

A joint publication by **Bonn International Center for Conversion**
British American Security Information Council
Saferworld and **Small Arms Survey**

Disposal of surplus small arms:

A survey of policies and practices in OSCE countries



Ten case studies edited and compiled by
Sami Faltas and **Vera Chrobok**

January 2004

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Acronyms

ACPO	Association of Chief Police Officers
AECA	US Arms Export Control Act
AFO	Authorised Firearms Officer
AIOS	Swiss IT and Object Division
ANCEX	Romanian National Agency for Export Control
ATF	US Bureau of Alcohol, Tobacco and Firearms
AWG	<i>Aussenwirtschaftsgesetz</i> (Foreign Trade and Payments Act)
AWV	<i>Aussenwirtschaftsverordnung</i> (Foreign Trade and Payments Ordinance)
BAFA	<i>Bundesausfuhramt</i> (Federal Office of Economics and Export Control)
BASIC	British American Security Information Council
BGS	<i>Bundesgrenzschutz</i> (Federal Border Police)
BICC	Bonn International Center for Conversion
BKA	<i>Bundeskriminalamt</i> (Federal Criminological Office)
BMWA	<i>Bundesministerium für Wirtschaft und Arbeit</i> (Federal Ministry of Economics and Labour)
BSR	<i>Bundessicherheitsrat</i> (Federal Security Council)
CMP	Civilian Marksmanship Program
CMTC	Russian Federal Committee for Military-Technical Co-operation with Foreign States
DCC	Delivery Control Certificate
DESO	Defence Export Services Organisation
DDPS	Swiss Department for Defence, Civil Protection and Sports
DDR	Disarmament, Demobilisation and Reintegration
DFID	Department for International Development
DIGK	German Initiative against Small Arms
DLA	US Defence Logistics Agency
DLPC	Demilitarisation Life Cycle Planning Centre
DoD	US Department of Defense
DRMO	US Defense Reutilization and Marketing Office
DSCA	US Defense Security Co-operation Agency
DSA	Disposal Services Agency
DTC	US Office of Defense Trade Controls
DTI	UK Department for Trade and Industry
EAPC	Euro-Atlantic Partnership Council
EU	European Union
FAPSI	Russian Federal Agency for Government Communications and Information
FCO	Foreign and Commonwealth Office
FCS	Firearm Compensation Section
FLO	Norwegian Defence Logistic Organisation
FLWM	Swiss Federal Law on War Materiel
FWK	Swiss Fortification Guard
FYROM	Former Yugoslav Republic of Macedonia
GCA	Gun Control Act
GDP	Gross Domestic Product
GIRP	General Inspectorate of the Romanian Police
GNP	Gross National Product
GOMU	Russian Main Organisational Mobilisation Department
HUD	Housing and Urban Development
ICP	Inventory Control Point
IIC	International Import Certificate
INLA	Irish National Liberation Army
IRA	Irish Republican Army
ISCM	Internal System of Control and Management
ISWETS	Independent Service Weapons, Explosives and Toxic Substances

KFOR	Kosovo Force
KWKG	<i>Kriegswaffenkontrollgesetz</i> (War Weapons Control Act)
KRIPOS	National Bureau of Crime Investigation
LCEFA	Law for Control on Explosives, Firearms and Ammunitions
LESO	US Law Enforcement Support Office
MANPAD	Man-portable Air-defence Weapons
MFA	Ministry of Foreign Affairs
MoD	Ministry of Defence
Moi	Ministry of the Interior
MPA	Military Property Agency
MPDC	Metropolitan Police in the District of Columbia
MTC	Military-Technical Co-operation with Foreign States
NATO	North Atlantic Treaty Organisation
NCIC	US National Crime Information Center
NFA	National Firearms Act
NGO	Non governmental organisation
NISAT	Norwegian Initiative on Small Arms Transfers
NVA	<i>Nationale Volksarmee</i> (East German National People's Army)
OFAEE	Swiss Federal Office for Foreign Economic Affairs
OSCE	Organisation for Security and Co-operation in Europe
OWM	Swiss Ordinance on War Materiel
PELTS	Polish Export Licensing and Tracking System
PPS	Police Procurement Service
PSNI	Police Service of Northern Ireland
RMDS	Regional Micro-Disarmament Standards
SADC	Southern Africa Development Community
SALW	Small arms and light weapons
SASP	US Small Arms Serialisation Program
SCAF	Support Centre for Associations and Foundations
SEESAC	South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons
SFOR	Stabilisation Force in Bosnia and Herzegovina
SIPRI	Stockholm International Peace Research Institute
SOP	Standard operating procedure
START	Treaty between the US and the USSR on the Reduction and Limitation of Strategic Offensive Arms
UN	United Nations
UNDP	United Nations Development Programme
USML	US Munitions List
WFSA	World Forum on the Future of Sport Shooting Activities

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Preface

THE IMPACT OF UNCONTROLLED PROLIFERATION OF SALW remains a major threat to development in many regions of the world. It undermines the rule of law, fuels crime and instability, exacerbates tensions, negates security confidence-building measures and impedes social and economic development. Therefore SALW control is often an important national priority for reducing the impact of SALW and securing a safer environment – crucial among the conditions necessary for a region to succeed in normalisation.

The term ‘SALW control’ refers to those activities which, together, aim to reduce the social, economic and environmental impact of uncontrolled SALW proliferation and possession. These are: cross border control issues, information management, legislative and regulatory measures, awareness and communications strategies, collection and destruction operations, and stockpile management. Yet ‘SALW control’ and its constituent activities cannot be addressed in isolation, as there is significant overlap with complementary humanitarian and developmental programmes, and in some cases with peacekeeping and peace support operations. SALW control requires management planning at global, national and local levels, and involves international, national, commercial, NGO and military stakeholders operating under a variety of conditions.

The physical collection and destruction of recovered and surplus SALW are important activities that demonstrate the political will of a national government to comply with the contents of the UN Program of Action¹ and the OSCE Document² on SALW. They also act as a highly visible sign to the local community that efforts are being made to control the proliferation of SALW, and can therefore have a major impact on improving perceptions of human safety and security. Destruction is therefore a highly important component of any SALW national plan and intervention. It must be emphasised that the primary responsibility for SALW control lies with the government of the affected state. This responsibility should normally be vested in a national SALW authority,³ which should be charged with the regulation, management and co-ordination of a national SALW control programme. The national SALW authority is responsible for establishing the national and local conditions that enable the effective management of SALW. It is ultimately responsible for all phases and facets of a SALW programme within its national boundaries, including the development and implementation of national SOPs and instructions.

¹ UN Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. (UN Document A/CONF.192/15), 20 July 2001, <disarmament.un.org/cab/poa.html>

² OSCE Document on Small Arms and Light Weapons, 20 November 2000.

³ Regional Micro-Disarmament Standard 03.10, available on the SEESAC website, provides guidance on the establishment of national SALW commissions. See: <<http://www.seesac.org/resources/0310e.pdf>>

Recent efforts by the OSCE in developing their ‘Best Practice Guides’, and SEESAC in the development of Regional Micro-Disarmament Standards (RMDS), now means that national governments and international organisations have both strategic guidelines and operational procedures available to them for use during the development of SALW control intervention programmes. This has been a major step forward during the last year, as previously there was little available to stakeholders to assist them in the development of safe, efficient and effective programmes. The OSCE Guidelines and RMDS both draw on the lessons learned in the recent past, many of which have been obtained from the case studies contained within this research report.

The report highlights in more detail some of the lessons that can be learned from governments’ experiences in this field. Thus it is hoped that it will stimulate, and contribute to, political debate on the best way of dealing with surplus SALW. The selected case studies reflect the wide spectrum of progress made in dealing with the problem of surplus SALW; some represent the best in implementation practices, whilst others illustrate the very real problems of security, safety, technology and resource mobilisation that other countries face in implementing programmes. Time and space precluded including all OSCE countries.

It is apparent from the case studies that the factors relating to the disposal of weapons by sale or export have been well considered. The disposal of ammunition, however, remains more problematic. Ammunition destruction is technically more complex, logistically more challenging and much more expensive than weapon destruction. There were traditionally five options for the logistic disposal of ammunition and explosives: sale; gift; increased use at training; deep sea dumping; and destruction. These options are now not particularly viable. The sale or gift of ammunition and explosives must be in accordance with stringent export legislation, and in fact the quality and condition of much surplus stock means that it would be of little use to a ‘reputable’ end user. This is why so much ammunition ends up on the ‘grey’ or ‘black’ markets where the users’ quality and performance demands are not as stringent. Increased use at training is difficult to achieve, as many stockpiles are just too large for this to be an option. Massive increases in live firing also carry negative implications for confidence and security-building measures. Deep sea dumping is severely constrained or prohibited by the Oslo⁴ and London⁵ Conventions, and therefore is also not a viable option. This means that destruction, with all of its associated problems, is now the only real viable option.

It is highly unlikely that the international donor community can fund the destruction of all surplus SALW and ammunition within South Eastern Europe, let alone the much larger stockpiles within Central and Eastern Europe. This unfortunate fact means that prioritisation for future SALW and ammunition destruction should be developed based on:

- the identification of SALW and ammunition that pose the greatest risks to the civilian community in terms of explosive safety;
- ensuring the physical security of SALW and ammunition in order to reduce the risks of proliferation;
- the destruction of SALW (weapons only) in order to reduce the risks of proliferation;
- the destruction of that ammunition that presents a direct explosive safety risk to the civilian population, and can therefore be justified on humanitarian grounds alone;
- the destruction of ammunition that is at greatest risk of proliferation or is ‘attractive’ to terrorists and criminals. The detailed ammunition natures will inevitably be subject to the judgement of the individual donors;

⁴ Oslo Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft, 15 February 1972.

⁵ The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention), 29 December 1972.

- the capacity building of national institutions to continue the longer-term nationally financed, safe, efficient and effective destruction of SALW and ammunition to appropriate technical standards.

There is much to be done in this particular area and further detailed operational analysis and research is required.

SEESAC has a mandate under the Stability Pact Regional Implementation Plan⁶ to fulfil, among others, operational objectives of: sharing information on and enhancing co-operation in the establishment and implementation of SALW control and reduction programmes and approaches among regional actors; and providing linkage and co-ordination with the other relevant regional initiatives. Therefore we are pleased to have been asked to contribute to this valuable research report by providing the Preface.

Adrian Wilkinson

SEESAC Team Leader

⁶ Combating the Proliferation of SALW – Stability Pact Regional Implementation Plan for South Eastern Europe, 28 November 2001, <www.stabilitypact.org>

Introduction

Sami Faltas and **Vera Chrobok**

THE 1990S WERE A DECADE OF STRUCTURAL DISARMAMENT. Millions of weapons, from strategic nuclear warheads to heavy conventional weapons and small arms and light weapons, became redundant in the industrialised countries when the Cold War came to an end. Some of them were stored, others were destroyed, and the rest were transferred to other users, often abroad. The problems associated with their disposal¹ have put surplus weapons on the international political agenda. In this report, we are concerned specifically with the way governments dispose of surplus stocks of small arms and light weapons (SALW).

Largely anecdotal evidence suggests that governments on both sides of the Cold War divide sold or gifted large quantities of redundant arms, including SALW, to states and non-state actors in the developing world. With the military demand for small arms diminishing at home, manufacturers doubled their efforts to export their products. The Small Arms Survey estimates the annual volume of the legal international traffic in small arms today, both new and used, including ammunition, to be about US\$4 billion.²

The combined effect of the export booms during and immediately after the East-West conflict created a flood of SALW that tended to destabilise peaceful countries, exacerbate latent conflicts, and prolong wars. Many of these SALW were exported as surplus weapons.³

In the mid-1990s the international community began to show a growing concern about the spread and misuse of SALW. A flurry of international conferences and workshops culminated in the UN Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, adopted in 2001. Some of the progress achieved at the 2001 New York conference that produced the UN Program of Action was made possible by the work of the Organisation for Security and Co-operation in Europe (OSCE).

¹ There are only five generic methods of disposal for SALW. These are: dumping at sea (prohibited by many nations under the Oslo Conventions), sale, gift, increased use in training and destruction.

² *Small Arms Survey*, Geneva, 2003, pp 97, 100.

³ *Conversion Survey 1997. Global disarmament and disposal of surplus weapons*. Bonn International Center for Conversion, Bonn, 1997, chapter 2.

The OSCE Document (2000)

On 24 November 2000, the 55 states participating in the OSCE adopted the OSCE Document on Small Arms and Light Weapons, one of the strongest international agreements meant to combat the proliferation of small arms. In the OSCE Document, as it is commonly called, OSCE member states resolved to develop and implement norms, principles and measures to halt the accumulation and spread of small arms, and to exchange information annually on national policies and practices related to SALW. The Document includes provisions on the following areas: procedures for the control over manufacture of small arms, marking systems, arms export laws and practices, controls over international arms-brokering, stockpile management, and SALW destruction.

Surplus stocks

A key objective of the OSCE Document⁴ is to “reduce the global surplus of small arms, coupled with proper management and security of national stockpiles” (Section IV Introduction). The agreement acknowledges that “it is for each participating State to assess in accordance with its legitimate security needs whether its holdings include a surplus” (IV A 1). It then goes on to list indicators for the existence of a surplus. To the best of our knowledge, this was the first time an international document addressed the issue of surplus stocks of SALW and provided guidelines on how to identify and deal with such stocks. The Document goes on to say that “participating States should carry out regular reviews” (IV A 3) of their holdings in order to “effect reductions where applicable” (IV Introduction).

It further advocates the improvement of national stockpile management and security measures through the adoption of “proper national inventory accounting and control procedures” (IV B 1).

As to the disposal of surplus SALW stocks, it states that “any small arms identified as surplus to a national requirement should, by preference, be destroyed” (IV C 1). The same applies to confiscated illegal weapons. If, however, the arms are disposed of in another way, especially if they are exported, the Document stipulates that this must meet the criteria that govern exports of SALW, as laid down in its Section III A (ibid).

To promote transparency, the participating States agreed to “share available information... on the category, subcategory of small arms that have been identified as surplus and/or seized and destroyed on their territory...” (IV E 1). They would also “exchange information of a general nature about their national stockpile management and security procedures” (IV E 2) on an annual basis. Furthermore, the participating States would “exchange information... on the techniques and procedures for the destruction of small arms.” Meanwhile, the OSCE’s Forum for Security Co-operation was to “consider developing a best practice handbook on small arms” (V F 1).⁵

A significant document

There can be no doubt that this is a significant document. It reaches further than most international agreements that promise to curb the proliferation and misuse of small arms. Unlike the UN Program of Action that followed it, and took inspiration from it in many ways, the OSCE Document laid down criteria for participating governments to use to assess applications for the export of small arms and related technology (III A).⁶ The inclusion of technology is important, as a growing number of countries are manufacturing small arms. The OSCE Document also deals with the issue of how to dispose of surplus weapons in greater detail than any other international agreement.

