data to international regimes – and very little if any of that information is focused on SALW. Nearly all CEE governments suggest that they have plans to enhance their reporting procedures and regularly share more information about weapons activities. Moreover, all CEE officials interviewed for this study stress that the general lack of transparency in the international community on arms sales affects their own willingness to report more. If and when counterpart governments in the Western world become more transparent regarding weapons transfers, CEE countries would reportedly do so as well.
- Every CEE country is active, involved, and interested in some way in regional and international efforts to prevent the proliferation of SALW. All CEE countries cite the importance of EU, NATO, and OSCE activities and agreements, as well as those originating at the UN and within other international regimes such as the WA. Moreover, the countries of South-eastern Europe are significantly involved in Stability Pact programmes to manage and minimise SALW problems in their specific region. In fact, the Stability Pact's efforts regarding SALW appear to have had a substantial impact on the group's members in terms of heightened awareness, enhanced political will, and the development of specific elements of a small arms control mechanism.

- Civil society pressures and activities in Central and Eastern Europe are relatively weak compared to other parts of Europe and elsewhere. Very few NGOs or other citizen groups are working for enhanced arms control efforts in the region. Accordingly, few CEE governments are feeling any pressure from their domestic populations to behave responsibly regarding weapons transfers. On the other hand, a few organisations centred on facilitating and promoting defence industries in the CEE region have emerged and are occasionally being heard by their respective governments. In general, however, the existing political culture in the CEE region, with its history of top-down operations rather than bottom-up grassroots processes, provides a significant barrier to the development of civil society action on any issue, including the subject of SALW.
- Regarding perspectives, every country included in this report stresses an overwhelming interest in joining NATO and integrating with the EU. The focus on EU and NATO membership clearly affects individual state behaviour in Central and Eastern Europe, as irresponsible weapons transfers are thought to be damaging to integration prospects. Government officials in the region regularly mention the importance of non-proliferation norms, standards, and principles that they see as consistent with the Western democratic community, with which all CEE governments claim to identify. Some officials even stress the humanitarian impact of SALW spread and misuse. In addition, many states perceive SALW proliferation as a threat to security and stability in a broad sense. Few CEE countries express a concern about the threat of direct attack, but most suggest that the unchecked spread of SALW negatively affects national and international security and stability. Moreover, most CEE governments see a direct relationship between SALW proliferation and terrorist and criminal activity. Despite the many perspectives that seemingly affect the development of arms control mechanisms in Central and Eastern Europe in a positive manner, some officials indicate that the spread of SALW is not a significant problem, that gun smuggling is rare, and that stricter control efforts are not necessarily warranted.

Overall, SALW control systems in the CEE region are being developed – and in some cases are being implemented. The most significant issue for arms control in the region, however, is the gap between policy and practice. Largely because resources are scarce, CEE governments struggle with full implementation of the commitments they make and the legal documents they create. Although demonstrating the will to effectively control SALW transfers, CEE countries are greatly dependent on the assistance of others in terms of information, equipment, and technology in order to do so. Continued and expanded Western assistance for the effective implementation of arms control mechanisms, therefore, needs to be a priority. The weakness of civil society with regard to the weapons trade should also be addressed. Existing political-cultural barriers must be overcome and the facilitation of a more vibrant and active civil society presence on the SALW issue needs to occur. Through greater interaction with the Western, democratic community, CEE populations and governments may very well be socialised to enhance the growth, participation, and acceptance of domestic community action. Such interaction should result from continued and strengthened relations between East and West in light of EU integration and NATO expansion. CEE governments are, after all, taking cues from the Western community, and are quite responsive to West European and American pressure to establish better practices when it comes to the arms trade. Persistent interaction on and pressure about responsible weapons transfers should, therefore, be at the heart of Western policies toward CEE countries.

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Notes

Security and Peacebuilding Programme
International Alert
346 Clapham Road
London SW9 9AP
United Kingdom
Tel. +44 (0) 20 7627 6800
Fax. +44 (0) 20 7627 6900
E-mail: general@international-alert.org
Website: www.international-alert.org

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