⁴ Sections III and IV of the OSCE Document are reproduced in Appendix II of this report.

⁵ See below in this introduction and Appendix III. Meanwhile, the Handbook of Best Practices has been produced by the OSCE’s Forum for Security Co-operation and became publicly available in December 2003.

⁶ These are nearly identical to the OSCE Criteria on Conventional Arms Transfers adopted in November 1993 and printed in the Forum for Security Co-operation Journal, no 49, 24 November 1993.

The significance of the OSCE Document is also enhanced by the fact that it unites all countries belonging to NATO and the former Warsaw Pact, as well as several others.

Finally, and most importantly, the OSCE Document is not a dead letter. Several mechanisms are being used to monitor and promote the implementation and further development of the 2000 agreement. These include the establishment of national contact points, the use of the OSCE's Conflict Prevention Center in Vienna for co-ordination, the drawing up of guidelines for best practice⁷ and the annual exchange of information between participating states. These have subsequently been incorporated into the SEESAC Regional Micro-Disarmament Standards (RMDS), thereby allowing their use at the operational and technical level.

Disputed scope

Of course, the OSCE Document also has some limitations. Most importantly, it binds the participating States only in a political sense, not legally.

A less obvious problem concerns the scope of the OSCE Document. Some of its provisions are not meant for general use, but only for use between participating States, and in several instances, there is disagreement about whether the provisions are meant to apply generally or only in relations between OSCE countries. No one disputes that the aims and objectives formulated in Section I are for general use. It is also clear that the transparency measures announced in the OSCE Document only apply between OSCE states. Section IV E says that participating States will "share" and "exchange" information.⁸ However, the scope of other parts of the OSCE Document is disputed.

Some Central and Eastern European governments reportedly argue that the provisions of the OSCE Document (except for Section I) in principle apply only between OSCE states. This restrictive approach affects such areas as SALW exports and imports, the brokering of small arms deals, international co-operation in law enforcement, early warning, crisis prevention and international assistance for post-conflict rehabilitation and other areas.

We find little to support this restrictive interpretation, and much that speaks against it, in the OSCE Document. For instance, the stated aim of the OSCE Document is not to curb the proliferation of SALW within the OSCE area, but rather to adopt a comprehensive approach to this task (Section I, paragraphs 1 and 2). To the best of our knowledge, the restrictive interpretation of the OSCE Document's scope is unfounded. Many OSCE governments oppose it, but so far it has caused little debate outside diplomatic circles.

Definition problems: ammunition and police guns

The definition of SALW⁹ used in the OSCE Document is also problematic in our opinion. The OSCE Document follows the influential list that was proposed by the UN Panel of Governmental Experts (A/52/298, section III) of 1997 and has since been used widely throughout the UN, but leaves out the part on ammunition and explosives.

We believe this is unfortunate. Bullets, grenades and other explosive charges are a part of an SALW system that kills, and the size of ammunition stocks, apart from the number of guns available, determines the capability of an army, militia or criminal gang to exercise violence. In our view, no serious attempt to curb the proliferation of SALW

⁷ OSCE Handbook of Best Practices on Small Arms and Light Weapons, Vienna, 2003.

⁸ Apparently, it would have been impossible to agree on the OSCE Document if the exchange of information had not been restricted to the governments of the participating States.

⁹ "For the purposes of this document, small arms and light weapons are man-portable weapons made or modified to military specifications for use as lethal instruments of war. Small arms are broadly categorized as those weapons intended for use by individual members of armed or security forces. They include revolvers and self-loading pistols; rifles and carbines; sub-machine-guns; assault rifles; and light machine-guns. Light weapons are broadly categorized as those weapons intended for use by several members of armed or security forces serving as a crew. They include heavy machine-guns; hand-held under-barrel and mounted grenade launchers; portable anti-aircraft guns; portable anti-tank guns; recoilless rifles; portable launchers of anti-tank missile and rocket systems; portable launchers of anti-aircraft missile systems; and mortars of calibres less than 100 mm."

can afford to ignore the spread of SALW ammunition. However, several OSCE governments were unwilling to disclose data on their stocks of small arms ammunition, as they considered these highly sensitive.¹⁰

On 19 November 2003, the OSCE's Forum for Security Co-operation adopted the OSCE Document on Stockpiles of Conventional Ammunition, which also covers ammunition and explosives in the SALW category. This Document focuses entirely on the safe and secure management of stockpiles. It does not deal with issues of legal exports or several other areas covered by the OSCE Document.

The other problem with the definition in the OSCE Document on SALW is ambiguity. Besides providing a technical description of the types of weapons that it intends to cover (eg "revolvers and self-loading pistols"), the definition makes reference to the purpose for which the arms are designed, or the context in which they are used. It does this in several ways and in doing so introduces inconsistencies. In its first sentence, it makes reference to "weapons made or modified to military specifications as lethal instruments of war," while in the second, it speaks of "weapons intended for use by individual members of armed or security forces". This makes it very difficult to determine whether some kinds of guns, for example revolvers and self-loading pistols designed for police use, fall under the OSCE definition of SALW. If we go by the first sentence of the definition, the answer is probably no, but if we go by the second, the answer could very well be yes.

We consider this lack of clarity regrettable. Police-type handguns are widely used by law enforcement agencies, which often possess large stocks, and are equally sought after by criminals. These 'police' weapons need to be controlled just as much as military-type revolvers and pistols.

Several OSCE governments seem to agree. None of the governments we approached in this study objected to our questions about police weapons.¹¹ Indeed, Germany's submissions to the OSCE Information Exchange discuss in detail the stocks of SALW held by police and other special agencies.¹² The confusion about how to interpret the OSCE definition of SALW could be reduced if the items to be controlled were only defined by their own characteristics, not by the context in which they are used. Fortunately, the authors of the OSCE Document did not present their definition as the last word on the matter.¹³

The South Eastern Europe Clearinghouse for the Control of SALW (SEESAC) have also addressed this definitional problem. In the regional standards, that they project on behalf of the SALW community in the region, they have defined SALW as "all lethal conventional munitions that can be carried by an individual combatant or a light vehicle, that also do not require a substantial logistic and maintenance capability".

In this report, we have tried to include ammunition and police weapons in the data collected, and were partly successful in obtaining the co-operation of governments in this regard.

OSCE Information Exchanges on Small Arms (2001 and later)

The OSCE Document of 2000 introduced annual Information Exchanges on various subjects, starting in 2001. Allegedly, the reports submitted by participating States vary greatly in scope, content and quality. It appears some OSCE states did not submit reports at all. The reports are usually classified, which severely limits the transparency

¹⁰ For the same reason, the European Union Joint Action on small arms of 1998 (1999/34/CFSP) did not include ammunition in its definition. However, in 2002, the Joint Action was amended so that some of its provisions cover ammunition as well as the weapons themselves (2002/589/CFSP).

¹¹ By contrast, some refused to answer questions about ammunition, referring to the OSCE definition of SALW.

¹² http://www.auswaertiges-amt.de/www/en/infoservice/download/pdf/friedenspolitik/abruestung/klein_2003.pdf

¹³ "There is not yet an internationally agreed definition of small arms and light weapons. This document will apply to the following categories of weapons while not prejudging any future internationally agreed definition of small arms and light weapons. These categories may be subject to further clarification and will be reviewed in the light of any such future internationally agreed definition."

they provide. However, several participating governments have begun to lift this restriction. In 2002, Germany decided to publish its submission, and the United States decided to go public at the request of our project. Several other governments provided information from their submissions for inclusion in this publication. This openness is welcome, and we hope it will continue to grow.

The OSCE Best Practice Handbook (2003)

Acting on the OSCE Document, the OSCE's Forum for Security Co-operation has developed a Best Practice Handbook (see footnote 5) on SALW that is meant to "serve as a guide for national policy-making by participating States, and as a means to encourage higher common standards of practice among all participating States".¹⁴

Identification of surplus in the OSCE Handbook

Chapter Six of the Handbook, on the 'Definition and Indicators of a Surplus of SALW', was drafted by the German Government (see Appendix). It proposes general guidelines on how to determine the size and structure of military and security forces, how these forces should be equipped and how to determine which SALW are surplus to requirements. However, it deals only briefly with the question of disposal. In our view, it is unfortunate that the chapter does not provide any guidance on the disposal of surplus SALW beyond what the OSCE Document provides. It is therefore much less useful than it could have been. This is all the more regrettable because since 1990, Germany has gained considerable experience in disposing of surplus SALW.¹⁵

Following the OSCE Document, Chapter Six of the Best Practices Guide leaves SALW ammunition aside. It also avoids discussing police weapons and police stockpiles, which is somewhat surprising, because these subjects are discussed in Germany's national reports to the OSCE Information Exchange. The reason may be that Germany's extensive interpretation of the OSCE Document, which is more in evidence in its national reports than in its drafts for an international text such as the Best Practice Guide, is not fully shared by all OSCE partners.¹⁶

¹⁴ OSCE, *Forum for Security Co-operation*, Decision no 11/02, Preparation of Best Practices Guides on SALW.

¹⁵ Detailed technical guidance on the destruction of weapons is provided by the SEESAC RMDS 05.20, whilst the International Mine Action Standards (IMAS) 11.10 and 11.20 (which are normative references within the RMDS) provide detailed guidelines on the destruction of ammunition.

¹⁶ This theory is supported by a statement on the first page of Chapter 6, which explains that while the chapter does not apply to non-military grade weapons and ammunition, as these are not covered by the OSCE Document, governments that wish to do so can choose to apply some of the chapter's recommendations to such items at a national level.

1

United States

Ian Davis

Introduction

THE UNITED STATES is recognised as one of the world's major manufacturers, exporters, importers and users of small arms and light weapons (SALW). More than 300 US companies produce small arms and/or ammunition and the country has one of the world's largest domestic markets (both civilian and military) for small arms. Annual US production of small arms is around 4 million units, with more than 1 million firearms also being imported into the United States each year. US SALW licensed exports were worth \$67 million in 2001.¹

The US Armed Services also hold one of the world's largest inventories, with the US Army alone holding a total of 1,649,646 firearms, as of 11 April 2001, ranging from pistols to heavy machine-guns, from antiques to state-of-the-art prototypes.²

This paper reviews US policy in dealing with surplus stocks of small arms. The paper is divided into five main sections as follows:

- US military and civilian small arms stockpiles and how surpluses are defined and identified;
- structures and practices currently in place to deal with surpluses;
- policies that impact on surpluses, including US export controls and storing, registration, transport and management of US Government small arms stockpiles;
- US support for international assistance programmes; and
- reforms and future policies, especially regarding implementation of the OSCE Document.

¹ *Small Arms Survey 2002*, (Graduate Institute of International Studies/ OUP, 2002), pp 27–29; and US submission for the 2002 information exchange in accordance with the OSCE Document on Small Arms and Light Weapons, October 2002.

² *Small Arms Survey 2002*, (Graduate Institute of International Studies/ OUP, 2002), p 260.

Stocks and determination of surplus

Stockpiles among Government Armed Forces and law enforcement agencies

US Armed Forces – a post-Cold War decline in small arms inventories

With a budget of \$328 billion in 2002, US Armed Forces are by far the world's best financed, and with more than 2.5 million citizens in uniform (active and reserve), they also have the fourth largest personnel. American military small arms procurement, therefore, has considerable impact on global patterns, both directly (through shaping demand in the market) and indirectly (by setting strategic and tactical precedents that affect procurement decisions in other countries).

The Small Arms Survey, in estimating small arms inventories of Armed Forces around the world (where open source information is unavailable), makes an assumption of 2.25 firearms for each member of the forces. Somewhat surprisingly, perhaps, the United States is one of the few countries where this ratio is known to be falling: from 2.3 weapons for each member of the US Army in the early 1990s (see below) to 1.3 today. The ratio for the entire American military is even lower, at roughly 1.05 small arms for each uniformed airman, marine, sailor and soldier (see **Table 1** below).

The US Army stockpile of over 1.6 million firearms is the largest small arms arsenal of the American armed services, and equips a combined and active reserve US Army force of 1.2 million personnel.³ The US Armed Forces do make a distinction between weapons in active service, weapons in reserve, and surplus weapons. In the case of the US Army, for example, roughly 300,000 (out of the 1.6 million stockpile) are part of a small central reserve of 'non-deployed' weapons. These are used to cover breakage and other losses, and mainly consist of newly arrived equipment not yet assigned to designated units or obsolete 'surplus' equipment awaiting disposal. This central reserve is augmented by a small 'floating reserve' kept on pre-positioned ships for emergency re-supply.⁴

The fall in the ratio of small arms to personnel during the 1990s represents a dramatic reduction in US military small arms inventories. Clearly, this will have created a large surplus. What were the reasons for this change in national strategy, and what has happened to this surplus?

During the Cold War, the US military contained a huge stockpile of weapons that would enable it to fight two wars simultaneously. From the Second World War to the late 1980s, this roughly equated to 2.3 small arms for each member of the Armed Forces. The shift during the 1990s, towards flexible, high-tech rapid-reaction forces meant that a large floating reserve of small arms was no longer required. While this strategic transformation is also being mirrored in the Armed Forces of other countries, especially in European parts of NATO, and therefore has implications for the small arms inventories of Armed Forces around the world, it is clearest and most advanced in the United States, the home of the revolution in military affairs.

Table 1: Total US military firearms, by service, 2001

Air Force	260,000*
Army	1,608,000
Coast Guard	20,268
Navy (includes Marines)	800,000*
Total	2,688,268
Total firearms per uniformed member	1.05

*Estimated

Source: *Small Arms Survey 2002*, Table 2.12

Initially, the US Armed Forces destroyed large quantities of these newly surplus weapons, including 479,367 M14 rifles in 1993–94 and roughly 350,000 M16A1 rifles in

³ Ibid, pp 84–85.

⁴ Ibid, p 85.

1996. But under increasing pressure from gun advocates in Congress, an amendment was passed to the 'Defence Authorisation Act' in 1996 to prohibit the Army from destroying further 'collectable' guns. The amendment has been passed every year since, creating a growing stockpile of surplus weapons that gun advocates hoped would be made available for sale at a later date. (A 1994 Presidential order prohibits the sale of new automatic rifles to the American public, but not second-hand weapons).⁵

In a change of tack in 1995, the Army began to transfer its surplus stocks to foreign governments. Between 1995 and early 1998, 321,905 surplus small arms were exported to foreign militaries under the Excess Defence Articles programme.⁶ The main recipients were the three Baltic states (Estonia, Latvia and Lithuania) and Israel (which received the arms free of charge) and the Philippines and Taiwan (which paid for them).⁷ As shown by **Table 2**, the most recent records reveal that just under 65,000 surplus SALW were allocated for export in 2001, to Israel (30,844), the Philippines (30,000) and Senegal (4,000), together with large quantities of surplus ammunition earmarked for Latvia and Lithuania. However, of the total surplus SALW allocated for export, only 1,049 bayonets were actually delivered in that year. The total value of these allocated surplus small arms and ammunition was around \$8 million (or about 5 percent of the total value of excess defence materials allocated for export in 2001).

Table 2: Exports of excess US SALW in 2001

Country	Weapon	Requested	Allocated	Accepted	Delivered	Current notified value (\$)
Estonia	7.62 mm Ball F/M14 Rifle	1,574,000	1,574,000			\$220,360
Israel	Machine-gun, 7.62 mm	1	1			\$287
	Rifle, 5.56 mm	719	719			\$15,818
	Carbine, 5.56 mm	2	2			\$58
	Rifle, 5.56 mm	1	1			\$22
	Mortar, 81 mm	111	111			\$4,884
	Mortar, 60 mm	10	10			\$310
	Rifles	30,000	30,000			\$2,670,000
Latvia	7.62 mm Ball F/M14 Rifle	1,574,000	1,574,000			\$220,360
Lithuania	Bayonet	3,000	3,000	841	841	\$12,000
	7.62 mm Ball F/M14 Rifle	1,574,000	1,574,000			\$220,360
	Bayonet	208	208	208	208	\$832
	5.56 mm Tracer	5,000,000	3,000,000			\$420,000
The Philippines	Rifles	30,000	30,000			\$4,014,000
Senegal	Rifles, 5.56 mm	4,000	4,000			\$532,000
Total SALW		9,790,000	7,790,000	1,049	1,049	\$8,331,291

Notes: Excess Defence Articles from FY 2001, SALW only (not including list of parts). Source: Excess Defence Articles Authorised and Furnished Foreign Countries Under the Provisions of Section 516 of the Foreign Assistance Act of 1961, As Amended, FY2001. Defence Security Co-operation Agency, Information Required by Section 655, Foreign Assistance Act of 1961, posted on the Web site of the Federation of American Scientists, <<http://www.fas.org/asmp/profiles/655-2001/EDA/2001-eda.pdf>>, version current on 3 March 2003.

From the perspective of the US Government, this policy of exporting surplus stocks to friendly governments has the twin benefit of strengthening vulnerable allies while simultaneously reducing the surplus stockpile. The blanket prohibition on the re-transfer of US military equipment without prior approval from Washington is also said to prevent the weapons from being diverted to third countries. To this end, searches of relevant personal and other public record news data, confirms that there is no evidence of diversion en route to, nor re-export from, the above recipient countries of US military surplus small arms.

⁵ Ibid, p 85.

⁶ Ibid, p 86.

⁷ Lora Lumpe, 'The legal side of a dirty business', *Washington Post*, (24 January 1999); and 'US policy on small/light arms exports', (unpublished paper, December 1997).

Federal, state and local Government agencies

Numerous Government agencies in the United States are entitled to hold SALW. At the federal level, over 30 agencies may authorise their employees to carry firearms. However, there do not appear to be any reliable statistics on the total number of small arms held by these federal agencies. For some of these agencies, the right to carry firearms can also be extended to contractors and subcontractors. In addition, there are over 17,000 state and local law enforcement agencies in the United States authorised to carry firearms.⁸

Private individuals and companies

In the United States private people and organisations are also legally able to hold SALW as defined by the Small Arms Survey. Indeed, the US has by far the largest civilian weapons market in the world, accounting for 95 percent of the four million firearms manufactured in the country in 1999 with another 1 million imported firearms.⁹ Thus around 5 million weapons entered into circulation in the US in 1999 alone. Estimates of the total number of weapons held legally by private citizens range from approximately 192 million (including 65 million handguns)¹⁰ to 230 million (including 75–80 million handguns).¹¹ Each day, about 5,500 new handguns are sold in the United States, and an estimated 24.2 percent of adults have at least one gun.

There are 81,325 federally licensed dealers and pawnbrokers in the United States – three times the number of McDonald’s franchises¹² – and 238 active federally licensed firearms manufacturers across 43 states. These manufacturers produced over 1.2 million handguns in 1998.¹³

Defining surplus today

It is the US Department of Defense (DoD) that is authorised to define and identify surplus stocks of defence materials, including SALW. The DoD Defense Demilitarisation Manual defines “Excess” as “that quantity of an item that has completed screening within DoD and is not required for the needs and the discharge of the responsibilities of any DoD activity”.¹⁴ In controlling the disposal of surplus SALW, the DoD also co-operates closely with the US State Department and Commerce Department.

As the majority of the post-Cold War US Army surpluses described above have either been destroyed or exported to friendly governments, new surpluses or ‘excess’ stocks only arise as the result of the regular DoD life-cycle management programme. Small quantities of new small arms are procured on a regular basis as part of ongoing modernisation, but changes in the inventory occur much more slowly. In 2000, for example, the US Army acquired 37,224 new small arms, equal to approximately 2 percent of its total inventory.¹⁵

Policies

The US approach to SALW proliferation concerns is to focus on practical measures to address the problem of illicit SALW trafficking in conflict regions, while acknowledging the legitimacy of the legal trade, manufacture and ownership of arms.¹⁶

⁸ Defense Logistics Agency website: <www.dla.mil/j-3/leso/aboutleso.htm>

⁹ *Small Arms Survey 2002*, (Graduate Institute of International Studies/ OUP, 2002), p 79.

¹⁰ Cook, Ludwig J, *Guns in America: Results of a comprehensive national survey of firearms ownership and use*, (Police Foundation, Washington DC, 1996).

¹¹ <<http://www.code7cafe.com>>

¹² *Commerce in Firearms in the United States*, (Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 2000).

¹³ *Gunland USA*, (Violence Policy Center), based on production numbers from the Bureau of Alcohol, Tobacco and Firearms.

¹⁴ DoD Defense Demilitarization Manual 1991, Appendix A2-4, para 33.

¹⁵ *Small Arms Survey 2002*, (Graduate Institute of International Studies/ OUP, 2002), p 86.

¹⁶ This policy of concentrating solely on illicit trafficking was criticized by many in the NGO community in the lead up to the 2001 UN Conference on the Illicit Trade in SALW in All its Aspects. See, for example, the *Biting the Bullet* series of briefings by BASIC, Saferworld and International Alert, published during 2000–01.

Export and import controls

The President of the United States is authorised to control the export and import of controlled munitions, including SALW, by the 'US Arms Export Control Act' (AECA). With regard to exports, this power is delegated to the State Department, while imports to the US are controlled by the Bureau of Alcohol, Tobacco and Firearms (ATF) within the Department of Treasury.¹⁷

The Office of Defence Trade Controls (DTC) within the US Department of State is charged with controlling the export and temporary import of defence articles on the US Munitions List (USML), including SALW. It also manages the export licence application system and matters related to defence trade compliance, enforcement and reporting. Licensed exports of SALW reported to the OSCE for 2001 totalled just over 1 million items at a value of nearly \$68 million (see **Table 3** for the breakdown).

Table 3: US annual information to OSCE on SALW exports for 2001

Small arms category	Number of items exported	Licence value (\$US)
Revolvers and self-loading pistols	97,592 (38.4% to Belgium; 20.8% to the UK; and 18.2% to Canada)	44,257,164
Rifles and carbines	963,100 (99.9% to Canada)	22,812,714
Sub-machine-guns	9	5,511
Light and heavy machine-guns	11	193,405
Hand-held under-barrel and mounted grenade launchers	199	295,341
Mortars of calibre less than 100mm	0	8,252
Totals	1,060,911	67,572,387

Note: Based on annual commercial arms export data by licence authorisation, not actual transfers. In some cases transfer of arms has not taken place though licence for export has been approved.

The Department of State and the US Customs Service conduct end-user and pre-licence checks on commercial SALW transfers through the Blue Lantern Program. Similar checks on military-to-military SALW transfers are carried out by the DoD's Defence Security Co-operation Agency (DSCA) under its Golden Sentry Program.

All US defence exports, including SALW, are subject to retransfer approval, and in the case of commercial sales, the licence must indicate the ultimate end-use country. The United States is one of the few countries to have introduced a law (as a 1996 amendment to the AECA) regulating arms brokering. Each broker of commodities covered by the USML must register with the DTC and submit each transaction for Government licensing approval. All US citizens overseas or in the United States, and foreign nationals operating within the United States are subject to US brokering law.

Domestic firearms legislation

The main domestic legislation is the 'National Firearms Act'.¹⁸ All firearms as defined by the NFA that are not in possession or control of the United States Government must be registered. Possession of an unregistered NFA firearm is a violation of Federal law and subjects the possessor to possible criminal prosecution and the seizure and forfeiture of the firearm.

US law also requires that anyone engaged in the business of manufacturing or commercial dealing in firearms is licensed under the 1968 'Gun Control Act'. The GCA

¹⁷ US laws and regulations on import, export, manufacture, brokering and marking of SALW are available on the Internet at <www.pmdtc.org> and <www.atf.treas.gov>

¹⁸ Among those firearms subject to the provisions of the 'National Firearms Act' are the following: firearms which are capable of firing more than one shot with a single pull of the trigger; machine-guns, sub-machine-guns, M2 and M3 carbines, M14 and M16 series rifles; shotguns with a barrel or barrels less than 18 inches in length; rifles with barrels less than 16 inches in length; combination rifles and shotguns with folding or detachable shoulder stocks, such as M4 and M6 survival weapons; and pistols which are either fully automatic or equipped with shoulder stock attachments; mufflers or silencers for any firearms whether or not such firearms are included in the above definition. DoD Defense Demilitarization Manual 1991, chapter II, para C.

provides criminal and civil penalties for firearms violations ranging from licence revocation to fines and imprisonment for ten years.

State and local laws vary across the United States.¹⁹ Some states and cities have dealer regulations that are in addition to federal regulations, with California having the most comprehensive policies overall.²⁰ Only in a few states are gun owners required to have licences. Thirty-five states do not require registration or licensing of any firearms with the state.²¹ While the Federal Government does not have restrictions on the number of firearms Americans may purchase, California, Maryland, South Carolina, and Virginia have laws that restrict the sale of guns to one a month per person.²²

About 32 cities and the State of New York have filed lawsuits against gun manufacturers and dealers, alleging that gun dealers have given firearms to criminals.²³ However, the US Congress has been considering a law that would prevent people from suing gun manufacturers.²⁴

Rules and laws applicable to the destruction of SALW and ammunition

The DoD's 'Defence Demilitarisation Manual' sets out detailed guidelines for the destruction of military items, including SALW, which are "owned or procured by or under the control of the Military Services/Defence Agencies", including all property sold under the Foreign Military Sales (FMS) Program.²⁵ The underlying policy principles were discussed above.

Storing, registration, transport and management of US Government stockpiles

Marking and registration

By law, all US SALW are marked at the time of manufacture and import to assist in tracking illegal diversions. The method of marking is with a serial number, the make, model, and calibre or gauge of the firearm, as well as the name, city and state or foreign country of the manufacturer or importer. Confiscated firearms retained for official use are marked at the time of confiscation if not already marked.²⁶

The US does not have a central record keeping system. Certain firearms are required to be registered under the 'National Firearms Act' (eg machine-guns). Manufacturers, importers and dealers are required to keep records of their acquisition and disposal of firearms for not less than 20 years.²⁷

The US DoD, however, does have a comprehensive and multi-layered inventory control system. All Army units are required to record the number and condition of all their small arms and ammunition every month. Every base or installation takes an inventory every six months, though depots only do so annually.²⁸ The DoD maintains a Small Arms Serialisation Program (SASP), run by the Defence Logistics Agency (DLA). The SASP is responsible for the control of, and accounting for, small arms, by serial number, from initial receipt to final disposal. All small arms are registered by

¹⁹ For more information on state laws, see: Department of the Treasury Bureau of Alcohol, Tobacco and Firearms, 5300.5 *State Laws and Published Ordinances – Firearms (2000 – 22nd edition)*, <<http://www.atf.treas.gov/firearms/statelaws/22edition.htm>> (current on 19 April 2003).

²⁰ Firearms Law Centre, 'Master List of Firearms Policies', <<http://www.firearmslawcenter.org/content/masterlist.asp>>, 19 April 2003.

²¹ Coalition to Stop Gun Violence, 'Report Card on State Laws', <http://www.csgv.org/content/resources/frame_resc_intro.html>, 19 April 2003.

²² Firearms Law Centre, 'Master List of Firearms Law Policies', <<http://www.firearmslawcenter.org/content/masterlist.asp#OneGunPerMonth>>, 19 April 2003.

²³ Ibid, and Shannon Tan, Indystar.com, 'Court: Gun owners May be Sued', 8 April 2003, <<http://www.indystar.com/print/articles/2/034481-4722-009.html>>, 19 April 2003.

²⁴ See H.R. 357, 'Firearms Heritage Protection Act 2003', as introduced in the House of Representatives on 27 January 2003; and S. 659, Protection of Lawful Commerce in Arms Act, as introduced in the Senate on 19 March 2003.

²⁵ The DoD Defense Demilitarization Manual 1991 can be found on the DoD website at <<http://www.dlaps.hq.dla.mil/416021m1.pdf>>

²⁶ United States Support for the United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, (US Department of State, 1 August 2002).

²⁷ Ibid.

²⁸ *Small Arms Survey 2002*, (Graduate Institute of International Studies/ OUP, 2002), pp 260–261.

individual serial number in the DoD Central Registry. Small arms with missing, obliterated, mutilated or illegible serial numbers are assigned a serial number for registry purposes. In theory, this allows the DoD to guarantee continuous visibility over all small arms, including those on hand, in transit, lost, stolen, destroyed or transferred out of the control of DoD. In addition, an annual reconciliation of all small arms in the registry is performed.²⁹ Confirmed thefts, losses and recoveries of DoD small arms are reported to the National Crime Information Centre (NCIC) and DoD Central Registry.

Transportation

SALW are transported in locked and sealed containers. In the event of contingencies, exercises or rotational unit movements where it is not practical to use containers, only armoured vehicles that are locked and sealed are used to transfer SALW. SALW shipments are locked/sealed and inspected in transit. Shipments are checked upon receipt by the consignee to ensure that seals are intact and for any signs of theft, tampering or damage. If the seals are intact, inventory quantity verification takes place within 48 hours of receipt.³⁰

Structures and practices

US Armed Forces and other Government agencies

Defence Reutilization and Marketing Offices (DRMOs) within the DoD determine the most appropriate and economical means for the disposal of surplus weapons held by various US Government agencies. Any weapons identified as surplus are screened through DoD Inventory Control Points (ICPs) to decide whether they should be:

- Transferred to one of the other armed services;
- Transferred to another Federal Agency;
- Sold to approved foreign countries or domestic (local or state) law enforcement and fire-fighting agencies, and in the case of explosives, to licensed manufacturers and dealers; or
- Earmarked for destruction.³¹

Several points need to be stressed here. First, consideration of utilisation by another Federal Agency or specialised sales of surplus SALW always precedes destruction. Indeed, according to the State Department's own report on how the US is meeting its obligations under the UN Program of Action on SALW, destruction of military weapons takes place when the weapons are "no longer useful, serviceable or economically repairable as part of its stockpile management life-cycle program".³² This programme is facilitated by the DoD Demilitarisation Life Cycle Planning Centre (DLPC), the terms of reference for which are contained in an internal DoD Memorandum of Agreement approved on 26 July 2001.³³

Second, the DoD 'Defence Demilitarisation Manual' explicitly prohibits negotiated sales (with the exception of explosives) to commercial firms for resale to foreign governments.³⁴ However, sales of surplus military small arms to the American general public are by no means uncommon: M1 semi-automatic rifles of World War II vintage are sold to the public, mainly collectors, through the Civilian Marksmanship Program

²⁹ US submission for the 2002 information exchange in accordance with the OSCE Document on Small Arms and Light Weapons, October 2002.

³⁰ Ibid.

³¹ Ibid.

³² United States Support for the United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, (US Department of State, 1 August 2002).

³³ For more information on the DoD Demilitarization Life Cycle Planning Center, see <<http://www.dla.mil/j-3/leso/Section1033/DEMIL.htm>>

³⁴ DoD Defense Demilitarization Manual 1991, chapter II, para B2a.

(CMP). Following changes to the law in 1996, the CMP is authorised to sell surplus .30 and .22 calibre military rifles and ammunition “for marksmanship”.³⁵

The CMP sales and distribution staff includes personnel at CMP Headquarters on Camp Perry, Ohio and at the CMP Distribution Centre in Anniston, Alabama. In 2002, the CMP received 17,827 M1 rifles returned from Denmark and successfully distributed many of them to affiliated clubs and members. Surplus army smallbore rifles (Mossberg M444 and Kimber Government Model 82) and the M1 Garand rifles are also popular with shooting clubs.³⁶

Third, the Law Enforcement Support Office (LESO) is delegated (by the DOD Defense Logistics Agency) to transfer excess DoD equipment to federal and state law enforcement agencies. The ‘1033 Program’³⁷ (formerly the 1208 Program) provides over 17,000 law enforcement agencies with an avenue to receive surplus DOD small arms.³⁸

Those weapons that are not identified as meeting other requirements during screening are sent to destruction sites, where “total destruction of the item and components, so as to preclude restoration or repair to a useable condition” is the aim. Destruction techniques listed in the DoD ‘Defense Demilitarisation Manual’ include: mutilation, deep water dumping at sea, torch cutting, crushing, scrapping, melting, burning or other alteration designed to permanently preclude repair or restoration of the weapons. The main US Government SALW destruction facility is the Rock Island Arsenal in Illinois where melting is the principal method of destruction. Following destruction, a certificate is signed, dated and retained indefinitely in a permanent record file.³⁹

The destruction of DoD surpluses is executed by the DRMO, other state-owned agencies or private contractors according to the most “cost-effective methods consistent with security and surveillance”.⁴⁰

According to the US submission to the OSCE, approximately 12,000 SALW were destroyed in 2001 as part of the US DoD ‘life-cycle management program’. No breakdown by category or sub-category was provided to the OSCE, and there is no publicly available information on how many rounds of ammunition from surplus stocks were destroyed.

Civilian weapons

With regard to surplus civilian and illegal stockpiles, weapons collection and destruction programmes first emerged as a crime prevention measure in Philadelphia in the late 1960s. Since then, a large number of US communities have carried out gun ‘buy-back’ projects, often funded by private sponsors, including businessmen, religious groups, civic organisations, law enforcement agencies and media. The effectiveness of these programmes is a source of much debate in the United States, but in terms of their impact on the size of the civilian stockpile, the effect is likely to have been marginal and localised.⁴¹

The first US federal weapons collection programme was launched by the Clinton Administration in 1999 through the allocation of \$15 million to buy back firearms in and around public housing projects. As part of a drug-fighting grant, \$500,000 was

³⁵ The Civilian Marksmanship Program (CMP) was created by the US Congress in 1916 and promotes firearms safety training and rifle practice for all qualified US citizens with special emphasis on youth. The CMP operates through a network of affiliated shooting clubs and associations that covers every state in the United States. For more information on the CMP, see its website: <<http://www.odcmp.com>>

³⁶ *Small Arms Survey 2002*, (Graduate Institute of International Studies/ OUP, 2002), p 86; and CMP website.

³⁷ Under Section 1033 of the ‘National Defense Authorization Act’.

³⁸ For more information, see the Defense Logistics Agency website <<http://www.dla.mil/j-3/leso/aboutleso.htm>>

³⁹ US submission for the 2002 information exchange in accordance with the OSCE Document on Small Arms and Light Weapons, October 2002.

⁴⁰ DoD Defense Demilitarization Manual 1991, chapter I, para C4.

⁴¹ For an assessment of US gun buy-back programs, see Plotkin, M(ed), ‘Under Fire: Gun Buy Backs, Exchanges and Amnesty Programs’, (Washington DC, Police Executive Research Forum, 1996); and Romero, M, Wintemute, G, et al, ‘Characteristics of a Gun Exchange Program and an Assessment of Potential Benefits’, *Injury Prevention*, (vol 4 1998), pp 206–210.

allocated to local police departments with the aim of collecting and destroying up to 300,000 weapons.⁴² According to the Department of Housing and Urban Development (HUD), which was responsible for administering the scheme, 20,000 weapons were collected in 80 different cities during the first year of the programme. In July 2001, the Bush Administration decided to end the programme since it was not part of the core mission of the HUD Department.⁴³

According to the US submission to the OSCE, there are no available records of numbers of seized weapons that have been destroyed on an annual basis. Seized weapons may be destroyed, or otherwise securely stored, depending on local, state, or federal law enforcement procedures. Some firearms confiscated by the police in some states are then sold on the open market to finance the cost of collection agencies.

Box 1 provides an illustration of one gun buy-back programme in Washington, DC.

BOX 1

The Gun Buy-Back Program in Washington, DC

As part of its commitment to reducing gun violence in Washington, DC, the Metropolitan Police in the District of Columbia (MPDC) has implemented a number of different strategies, including periodic gun buy-backs. The gun buy-backs operated by the MPDC allowed individuals to turn in unwanted firearms to the police with no questions asked. Individuals were also granted amnesty from any gun possession charges that might have applied, and – as an added incentive – received payment for each gun.

After the weapons were collected and catalogued, the MPDC's Firearms Examination Section test-fired them and gathered ballistics evidence about each weapon. The MPDC worked with the Federal Bureau of Alcohol, Tobacco and Firearms (ATF) to trace the weapons and track their involvement with previously unsolved crimes. The ATF also conducted an analysis of all weapons to give police officials a better understanding of gun possession and trafficking patterns. After they had been test-fired and analysed, all the weapons accumulated during gun buy-backs in DC were melted down and destroyed at an area foundry.

Between August 1999 and December 2000, the MPDC conducted three gun buy-backs. During these buy-backs, the MPDC collected 6,253 firearms and paid out a total of approximately \$528,000. Past gun buy-backs have been jointly funded by the District of Columbia and the US Department of Housing and Urban Development. Because of budgetary constraints, no additional gun buy-backs are currently planned.

Source: MPDC Web site at: <http://mpdc.dc.gov/serv/programs/buyback.shtm>

International assistance programmes

The US Government, through the Department of State's Bureau of Political-Military Affairs, provides bilateral and multilateral technical and financial assistance to countries that request help in evaluating stockpile management and security training as well as destruction of surplus and illicit stocks of SALW. This is in addition to extensive support for export control assistance programmes, especially in the countries of the former Warsaw Pact.⁴⁴ The DoD and State Department work closely in the provision of weapons expertise for the confidential assessments of stockpile security and

⁴² Schmitt, E, 'Clinton Unveils Program to Buy Back Guns from Public Owners', *The New York Times*, 10 December 1999.

⁴³ Nakashima, E, 'Administration Calls Halt to Gun Buybacks', *Washington Post*, 26 July 2001.

⁴⁴ The US Department of State's Bureau of Nonproliferation co-ordinates US export control assistance for 25 countries and is seeking to expand to another 17 countries under the Export Control and Related Border Security Assistance (EXBS) Program. The US also provides specialised law enforcement training such as customs inspection and maritime interdiction through the EXBS Program. United States Support for the United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, (US Department of State, August 1 2002).

potential destruction techniques available within a host country. To date these assessments have taken place in Albania, the Former Yugoslav Republic of Macedonia, Lesotho and Bulgaria.⁴⁵

US military forces, sometimes working with multinational partners, have frequently undertaken the destruction of arms seized or otherwise collected in military or peace-keeping operations (see **Table 4**). In the early 1990s, much of this work, such as the contribution of \$300,000 through the UN Trust Fund on Liberia (which enabled 19,000 SALW and more than 3 million rounds of ammunition to be destroyed), had been ad hoc. But as US engagement on small arms efforts grew during the late 1990s, more systematic attention began to be paid to eliminating re-circulating and surplus stocks in areas of concern.

Table 4: US involvement in small arms collection and destruction programmes overseas

Location	Time period	Framework	Organiser	Weapons collected/destroyed	Sources ⁴⁶
Panama	1989–90	Peace-building	US Army	10,000 collected	US, GAO (2000)
Panama	1990–91	'Operation Just Cause'	US Army	77,553 destroyed	Peartree, E (2001)
Iraq and Kuwait	During/after the 1991 Gulf War	Gulf War		Tens of thousands	
Haiti	1994–95	Peace-building	US Army	18,621 destroyed 3,389 collected	Peartree, E (2001) US, GAO (2000)
Bosnia	1999–Nov 2001	Peace-building	SFOR	15,169 small arms; 57,492 grenades; over 5 million rounds of ammunition	SFOR (2001)
Kosovo	June–Sept 1999	Peace-building	KFOR	10,000 weapons; 27,000 grenades; 5 million rounds of ammunition	BICC (2001)
Liberia	July–Oct 1999	Peace-building	ECOMOG/ UNOMIL	19,000	Peartree, E (2001)
Albania	2000 to date	Crime/conflict prevention	UNDP	188,000 collected	UNDP (2002)
Macedonia	Aug–Sept 2001	Peace-building	NATO	3,875 collected	NATO (2001)
FRY	Sept–Dec 2001	Peace-building	US-FRY	51,000 illicit SALW destroyed	UNDP (2002)

This led to the creation of a joint US-Norwegian Working Group in October 1999 to assist at-risk countries in the destruction of SALW. In May 2000, US and Norwegian experts undertook the first joint assessment visits to Albania. Efforts to eliminate collected and surplus stocks of Albanian arms began in earnest in September 2000, following a joint memorandum of understanding between the US, Germany, Norway and Albania. According to the memorandum 130,000 weapons, collected from the population since the 1997 political crisis, were to be destroyed alongside surplus military stocks. As of May 2001, over 50,000 SALW had been destroyed. By May 2002, the total number of weapons collected had risen to 188,000.⁴⁷

Successful joint assessment visits by US and Norwegian teams were also carried out in Macedonia and Bulgaria in October 2000, while in December that year the US and Southern African Development Community (SADC) signed a joint declaration on SALW measures, including a commitment to destroy surplus and illicit arms.

This growing US commitment to SALW destruction was backed in 2001 by the release of \$2 million to the State Department to assist countries in the destruction of excess SALW.⁴⁸ The Norway-US offer was also extended beyond the Stability Pact for South Eastern Europe to include all Euro-Atlantic Partnership Council (EAPC) and OSCE

⁴⁵ US submission for the 2002 information exchange in accordance with the OSCE Document on Small Arms and Light Weapons, October 2002.

⁴⁶ Sources include Peartree, E, 'Destroying Excess Small Arms: US Policy and Programs', *US Foreign Policy Agenda*, vol 6, no 2, June 2001; and authors' sources.

⁴⁷ UNDP, 'Belgrade clearinghouse to help curb small arms in south-east Europe', 22 May 2002, <<http://www.undp.org/dpa/frontpagearchive/2002/may/22may02/index.html>>

⁴⁸ Ambassador Donald McConnell, Bureau of Political-Military Affairs, US Department of State, 'Combating the Spread of Small Arms: The US Approach', *US Foreign Policy Agenda*, vol 6, no 2, June 2001, p 7.

countries, as well as countries in Latin America, Asia and Africa. At the end of 2001, bilateral assistance for destruction projects was being discussed in several countries and the United States was actively seeking joint ventures with other donor countries.

On 30 September 2001, the US agreed to finance the destruction of just under 52,000 SALW by the Technical Repair Bureau in Cacak in the former Federal Republic of Yugoslavia (at a cost of \$400,000). Destruction began in October and was completed by the end of 2001. The United States also played a leading role in the NATO operation to collect weapons from ethnic Albanian rebels in the former Yugoslav Republic of Macedonia. Labelled 'Operation Essential Harvest', the NATO-led mission (from 27 August to 26 September 2001) collected 3,875 weapons, including 3,210 assault rifles and a total of four tanks and armoured personnel carriers, as well as 397,625 mines, explosives, and ammunition from the rebels, who voluntarily handed over their weapons.⁴⁹

The United States also took a leading role in the development of the OSCE Best Practices Guide on SALW destruction.⁵⁰ Finally, the United States has also provided support for Disarmament, Demobilisation and Reintegration (DDR) in Kosovo, Sierra Leone, East Timor, Philippines and Colombia. This support is primarily in the 're-integration' aspect, but has also assisted in some cases with collection and destruction efforts.⁵¹

Conclusions, reforms and future policies

With current levels of transparency it is impossible to put together an accurate picture of the proportion of surplus US SALW stored, sold (exported or sold to commercial dealers, shooting clubs or individuals within the United States) or destroyed each year. However, drawing on various sources, it is possible to develop an approximate illustration as follows:

Stores

There appears to be no open-source information regarding the current status of the US Army surplus stockpile or how many weapons are currently retained within it. Nor does there seem to be any centrally-held open-source information on how many SALW and how many rounds of ammunition may be regarded as surplus within the stocks of federal, state and local law enforcement agencies in any given year.

Exports

Licensed exports of SALW reported to the OSCE for 2001 totalled just over 1 million items at a value of nearly \$68 million (as shown in **Table 3** above), but there is no attempt to disaggregate between exports of new and surplus weapons. A partial snapshot of US exports of surpluses is provided in the Department of Defense portion of the US '655 Report', which contains specific data on transfers of surplus weapons donated through the Excess Defence Articles Program (as shown above in **Table 2**). In 2001, 65,000 surplus items were allocated for export, together with 6 million rounds of ammunition at a total value of just over \$8 million.

Sales to commercial dealers, shooting clubs and individuals

The only information found during the course of this study was that in 2002 a large

⁴⁹ For further information on weapons collection and destruction in south eastern Europe, see Davis, I, *Small arms and light weapons in the Federal Republic of Yugoslavia*, (Saferworld: London, May 2002).

⁵⁰ United States Support for the United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, (US Department of State, 1 August 2002).

⁵¹ Ibid.

part of approximately 18,000 surplus military rifles were transferred to civilian ownership through the CMP marksmanship program. Small quantities of older military weapons are also likely to have been transferred to gun collectors. There currently appear to be no direct transfers of surplus military SALW from the DoD to commercial gun dealers, although further research on the quantities and sources of surplus weapons in the inventories of the 80,000 commercial gun outlets in the United States would provide a clearer picture. Research to evaluate the extent of any trading in surpluses between commercial dealers and the 17,000 state and local law enforcement agencies (which are authorised to receive surplus military stocks) would be particularly valuable.

Destroyed

12,000 surplus military weapons were destroyed in 2001, plus an unknown quantity of illicit (collected or seized) civilian weapons.

Overall, therefore, in a single year (2001), approximately 95,000 surplus military SALW were removed from storage: 12.6 percent were destroyed; 68.4 percent were exported; and 18.9 percent were transferred to the civilian population.

Demand in both the US civilian and military markets has been in decline in recent years, indicating that the number of surplus SALW within the US may be significant and rising. On the other hand, there are indications that the US civilian market may increase in the next few years as result of the terrorist attacks on the United States in September 2001, providing an outlet for surplus stocks.

Meeting OSCE commitments

In terms of implementing the OSCE Document on SALW the US Government does not appear to have made any visible reforms to existing practice, probably in the belief that it already meets all the requirements set out in the Document. In particular, there appear to be no changes in policy in the management and disposal of surplus stocks of SALW in the United States underway as a result of signing the OSCE Document. In terms of the disposal of small arms, the US Government does carry out regular reviews (as required under Section IV of the OSCE Document) of its stockpiles, and can be said to “effect reductions where applicable”.

The OSCE Document further advocates the improvement of national stockpile management and security measures through the adoption of “proper national inventory accounting and control procedures”. While inventory control within the US Army is clearly highly advanced, no central registry currently exists for small arms held by the myriad of federal agencies, and state and local law enforcement agencies.

In the third part of Section IV, the OSCE Document also says that “[a]ny small arms identified as surplus to a national requirement should, *by preference*, be destroyed.” The same applies to confiscated illegal weapons. However, the current practice in the United States, as indicated above, is to find alternative uses for such surpluses, either through export or through distribution to domestic shooting clubs. The OSCE Document also stipulates that an alternative use, such as the export of surplus arms, must meet the criteria laid down in Section III.

OSCE export criteria

In 2001, US surplus military small arms were authorised for export to Israel, the Philippines and Senegal. While no deliveries took place in 2001, it is still worth considering whether the US Government followed the stated OSCE criteria. The proposed transfers of 30,000 surplus rifles to Israel and the Philippines raise particularly serious concerns under one or more of the criteria.

Israel

Israel has the right under international law to acquire arms for legitimate self-defence, and the attacks of 11 September and increase in Palestinian violence led to a heightened sense of insecurity during 2001. However, the behaviour of the Israeli security forces was such that concern must be raised under a number of the OSCE export criteria, and this, combined with illegal Israeli occupation of Palestinian areas, means that extreme caution should have been applied when considering exports of surplus small arms to Israel.⁵² Indeed, given the systematic human rights abuses committed by Israeli security forces, it might have been expected that the US Government should have applied an embargo on military equipment – including surplus military rifles – that has obvious use for internal repression. Further information on the proposed end-user for the rifles, and on the make and age of the rifles themselves, would assist a more detailed assessment under the OSCE criteria.

The Philippines

Similarly, the ongoing internal conflicts in the Philippines in 2001 presented a threat to the democratically elected Government. However, serious human rights abuses persisted in the Government's prosecution of the conflict and its wider treatment of the civilian population. Concerns under both the human rights and internal situation criteria (paragraphs (A)2(a)(i) and (ii)), should have led to a prohibition on exports of surplus small arms, since these have obvious application in internal repression. Again, the quality of the surplus weapons and proposed end-user would be important factors in reaching a properly informed assessment (neither of which are available to this author).

International assistance

The US Government has played a key role in international co-operation and assistance programmes with regard to the elimination of SALW, and such programmes are likely to be continued in the future. However, continued and increased funding for small arms destruction programmes will be required if the United States is to provide proper leadership on this issue. There are also concerns that the current crisis in Iraq and the war against terrorism are deflecting US attention and resources away from serious engagement on this issue. For SALW projects currently being initiated in the South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), for example, the US has expressed specific interest in working with SEESAC on destruction projects in Bulgaria, most likely on a bilateral basis, and in future co-operation on projects in the Former Yugoslav Republic of Macedonia and Romania.

According to a recent SEESAC report on Romania, the US is working bilaterally with the Romanian Government and Norway on the development of a project for the destruction of surplus SALW at an estimated cost of \$4.8 million. In September 2002, a contract between the US Department of State and ROMARM (Romanian company) has been signed, specifying the destruction of almost 200,000 SALW, as well as large amounts of ammunition.

⁵² For discussion on the use of force by Israeli security forces, see 'Israel and the Occupied Territories' *Amnesty International Annual Report 2002* and 'Israel and the Occupied Territories' *US Department of State Annual Report on Human Rights Practices 2001*.

2

United Kingdom

Anna Stavrianakis

Introduction

THIS CHAPTER COVERS THE DISPOSAL of surplus small arms and light weapons (SALW) in the United Kingdom from a military, police and civilian perspective. It begins with a section on the availability of SALW, looking at military and police stocks and the emergence of surplus, and civilian possession. The second section looks at policies governing the disposal of surplus weapons: export or destruction are the main options. This is followed by an analysis of the structures and practices for disposing of surplus weapons. A small section on issues relating to reforms and future policies follows, before concluding remarks.

Stocks and determination of surplus

Armed Forces

One of the salient features of British defence policy in the decades following the end of World War Two was the high rate of innovation in strategic thinking and weaponry.¹ Defence spending took up a considerable proportion of the state budget and a wide swathe of the population was involved in the defence industry. This concern with defence in a 'non-war' situation was a new feature of modern British history. By 1965 the development, firepower and weapons systems of the UK's Armed Forces had changed beyond recognition, and defence spending ranged between six and over ten percent of GNP during this time.² Following the collapse of the USSR and the end of the Warsaw Treaty Organisation, British defence spending, as a share of GDP, declined for much of the 1990s. Although reviews of defence policy have made clear that there is no direct or immediate military threat posed to the UK or its overseas territories, the end of the Cold War has given way to an uncertain security environment. Defence expenditure has decreased steadily from 3.8 percent of GDP in 1992 to 2.5 percent of GDP in 2000.³ The Strategic Defence Review of 1998 concluded that the new and uncertain security environment calls for the UK's Armed Forces to be kept at a high degree of readiness and military effectiveness for conflict prevention, crisis management and combat operations.⁴ The Armed Forces currently number 212,450 personnel, over half of whom are in the Army. The UK also maintains a substantial reserve force, numbering 302,850 at the last count.⁵

¹ Edmonds, M, Groom, AJR, 'A Guide to the Sources of British Military History', Higham R (ed), (London, Routledge and Kegan Paul, 1972), pp 566–590.

² *Ibid.*

³ 'Armaments, Disarmament and International Security', in *SIPRI (2002) SIPRI Yearbook 2002*, (Oxford, OUP), p 287.

⁴ 'Security Assessment. Western Europe, November 2001–April 2002', *Jane's (2002) Jane's Sentinel*, (Surrey, Jane's Information Group), p 839.

⁵ *Ibid.*, p 805.

The quantities and types of small arms held by UK Armed Forces is largely not publicly available information. However, it is known that the Army holds the types of infantry weapons and artillery specified in **Table 1**.

Table 1: Types of weapons held by the Army⁶

Type	Role
9mm FN35	Pistol
5.56mm L85A1	Rifle
7.62mm FN-FAL	Rifle
7.62mm L39A1	Rifle
7.62mm L96A1	Rifle
5.56mm L86A1	Machine-gun
7.62 mm FN MAG	General purpose machine-gun
7.62 mm Bren L4	Machine-gun
0.50 Browning M2HB	Machine-gun
81 mm (incl. 105 SP)	Mortar
51 mm light mortar	Mortar

Military expenditure on equipment as a whole fell by 4.6 percent in 2001 and by 2.8 percent in 2000, following rises of 0.3 percent in 1999 and 6.7 percent in 1998.⁷ Military expenditure as a percentage of GDP remained relatively constant during this time, at approximately 2.5 percent.⁸ At present the UK Armed Forces do not have a very large surplus of small arms; military downsizing over recent years contributed to a surplus, but this process is now largely over. The country's military forces hold weapons as required in individual force armouries.

The process of defining weapons surpluses involves a range of personnel, from force armourers through equipment managers, logistics and accounts staff. Factors such as the condition of existing equipment, the emergence of new equipment and future military requirements are considered in light of a "front-line first" policy to calculate weaponry needs and, by extension, surpluses. Weapons stores are calculated in terms of military need on the basis of risk assessments, with any equipment that is not earmarked for a specific future use defined as surplus and disposed of. Surplus holdings are regularly reviewed to prevent the expensive storage of superfluous weapons.

Police service

The UK police service is split into 43 geographically organised forces in England and Wales; Scotland and Northern Ireland have their own police services. Recent figures show that police forces in England and Wales number 180,107 staff (including civilian staff), and 14,810 in Scotland (plus 1,651 Special Constables)⁹. Other police forces such as the British Transport Police, Ministry of Defence Police and Port of London Authority Police are not organised along geographical lines but are responsible for the policing of particular installations.

Within the police services, firearms are not routinely carried; the standard weapon carried by all officers is the side-handled baton. However, the growing perception that professional criminals are likely to be carrying firearms has led Chief Officers in urban areas to announce that arms will be carried more often.¹⁰ Only authorised officers, known as Authorised Firearms Officers (AFOs), are eligible to carry firearms, which can be issued when there is reason to suppose that they may, in the course of duty, have to protect themselves or others from someone who is in possession of or has

⁶ Ibid, p 848–9.

⁷ 'Armaments, Disarmament and International Security', in *SIPRI (2002) SIPRI Yearbook 2002*, (Oxford, OUP), p 294.

⁸ Ibid, p 287.

⁹ 'Security Assessment. Western Europe, November 2001–April 2002', *Jane's (2002) Jane's Sentinel*, (Surrey: Jane's Information Group), p 860.

¹⁰ Ibid.

immediate access to a firearm, or is otherwise so dangerous that the officer's use of a firearm may be necessary. Firearms can also be issued for the humane destruction of animals that are dangerous or suffering unnecessarily.¹¹ The Chief Officer of each force determines at what level authorisation for the issue of firearms and specialist munitions is to be granted. In Northern Ireland, the Chief Constable has given standing authority for all officers to be issued with a personal issue handgun, subject to appropriate training.¹² Other than that, certain officers across the UK, such as those working at airports, nuclear sites, on Protection Duties or in Armed Response Vehicles, may be granted standing authority for the issue and carriage of firearms.¹³

Other than the Armed Forces, the police service is the only Government agency authorised to carry firearms. All other agencies rely on the police to provide armed support for operations, where necessary. The Chief Officer may agree to assist other law enforcement agencies such as Customs and Excise, HM Prison Service and the UK Atomic Energy Authority Constabulary in operations where appropriate authority to issue firearms is given. The issue of the transfer of responsibility is to be dealt with in individual cases.¹⁴

Regarding the types of firearms held by police officers, the Association of Chief Police Officers (ACPO) Manual of Guidance suggests that at short range, revolvers, self-loading pistols and carbines firing handgun ammunition should be sufficient. At longer range, rifles and carbines using rifle ammunition may be appropriate.¹⁵ Taking the Metropolitan Police as an example, weapons have a certain status: weapons in active service are those that are regularly tested and carried by AFOs; weapons in reserve are those that are regularly tested but not carried by AFOs; surplus weapons are those that have been surpassed by new models or whose repair would be too expensive. Information regarding stocks and surpluses is held by individual police constabularies, with force armourers generally in charge of such issues. Figures available for the Scottish Police Service show that 1,437 firearms are currently held by the police, and that 720 officers are currently qualified to hold firearms.¹⁶

Weapons held by the IRA

The UK state has faced the threat of violence from the Irish Republican Army (IRA) for many years in its demands for Northern Ireland's secession from the UK. It is highly armed, and security sources in Ireland estimate that the IRA has sufficient material to equip two battalions, which it imports and also develops indigenously.¹⁷ There have been a number of splits in the IRA over the years, with the formation of the Real IRA, Continuity IRA, Provisional IRA and INLA (Irish National Liberation Army). Although numbers are difficult to estimate, the types of weapon held by the IRA and INLA is largely as in **Table 2**:

¹¹ 'ACPO Manual of Guidance on Police Use of Firearms', < <http://www.westmercia.police.uk/mogpufdefault.htm> >, January 2002.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ Mr. Jim Wallace, 28 October 2002, response to parliamentary question S1W-30561, Scottish Parliament

¹⁷ 'Security Assessment. Western Europe, November 2001–April 2002', *Jane's (2002) Jane's Sentinel*, (Surrey, Jane's Information Group), p 861.

Table 2: Types of weapons held by the IRA and INLA¹⁸

Held by	Type	Role
IRA	Webley	Revolver
	Various	Sub-machine-guns
	7.62mm AK-47, AKM	Assault rifle
	5.56mm AR-15/M16	Assault rifle
	7.62mm FN MAG	General purpose machine-gun
	12.7mm DShK	Heavy machine-gun
	RPG-7	Rocket launcher
	Strela-2 (SA-7)	Man-portable Surface to Air Missile (SAM)
INLA	Various	Pistols
	9mm Uzi	Sub-machine-gun
	7.65mm Skorpion	Sub-machine-gun
	7.62mm AK-47	Assault Rifle

Civilian possession

Civilian possession of firearms in the UK has been a hotly disputed topic, with the tragedies of mass killings in Hungerford (1987) and Dunblane (1996) looming large in public consciousness. Legislative changes over recent years have been driven by the logic that prohibiting firearms means there are fewer legally held weapons at risk of theft and being used in crime.¹⁹ Civilian possession of firearms in England, Scotland and Wales is governed by the Firearms Act of 1968, which has been amended several times between 1982 and 1997. Section B4 of Schedule 5 of the 1998 Scotland Act states that the subject matter of the Firearms Acts 1968 to 1997 remains reserved, that is, it remains under the remit of Westminster. The Firearms (NI) Order 1981 covers civilian possession in Northern Ireland. The UK now has some of the most restrictive controls on firearm ownership in the world.²⁰ However, despite this, the incidence of gun crime has continued to grow since the last legislative change in 1997.²¹

The 1968 Firearms Act prohibits weapons such as machine-guns and most self-loading rifles; other weapons such as hunting and target rifles, long-barrelled pump-action shotguns and muzzle-loading pistols must be held on a Firearms Certificate issued by the local police constabulary. Shotguns can only be held with a Shotgun Certificate issued by the local police constabulary. Low-powered airguns are not subject to certificate control, although there are controls on their use by young people. One problem with the 1968 Act was that local Chief Constables exercised ultimate authority over its interpretation; although local conditions and problems varied across the country, the implementation of the law was not uniform, which meant that legitimate holders of firearms such as sporting shooters were treated differently depending on where they lived.²²

In 1982 a new Act extended some restrictions to include imitation firearms. Following the Hungerford massacre of August 1987, when Michael Ryan shot 16 people dead and injured 14 others before killing himself with an AK-47 semi-automatic rifle, an Amendment Act was passed in 1988 that widened the class of prohibited weapons to include most semi-automatic rifles, as well as self-loading or pump-action shotguns. In 1992 British and European firearms laws had to be harmonised, which took place under the Firearms Acts (Amendment) Regulation 1992. This meant that agreed European standards of control provided the lowest degree of restriction, but states could increase controls if they wished.

¹⁸ Ibid, p 862.

¹⁹ Wilkinson, F, *Those Entrusted with Arms. The Police, Post, Customs and Private Use of Weapons in Britain*, (London, Greenhill Books, 2002), p 227.

²⁰ Small Arms Survey, *Small Arms Survey 2002: Counting the Human Cost* (Oxford, OUP).

²¹ Wilkinson, F, *Those Entrusted with Arms. The Police, Post, Customs and Private Use of Weapons in Britain*, (London, Greenhill Books, 2002), p 227.

²² Ibid, p 239.

In March 1996 16 schoolchildren and their teacher were murdered by a gunman at a school in Dunblane. Public outrage put the shooting community in a difficult position and made justification of their sport hard. The Government announced an inquiry, to be headed by Lord Cullen, but new legislation was introduced in 1997 before his report was published. This banned most handguns and required the rest (.22 calibre or less) to be stored at gun clubs. When the Labour Party came into power later on in 1997, it banned private ownership of all handguns, with only a few exceptions. The categories of weapon exempted by legislation include air weapons, muzzle-loading guns, signalling apparatus and so on, and some categories of weapon such as starting pistols are still authorised to be held. Deactivated and imitation weapons can also be held without a licence. Deactivation was not a new phenomenon at this time, but it had not been previously recognised under law. Airguns are freely available and can often be converted to fire real ammunition.

At the end of 2000, 296,849 firearms and 1,320,883 shotguns were held on certificates in England and Wales (see **Table 3** and **4**). The planned National Firearms Certificate Holders Register, which was proposed in the 1997 legislation, was delayed again in late 2002 and will not be active until at least 2004, seven years after it was proposed.

Table 3: Civilian possession of firearms in England and Wales 1995–2000²³

Year	Firearm certificates on issue at 31 December	Number of firearms covered by certificates on issue at 31 December
1995	141,700	413,600
1996	141,900	418,300
1997	133,600	305,000
1998	131,900	295,000
1999	132,300	296,400
2000	125,400	296,800

Table 4: Civilian possession of shotguns in England and Wales 1995–2000

Year	Shotgun certificates on issue at 31 December	Number of shotguns covered by certificates on issue at 31 December
1995	653,800	1,325,800
1996	638,000	1,335,000
1997	623,100	1,343,900
1998	627,600	1,343,100
1999	625,700	1,327,800
2000	600,700	1,320,900

In January 2003, further changes in UK gun laws have been confirmed. The new gun laws – a result of the sharp increase in ‘flagrant gun use’²⁴ – will see a mandatory jail sentence of five years for gun possession.

Policies

Exports of surplus military SALW

UK Government policy is to encourage strategic exports wherever compatible with its political, strategic and security interests. The Export of Goods (Control) Order 1994 prohibits the export of certain goods without a licence, a principle that will remain with the entry into force of the 2002 Export Control Act. Licence applications are assessed on a case-by-case basis taking into account the eight Consolidated EU and

²³ Jenner, J, Grey, A, *Firearm Certificates England and Wales, 1999 & 2000* (London, Home Office, 2001) available online at <www.homeoffice.gov.uk/rds/pdfs/hosb1101.pdf>

²⁴ Statement made by Home Secretary David Blunkett, BBC News, 6 January 2002.

National Arms Export Licensing Criteria. As part of this process the Department for Trade and Industry (DTI) circulates all relevant licence applications to the Foreign and Commonwealth Office (FCO), Ministry of Defence (MoD) and Department for International Development (DfID) for comment. The FCO has responsibility for ensuring that recommendations on export licences are consistent with FCO policy on defence exports and the UK's international commitments and obligations; this includes the commitments made in the 2000 OSCE Document on Small Arms. However, the OSCE Document states that surplus small arms "should, by preference, be destroyed."²⁵ Thus, although thousands of small arms were destroyed by the MoD in 2000 and 2001, it is still possible for small arms to be exported, as long as this does not contravene any of the eight criteria governing UK arms exports.

The policy for the export of surplus small arms is set out in Written Answer 1138W of October 2001, which reiterates Written Answer 242W of June 2000. This asserts that small arms declared surplus by the MoD (other than automatic weapons, which are routinely destroyed) are "made available only to Governments, for use by acceptable military, paramilitary and police organisations, either directly or through duly licensed entities authorised to procure weapons." Whilst this is a positive step on the road to tighter control of exports, it remains difficult to scrutinise the Government's record. Surplus weapons are sold by the Disposal Services Agency (DSA), which is a subsidiary of the Defence Export Services Organisation (DESO), within the MoD. As an agency it has considerable autonomy over its finances and planning. The DSA "normally requires overseas governments which purchase surplus MOD equipment to obtain a UK export licence before collection of equipment from the UK."²⁶ In cases where a licence is required, disposal sales or transfers will be reported on in the Annual Report on Strategic Exports, although it is not possible to tell which sales were specifically of surplus weapons. Additionally, it is unclear when a licence would not be required. In a positive step, the Annual Reports since 1999 give details of government-to-government transfers of surplus major equipment and small arms; however, these tables only seem to give details of the largest deals and are not comprehensive enough to allow detailed scrutiny. The only deals to be captured in these tables are the 1999 and 2000 transfers of self-loading rifles to Sierra Leone.

All applications for the purchase of surplus MoD equipment such as small arms go through the Form 680 process, regardless of whether a licence is required or not by the DSA. The Form 680 process functions as an informal pre-licensing mechanism: the MoD heads a predominantly 'paper' (ie operating by correspondence) interdepartmental committee, the Arms Working Party, from which companies may seek prior clearance for potential exports. The advice provided by the Government on proposals for marketing or promoting products overseas does not constitute an export licence, and the existence or otherwise of a Form 680 approval is not a factor which is taken into account in the licensing decision.²⁷ The Government has also made procedural changes to the Form 680 process recently. For example, the Department for International Development is now directly involved in commenting on Form 680 applications, rather than commenting through the FCO as in the past. The process of approving exports of surplus small arms remains somewhat opaque to the independent observer: the Form 680 process is designed to provide advice to industry, however surplus sales are of MoD equipment. It is therefore unclear why this process is used to assess applications for the export of such goods.

Two major aims of the DSA are to secure the best financial return for the MoD from the sale of surplus equipment, and to promote British business in opening markets for further agreements. As such, there is a tension between the principles governing the disposal of surplus small arms and the basic aim of the DSA. In late 2002 the DSA advertised upgraded surplus SA80s for sale at an arms fair in South Africa, in an

²⁵ OSCE (2000) Document on Small Arms and Light Weapons, section IV, part three; emphasis added.

²⁶ Annual Report on Strategic Exports 2001, p 368.

²⁷ Government News Network, <<http://www.nds.col.gov.uk>>

example that highlights the tensions within UK policy. Although surplus small arms will only be sold to Governments, in light of the eight criteria governing UK arms exports and in light of the international commitments made by the UK to combat weapon proliferation in Southern Africa – such as its role in the EU-SADC dialogue on small arms, which has been ongoing since December 1998 – it is disappointing that the weapons were made available for sale in Africa at all.

Storage and destruction of surplus small arms

Of those small arms declared surplus by the MoD, only automatic weapons are routinely destroyed. The rules for the storage and management of Government stockpiles are for internal use only; however, the UK has also contributed to the chapter on best practice in stockpile management and security for the OSCE Handbook of Best Practices on SALW.

Surplus police service weapons are destroyed; the policy for this is set out in the 2000 document, *Destruction of Surplus Police Firearms*, which is a confidential document. The Association of Chief Police Officers (ACPO) *Manual of Guidance* states that police weapons not being used for operational purposes will normally be stored in force armouries, although there are occasions when, due to operational need, they will be stored elsewhere.²⁸

Firearms collected or confiscated from the population are also to be destroyed. None of the surrendered weapons are to be sold within the UK or abroad, although a small number may be kept for training purposes or by museums for display.²⁹ There are only two exceptions to the policy of destroying all seized firearms: if a weapon is of particular historical interest it is sent to the Pattern Room, which is owned by the MoD and houses a collection of 22,000 weapons; alternatively, if a weapon is particularly unusual it is sent to the Forensic Science Service for testing. HM Customs also have the power to seize illicit firearms and ammunition and have their own arrangements for disposal, but these mirror police practices.

Structures and practices

Having looked at the policy framework governing the disposal of surplus small arms and light weapons, it is possible to identify further details as to the structures and practices for the execution of policy.

Armed Forces surplus stocks

There is no centralised programme for the disposal of surplus military SALW. Force armourers calculate the surplus from their holdings, and this information passes up the chain of command through equipment, logistics and accounts personnel and the surplus can then officially be declared. Surplus weapons for destruction are sent to specified locations where they are destroyed by MoD staff. Between 1992 and 1995, 93,000 small arms were destroyed, with a prediction of 90,000 small arms being available for destruction per annum in the next five years.³⁰ The *Annual Report on Strategic Export Controls* gives details of surplus small arms destroyed; however, only information for 2000 and 2001 is available. In 2000, 6,793 weapons were destroyed, and in 2001 28,641 were destroyed:

²⁸ 'ACPO Manual of Guidance on Police Use of Firearms', <<http://www.westmercia.police.uk/mogpufdefault.htm>>, January 2002.

²⁹ House of Commons Written Answer, 17 November 1997, <www.parliament.the-stationary-office.co.uk>

³⁰ Davis, I, Schofield, S, *Upgrades and Surplus Weapons: Lessons from the UK Disposal Sales Agency*, (BICC paper 11, 1997) <www.bicc.de>

Table 5: Destruction of surplus small arms in 2000 and 2001³¹

2000		2001	
Description	Quantity	Description	Quantity
Rifle 7.62 mm	5,514	Pistol 9 mm	62
Machine-gun 7.62 mm	109	Pistol pyro 1 in	51
Machine-gun MP5K 9 mm	1	Pistol pyro 1.5 in	1,360
Rifle .22 in	177	Rifle 5.56 mm	33
Rifle 5.56 mm	157	Rifle .22 in	50
Pistol pyro 1.5 in	64	Rifle 7.62 mm	24,706
Shotgun 12 BORE	3	Rifle .303 in	202
Riot gun 1.5 in	79	Rifle no 4	100
Mortar 51 mm	1	Riot gun 1.5 in	725
Pistol 9 mm	153	Machine-gun 7.62 mm	65
Riot gun 37 mm	6	Launcher 40 mm	98
Pistol pyro 1 in	33	Injector	23
Rifle .303 in	495	Discharger	790
Launcher 40 mm	1	Ordnance 81 mm	283
		NIV assorted weapons	93
TOTAL	6,793	TOTAL	28,641

Between 1992 and 1995, 40,000 small arms, rifles and handguns were sold to firearms dealers for overseas orders and 700 rifles were sold on a government-to-government basis.³² Although a large proportion of surplus small arms used to be sold for scrap,³³ the Government announced in June 2000 that surplus small arms (excluding automatic weapons) would be made available for export to Governments, as outlined above. The UK Annual Report on Strategic Export Controls of 1999 and 2000 give details of major transfers of surplus small arms: 10,000 self-loading rifles were transferred to Sierra Leone in 1999 and 4,550 were transferred in 2000.

The UK is also involved in international initiatives to eliminate surplus weapons. At the UN Conference on Small Arms in New York (July 2001), the UK announced its Small Arms and Light Weapons Reduction Programme, part of a Small Arms Strategy under the Global Conflict Prevention Pool mechanism. Between 2001 and 2004 the FCO, MoD and DfID will make US\$30.5 million available to help address the proliferation and misuse of SALW.³⁴ The UK has also been involved in programmes such as the UNDP Weapons for Development project in Gramsh, Albania; other projects that have small arms initiatives under their remit include the EU-Cambodia project, the NATO Partnership for Peace and the Stability Pact for South Eastern Europe.

Police surplus stocks

Surplus police weapons are destroyed, usually by each individual police constabulary; force armourers are in charge of the disposal of weapons. A document from 2000, *Destruction of Surplus Police Firearms*, published by the Working Group on Police Use of Firearms, outlines the rules governing the issue. These guidelines broadly state that all surplus police weapons and all seized firearms are to be destroyed: none are to be made available to the second-hand market.

Weapons recovered from the civilian population

In relation to weapons recovered from the civilian population, under the surrender and compensation arrangements of the 1997 firearms legislation, the vast majority of these weapons are destroyed under local arrangements in each police force area, which

³¹ MoD, FCO, DIT, *Annual Report on Strategic Export Controls 2000*, (London, The Stationary Office, 2001) and MoD, FCO, DIT, *Annual Report on Strategic Export Controls 2001*, (London, The Stationary Office, 2002).

³² *Ibid.*

³³ *Ibid.*

³⁴ FCO, *Human Rights Annual Report 2001*, (London, The Stationary Office, 2001).

usually entails destruction by the force armoury. In 1992 the Metropolitan Police appointed a group of Firearm Enquiry Officers to deal with all firearms enquiries in one police area. This was designed to build up expertise and generate trust between the police and firearms users; previously, enquiries had been dealt with by any police officer available at the time. The idea was later spread to the rest of the Metropolitan area and now all of London's Firearms Enquiry Teams are under the control of the Force Firearms Unit (known as SO19).³⁵ Other forces have also adopted the idea.

The June 1997 large-calibre handgun compensation scheme and small-calibre pistol compensation scheme and surrender arrangements, agreed under the 1997 legislation, set out the practices to be followed in disposing of firearms collected from the population. They state that once surrendered, guns and ancillary equipment are to be stored securely by the police until a disposal instruction is issued by the Home Office Firearm Compensation Section (FCS). Once this is received, the property will be disposed of at the discretion of the Secretary of State. However, ammunition, primers and propellant powders may, for safety reasons, be disposed of without the need for a specific instruction from the FCS.

No central record is kept of actual destruction. As individual constabularies are responsible for destroying weapons and keeping records, it is difficult to estimate the number of weapons collected or confiscated from the population. Under the June 1996 amnesty, 23,000 illegally-held firearms were handed in. Over 162,000 handguns were surrendered to police in England, Scotland and Wales in two subsequent hand-in periods: July–September 1997 (large-calibre handguns) and February 1998 (small-calibre handguns).

The Police Service of Northern Ireland (PSNI) gives details of firearms finds, with between 88 and 134 found every year since 1996.³⁶

Reforms

The MoD does not envisage any changes in policy or internal reviews as to Government policy on surplus small arms. UK officials have worked on a chapter on best practice in stockpile management and security for the OSCE handbook. However, in terms of OSCE information-sharing processes, it is hoped that the Home Office and police will be more involved in this cross-departmental issue in future. The UK Government fully intends to continue its role in international co-operation and assistance programmes with regard to the elimination of SALW.

Following the surrender and compensation schemes of the late 1990s there were several lessons to be learned with regard to collection of firearms from the civilian population. The cost of the schemes was approximately US\$148.6 million, but they did not achieve the wider aim of removing guns from the risk of theft and being used in crime.³⁷ This is not to say that firearms control should not be pursued, but that criminal use of firearms has not been adequately addressed by controls on legal possession. The national firearms register proposed in 1997 is still not functional, and it remains difficult to gain an accurate census of firearm possession across the country. No central records are kept of weapons collected and destroyed by police constabularies, which also hampers the collation of a national picture. The Home Office was criticised for failing to develop a timely strategy for the receipt, storage and disposal of ammunition under the surrender and compensation schemes.³⁸ The police had expected most

³⁵ Wilkinson, F, *Those Entrusted with Arms. The Police, Post, Customs and Private Use of Weapons in Britain*, (London, Greenhill Books, 2002) p 239.

³⁶ <www.psnl.police.uk/stats/data/findscy.doc>

³⁷ Wilkinson, F, *Those Entrusted with Arms. The Police, Post, Customs and Private Use of Weapons in Britain*, (London, Greenhill Books, 2002), p 229 gives the figure from a report issued by the Comptroller and Auditor General on Handgun Surrender and Compensation, 28 February 1999.

³⁸ Select Committee on Public Accounts (1999) 'Public Accounts: Twentieth Report', <www.parliament.the-stationary-office.co.uk>

ammunition to be used up, but close to the start of the surrender it became clear that substantial quantities would be handed in, and there were no contingency plans in place to cover this. As such, police forces had to employ contractors at short notice to dispose of large quantities of ammunition. Although the National Audit Office found no evidence that surrendered ammunition had been resubmitted for compensation or sold on, it was unable to gain assurance that forces' arrangements for disposal would ensure the destruction of all ammunition.³⁹ However, although individual police constabularies may make changes, there has not been a change in Home Office policy, nor have any reforms been implemented specifically in relation to the OSCE Document.

Concluding remarks

The OSCE Document on Small Arms and Light Weapons of November 2000 has not in itself triggered any changes in UK policy concerning the disposal of surplus SALW from a military, police or civilian perspective. However, in keeping with the growing international consensus that small arms play a disproportionate role in conflict, small arms have become subject to increased control. Disposal of weapons collected or confiscated from the civilian population usually involves destruction, with a few exceptions made for rare types of firearm. Problems over the years have included varying interpretations of the law according to police force area, and the problematic relationship between gun control and criminal use of firearms. Organisational problems concerning the regulation and disposal of firearms also dog efforts to remove firearms from society.

Disposal of surplus police service firearms is also achieved through destruction. Since the introduction of the ACPO guidelines in 2000, police policy seems to have become more uniform and in keeping with the spirit of the OSCE Document. However, the absence of centralised data means that a complete and accurate picture is difficult to obtain. The size of police surpluses appears to be small though, and the number of destructions low.

Disposal of surplus military small arms is achieved through destruction or export. The lack of transparency surrounding the reporting of arms exports and export controls, on the part of the Ministry of Defence in particular, does nothing to allay the worries of the independent observer. Thus, it is impossible to tell if the advertising for sale of upgraded surplus SA-80 rifles at an arms fair in South Africa in late 2002, for example, was an unfortunate one-off incident or an example of how the policy to export strategic goods wherever possible introduces tensions within Government policy in relation to international commitments and initiatives undertaken by the Department for International Development and Foreign and Commonwealth Office. Although the UK remains a leading actor in the export controls debate and has stricter control mechanisms than most states, there is still much room for tighter control.

Germany

Vera Chrobok

Introduction

GERMANY HAS EXPERIENCE IN THE DISPOSAL OF MILITARY SURPLUS.

Throughout the last decade, Germany has allowed its military small arms stockpile to contract significantly. The 1990 Conventional Forces in Europe Treaty,¹ the unification process and most importantly the demise of the entire German National Peoples Army (*Nationale Volksarmee*, NVA) made vast quantities of armaments redundant. The equipment of the former NVA included approximately 1.2 million firearms and around 300,000 metric tons of ammunition. **Table 1** lists the types and numbers of SALW as part of the NVA stockpile.

Table 1: SALW in the NVA Stockpile²

SALW	Year 1994
Machine-guns	55,575
Sniper rifles	1,509
Kalashnikov 7.62 mm AK-47	783,217
Kalashnikov 5.45 mm AK-74	171,925
Pistol 9 mm	266,537
Automatic rifles	4,279
Automatic grenade launcher AGS-17	651
Light assault weapons RPG 7	22,032
Total	1,205,725

Only a small share of the material was integrated into the West German Armed Forces. Most of it was declared redundant, and exports were the major means of ridding the *Bundeswehr* of this surplus. One reason for choosing exports as a method of disposal was the fact that no specialised dismantling facilities existed to destroy the military equipment immediately. Instead of storing and guarding the surplus weapons and building appropriate facilities, the easier and cheaper method to get rid of the material was simply to transfer it to other countries.³ The expected costs of destruction and storage, as well as the income gain, thus encouraged the policy of exporting. According to the 1992 and 1993 UN Registers of Conventional Arms, Germany's exports of surplus weapons turned the country into one of the major suppliers of military weaponry.⁴

¹ The CFE Treaty does not limit SALW holdings or deployment.

² Nassauer, O, 'An Army Surplus – The NVA's Heritage', in Laurence, E, Wulf, H (eds), *Coping with Surplus Weapons: A Priority for Conversion Research and Policy*, (Bonn International Center for Conversion (BICC), BICC Brief 3, June 1995).

³ Ibid.

⁴ The UN Register does not cover SALW.

A total of 44 countries requested NVA weapons, including a wide range of non-NATO countries from Europe and other parts of the world: Finland, Austria, Switzerland, Sweden, Bulgaria, Estonia, Poland, Romania, Hungary, the USSR, Egypt, Algeria, Botswana, Ecuador, Israel, India, Saudi Arabia, Peru, Tunisia, Singapore and many others.⁵

A large number of former NVA SALW and ammunition has been exported to Turkey and Greece. Deliveries to Turkey included: 4,996 RPG-7 light grenade launchers, together with 197,139 of corresponding rounds of ammunition; 303,934 AK-47 assault rifles, with at least 83 million rounds of ammunition; and more than 2,500 machine-guns.⁶

Revenues from the sales of surplus weapons of the East German NVA were expected to amount to \$1,000 million within a period of eight years.⁷ The proceeds have mainly been used to finance the cost of dismantling other equipment as well as new procurements.⁸

NVA ammunition made up a large part of Germany's enormous surplus stocks. Out of the 300,000 tons of ammunition that were inherited by the *Bundeswehr*, only around 14,000 tons were kept in service. A large amount has been exported at relatively low prices.⁹ Since 58,600 tons – roughly one-fifth – of the NVA ammunition was ammunition for small arms, most of it has been transferred as well.¹⁰

Today, Germany is playing a prominent role in efforts to curb the proliferation of SALW by various means, including the destruction of surplus stocks. Although exportation was the preferred method of reducing SALW stocks during the 1990s, a high number of SALW and ammunition was disposed of by destruction. In the period following unification, the German Government destroyed circa 500,000 firearms¹¹ and around 175,000 tons of ammunition.¹² By 2001, the number of firearms destroyed had risen to almost 1.5 million.¹³

Stocks and determination of surplus

Identification of Government agencies holding SALW

At the state level, SALW and ammunition holdings are regulated by three Government agencies: the Ministry of Defence, the Ministry of Finance and the Ministry of the Interior. Relative to its specific area of responsibility, each Ministry controls a number of sub-agencies, which, according to their roles of protecting the state and the security of its citizens, hold certain amounts of SALW and ammunition:

Table 2: Government agencies controlling SALW

Government agency	Sub-agencies
Ministry of Defence	Armed Forces (<i>Bundeswehr</i>)
Ministry of Finance	Customs Administration (<i>Zollverwaltung</i>) Customs Criminological Office
Ministry of the Interior	Federal Border Police (<i>Bundesgrenzschutz BGS</i>), including special forces GSG-9 Federal Criminological Office (<i>Bundeskriminalamt BKA</i>) Länder Police Forces

⁵ Nassauer, O, 'An Army Surplus – The NVA's Heritage', in Laurence, E, Wulf, H (eds), *Coping with Surplus Weapons: A Priority for Conversion Research and Policy*, (Bonn International Center for Conversion (BICC), BICC Brief 3, June 1995).

⁶ Ibid.

⁷ Ibid.

⁸ Bonn International Center for Conversion (BICC), *Conversion Survey 1997*, p 112.

⁹ Nassauer, O, 'An Army Surplus – The NVA's Heritage', Laurence, E, Wulf, H (eds), *Coping with Surplus Weapons: A Priority for Conversion Research and Policy*, BICC Brief 3, June 1995.

¹⁰ Ibid.

¹¹ *Small Arms Survey 2002*, (Graduate Institute of International Studies/ OUP, 2002), p 74.

¹² Nassauer, O, 'An Army Surplus – The NVA's Heritage', Laurence, E, Wulf, H (eds), *Coping with Surplus Weapons: A Priority for Conversion Research and Policy*, BICC Brief 3, June 1995.

¹³ 'Information Exchange Pursuant to the OSCE Document on SALW', Annual Report 2002 submitted by the Federal Republic of Germany, <www.auswaertiges-amt.de>

Germany is a federal republic with 16 states (*Bundesländer*), that maintain autonomy in a number of areas. Whereas the Armed Forces in Germany are subject to a centralised authority, police forces are governed by the Interior Ministries of each *Bundesland*. This decentralised structure allows a relatively autonomous decision-making process in terms of SALW and ammunition holdings and disposal, and at the same time complicates a transparent reporting process.

Stockpiles among Government forces and law enforcement agencies

The principal holders of SALW and ammunition are the *Bundeswehr* and the federal police forces. Exact numbers of arms holdings are not available and have not been reported by the Government. However, it can be assumed that the amount of SALW and ammunition officially held by Germany's Armed Forces is continuously decreasing, as military expenditures, weapon holdings and Armed Forces personnel have fallen substantially since the end of the Cold War. Military expenditure as a share of GDP has decreased from 2.8 percent in 1990 to 1.7 percent in 1995 and further down to 1.5 percent in 2000.¹⁴ In 2001, US\$32,371 million was spent on the military, as compared to \$47,273 million in 1990.¹⁵

Heavy weapons holdings have been reduced from 11,578 in 1995 to 7,040 in 2001. At the same time, Germany's active Armed Forces personnel has been cut from 335,000 in 1997 down to 307,000 in 2001.¹⁶ As a result of the ongoing *Bundeswehr* reform process, the future overall strength of the Armed Forces upon completion of the reform in 2006–2007 will be 285,000 peacetime personnel plus 220,000 reserve personnel.¹⁷

Usually, a strong relationship exists between the number of small arms available and the number of Armed Forces personnel. In Germany, such an arms/personnel ratio exists, although it is not publicly available. However, according to 1994 sources, the ratio of firearms per uniformed soldier of the East German NVA was 1.9.¹⁸ If the same ratio is applied to the *Bundeswehr* in 2001, with the number of active Armed Forces personnel totaling 307,000 plus an estimated 236,000 reserve personnel, Germany's Armed Forces would currently hold around 1,031,700 firearms. Given the assumed ratio of 1.9, SALW holdings would be reduced to 959,000 upon completion of the *Bundeswehr* reform in 2006.¹⁹

Information on total small arms holdings of the federal police forces is not available, due to the decentralised structure of the German police forces. In response to a request for data, detailed information has only been provided by one of Germany's smallest *Bundesländer*, the Interior Ministry of the Saarland. According to the Ministry, ammunition holdings of the Saarland police forces equal 113,817 rounds.²⁰ The total amount of weapons held by the police forces of the Saarland in August 2002 equals 5,344. 2750 police officers are currently in service in the Saarland region.²¹ Interestingly, these numbers result in an arms-personnel ratio of 1.94.

Civilian possession of SALW

Although in Germany firearm possession is permitted for a variety of purposes, it is subject to strict regulations. A firearms licence normally applies solely to the applicants' home, and a legitimate need for the weapon must be proven.²² In 1972, Germany passed very restrictive firearm laws in response to growing concerns about

¹⁴ Stockholm International Peace Research Institute (SIPRI), June 2002, 'SIPRI database on Military Expenditure', <<http://first.sipri.org>>

¹⁵ Ibid.

¹⁶ Bonn International Center for Conversion (BICC), Conversion Survey 2003.

¹⁷ 'Information Exchange Pursuant to the OSCE Document on SALW', Annual Report 2002 submitted by the Federal Republic of Germany, <www.auswaertiges-amt.de>

¹⁸ *Small Arms Survey 2002*, (Graduate Institute of International Studies/OUP, 2002), p 75.

¹⁹ Numbers and calculations by the author based on 1994 ratio. These are mere assumptions, neither confirmed nor verified.

²⁰ Private communication, written answer by the Interior Ministry of the Saarland, September 2002.

²¹ Ibid.

²² *Small Arms Survey 2002*, (Graduate Institute of International Studies/ OUP, 2002), p 264.

terrorism. The principle of the 1972 legislation is that “the number of gun owners and the number and type of guns in private property must be limited to the lowest possible level in the interest of public safety”.²³

Civilians are not authorised to hold SALW categorised as war weapons. The War Weapons Control Act (KWKG) contains a list of all items categorised as war weapons, and this list also covers small arms.

Germany does not release data on civilian gun ownership, it is thus hard to provide an accurate figure on the total number of firearms in public hands. It is estimated that around 2.3 million German citizens have a gun licence.

According to the Federal Criminological Office (BKA), only a small part of criminal acts involving firearms have been committed with legally held weapons. The majority of incidents involved weapons of either illegal or unknown origin. Military style firearms are increasingly employed in criminal acts, notably among smuggling gangs who are involved in an organised crime ‘war’.²⁴

According to German law, it is not possible for civilians to hold military style firearms as used by the German Armed Forces. However, small arms used by the police forces can be purchased by civilians. Also, police officers in Germany are allowed to privately hold their service weapons. Small arms no longer in service with the police are sometimes sold back to arms manufacturers. These in turn can be purchased by civilians, provided they are in possession of a valid gun licence. Police forces do not directly sell or transfer small arms to individuals.²⁵

Any manufacturing, acquisition, transport and transfer of war weaponry (including military SALW) requires a public licence to be issued before engaging in these activities. As a rule, these licences are granted individually for a specific time period, and cover a limited number of pieces.

Defining SALW surplus stocks

The responsibility of defining and identifying surplus stocks of small arms lies with the above-listed Government agencies. The ministries, the *Bundeswehr* and the federal police forces individually determine their equipment needs within budgetary constraints. Consequently, they also determine which weapons will be retained and which will be retired. They also have discretion in deciding how to dispose of surplus stocks.

The identification of surplus in Germany is guided by the indicators provided by the OSCE Document on SALW. The geopolitical context, internal peace and national security as well as participation in international commitments determines the size, the structure and the operational concept of the Armed Forces. Generally, not surpluses, but rather military and security needs, are defined. These provide the basis for assessing the amount of SALW necessary and for identifying whether a surplus exists.²⁶

The evaluation of defence and security policy and the eventuality of war is very complex and fluctuates over time. In Germany, the requirements for a specific quantity of SALW result from the sum of both armament and reserves, which defines the defence stock. Every soldier is equipped with an individual weapon in accordance with the specific task assigned to him or her. This minimum requirement leads to a consolidated figure for the entire Armed Forces, ie to the equipment/armament requirement. In addition, a reserve of 5 to 15 percent (depending on the type of weapon) will be held to cover any additional needs arising from maintenance and repair.²⁷ There is no general rule or formula for calculating the military need for SALW and ammunition. For

²³ Savelsberg, J, ‘Gun Control and Gun Violence: Lessons from a German Comparison’, (New York School of International and Comparative Law 15 (2&3) 1995) (Small Arms Firearms Education and Research Network Canada).

²⁴ <www.ryerson.ca/SAFER-Net>

²⁵ Interview with Hans-Joachim Mentzel, Ministry of the Interior, September 2002.

²⁶ ‘Information Exchange Pursuant to the OSCE Document on SALW’, Annual Report 2002 submitted by the Federal Republic of Germany, <www.auswaertiges-amt.de>

²⁷ Ibid.

different defence areas, different formulas are applied, depending on each individual context. The quantity of SALW exceeding the military need of the *Bundeswehr* is identified as surplus stock.

Police forces also determine surplus SALW and ammunition according to their needs in terms of training and police intervention. Every year, police forces acquire a certain amount of ammunition for training and intervention purposes. SALW requirements depend on the personal equipment of police officers, weapons for training purposes, and a small reserve stock. Within the federal border police, reserve stocks do not exceed a maximum of 5 percent. A special distribution system exists for machine-guns. They are assigned either per person, per organisational unit (2–3 machine-guns for each group) or per cause, eg special units.²⁸

There is no general classification for surplus. Whenever requirements change, the newly calculated quantity of SALW is compared to the previous number. If for various reasons there is no further use for certain quantities of SALW and ammunition, they will be identified as surplus, and police departments decide their future.²⁹

Differentiation between weapons in active service, weapons in reserve, and surplus weapons

Shortly after the German reunification, thousands of weapons from the NVA heritage were relocated and brought under a more centralised system. Due to the huge quantities to be handled, the *Bundeswehr* established a special selection system. Three different categories of items were created: weapons in service with the *Bundeswehr* for the foreseeable future; weapons for further evaluation or continued interim service with the *Bundeswehr*; and weapons immediately in excess.³⁰

Today, a similar categorisation system exists. The *Bundeswehr* distinguishes between weapons in active service, weapons in reserve, and surplus weapons, although the differences are not always clear-cut. Weapons no longer in service can be held as reserves for years, until they are officially declared surplus. Thus weapons that have not been identified as surplus count as weapons held in reserve.

In terms of terminology, the police forces generally differentiate between “personally assigned” weapons or “equipment assigned to an organisational unit” and “weapons in storage”.³¹ Surplus weapons are those that do not fall under any of these categories.

Reasons for surplus

A variety of sometimes intertwined factors led to the creation of surplus SALW and ammunition in Germany. Factors such as the reduction and restructuring of the Armed Forces (eg reduction of former NVA material or the current reform of the German Armed Forces), technological modernisation of small arms stocks held by the Federal Armed Forces (eg G36 assault rifles replacing those of model G3), as well as the wearing out of old weaponry, have and will continue to result in excess SALW stocks.

Within police forces, small arms and ammunition surpluses arise due to changes in training modalities, organisational structures, or technical guidelines, modifications of technical needs, technological developments and political decisions, etc.³²

Quantities of SALW and ammunition categorised as surplus

The categorisation of SALW as surplus stocks is a continuous process, which makes it difficult to quantify surplus in a single figure. Government agencies state that surplus stocks are permanently being examined and redefined by the MoD.³³ Police forces also

²⁸ Interview with Hans-Joachim Mentzel, Ministry of the Interior, September 2002.

²⁹ Ibid.

³⁰ Nassauer, O, ‘An Army Surplus – The NVA’s Heritage’, in Laurence, E, Wulf, H (eds), *Coping with Surplus Weapons: A Priority for Conversion Research and Policy*, (Bonn International Center for Conversion (BICC), BICC Brief 3, June 1995).

³¹ Private communication, written answer by the Interior Ministry of the Saarland, September 2002.

³² Ibid.

³³ ‘Information Exchange Pursuant to the OSCE Document on SALW’, Annual Report 2002 submitted by the Federal Republic of Germany, <www.auswaertiges-amt.de>

review small arms and ammunition holdings annually,³⁴ but these procedures mainly refer to internal assessments. The difference resulting from the acquisition of new weapons/the disposal of old weapons and prevailing security needs is variable.³⁵ It is doubted whether the German Government actually manages to take regular account of modifications in SALW surplus stocks, given the decentralised reporting system and the number of Government agencies holding SALW. Clear and comprehensive data on current surplus SALW stocks is lacking. However, the Government has provided information on weapons that were declared surplus in 2002. Primarily as a result of the ongoing process of reducing the number of *Bundeswehr* soldiers and the introduction of new weapons, approximately 200,000 G3 rifles became surplus in 2002. A further 200,000 are to follow. Information on the amount of ammunition deemed surplus has not been disclosed by the Government. According to the German MFA, no surplus ammunition exists, due to a continuous shortage of ammunition as well as the use of ammunition for training purposes within the Armed Forces.³⁶

Policies

Export control regime

A critical element in the effort to curb the destabilising effects of small arms accumulation is Germany's export control system. There is a broad consensus in the German Parliament on the legal and political foundations of Germany's export policy,³⁷ although the Green Party, partner in the governing coalition since 1998, has been critical of arms exports to states where human rights are known to be violated.

German law restricts the export of military equipment. Although SALW do not constitute a specific sub-category of military equipment, the items identified as SALW are covered by the war weapons list categories referred to above.

The Basic Law (*Grundgesetz*), the War Weapons Control Act (*Kriegswaffenkontrollgesetz*, KWKG), and the Foreign Trade and Payments Act (*Aussenwirtschaftsgesetz*, AWG), in conjunction with the Foreign Trade and Payments Ordinance (*Aussenwirtschaftsverordnung*, AWV), regulate the exports of military equipment, including SALW and ammunition.

Germany's primary legislation, the KWKG of 1961, states that all handling of war weapons requires prior approval. Without a licence issued by the Government, weapons can neither be manufactured or purchased, nor imported into, exported from, or transported through German territory. In case of a potential violation of Germany's obligations under international public law, or a concrete threat to peace and security, the issuance of a licence must be refused. Pursuant to section 6 KWKG, there is no legal claim to a licence.³⁸

The AWG and the AWV contain rules relevant to the export of war weapons. They stipulate that applicants have a right to receive an export licence unless the principles of protecting the security of the Federal Republic of Germany, the peaceful co-existence of nations and friendly foreign relations would be violated. The AWV provides exemptions from the obligation to obtain an export licence. These include mainly day-to-day business matters with no major importance for export control issues.³⁹ A licence is also not required when war weapons are transported by the *Bundeswehr*, the customs administration, the federal border police or the federal criminological office.⁴⁰

³⁴ Private communication from the Interior Ministry of the Saarland, September 2002.

³⁵ Private communication from the Ministry of Defence, September 2002.

³⁶ Interview with Berthold Johannes, Ministry of Foreign Affairs, August 2002.

³⁷ Annual Report 2002 submitted by the Federal Republic of Germany, Information Exchange Pursuant to the OSCE Document on SALW, <www.auswaertiges-amt.de>

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Customs Administration, <www.zoll-d.de>

In addition to the four legal requirements, the German Government adopted the 'Political Principles governing the export of war weapons and other military equipment' (28 April 1982). The purpose of this national policy statement is "to provide the licensing authorities with guidelines for the scope of and the limits to the discretion open to them".⁴¹ On 19 January 2000, the German Government issued a new policy statement, in order to revise its 1982 arms export guidelines. The new policy principles served as an affirmation of Germany's aim of pursuing a restrictive arms export policy.

They introduced measures to enhance transparency and tighten criteria for determining export destinations.⁴² The principles stress the importance of human rights criteria in countries seeking to purchase German weapons as well as the importance of requiring end-use certificates. An end-user document must be submitted along with the application, and a distinction is made between foreign governments, individuals or corporate entities as an end-user. War weapons may only be supplied to governments. Still, the principles fall short of an outright prohibition of military exports to countries where serious violations of human rights have occurred and the language used is subject to interpretation.

Decisions on the export of war weapons are mainly based on the Political Principles and on relevant European and international commitments and export control regimes, particularly on the EU Code of Conduct on Arms Exports, the OSCE Document on SALW and the Wassenaar Arrangement. Also, export bans adopted by the United Nations are put into practice by not granting any licences for the export of military equipment to embargoed destinations.⁴³

The January 2000 export guidelines included a commitment to produce an annual report on the principles and practices of its arms export policies to be submitted to the Bundestag. The *Report of the Federal Government on export policy for conventional armaments (Bericht der Bundesregierung über ihre Exportpolitik für konventionelle Rüstungsgüter)* was first published in September 2000 by the Federal Ministry of Economics and Technology. The publication greatly improves what previously was a very limited reporting process. Until then, the only information available to the public was presented as an aggregated total overview of the exports of war weapons during one year. Parliamentary oversight of licensing decisions was limited to the posing of questions in parliaments. The annual report thus marks a great improvement in Germany's accountability and transparency concerning arms exports.

The report is unique in that it distinguishes two categories of importing states. It presents different information depending on whether a country belongs to the EU, NATO and 'states on an equal footing' or to 'other countries'. Licences issued for 'other countries' are reported in much greater detail. The report contains details on legislation and international obligations to export licences, as well as information on licence refusals, including information on types of weapons refused and reasons for refusal.⁴⁴

However, some areas of the report contain some ambiguities and gaps, especially regarding small arms. There is no information on actual deliveries of arms, and detailed information, such as weapon descriptions and transfer values, is only available for the most significant authorisations. It thus neglects small arms transfers that only comprised a small proportion of total exports.⁴⁵ Further, there is no information on the number of weapons authorised for exports by each licence. According to human rights organisations the report does not clarify whether human rights constitute a criteria for export destinations.⁴⁶

⁴¹ Response to the 'Questionnaire on the OSCE Participating States Policy and/or National Practices and Procedures for the Export of Conventional Arms and Related Technology'. June 17, 1999, <<http://projects.sipri.se>>

⁴² Miller, K., Brooks, C., 'Export Controls in the Framework Agreement Countries', *BASIC Research Report 2001*.

⁴³ Annual Report 2002 submitted by the Federal Republic of Germany, Information Exchange Pursuant to the OSCE Document on SALW, <www.auswaertiges-amt.de>

⁴⁴ Small Arms Survey, 'Shining a Light on Small Arms Exports: The Record of State Transparency', *Occasional Paper no 4*, January 2002.

⁴⁵ Norwegian Initiative on Small Arms Transfers (NISAT), <www.nisat.org>

⁴⁶ Amnesty International (Germany), 'Press Release on the publication of the Report of the Federal Government on export policy for conventional armaments', 19 December 2002.

Despite this criticism, the requirement of detailed reporting on arms exports will put the issue on the agenda of the German *Bundestag*, with prospects for a parliamentary analysis and debate on its scope and substance.

The central licensing authority for commercial exports of war weapons is the Federal Ministry of Economics and Technology. In cases of export of 'other military equipment', the Federal Office of Economics and Export Control (*Bundesausfuhramt, BAFA*) is responsible for the administrative implementation of the Government's export policy. The Federal MoD is responsible for matters relating to the Armed Forces. The Foreign Ministry and the MoI are partly engaged in consultation before an export licence is issued. The Federal Security Council (*Bundessicherheitsrat, BSR*), composed of the Chancellor, the Foreign Minister, and the Ministers of Defence, Economics and Development, only decides in specific, individual cases. The decision over the export of surplus weapons for example illustrates such a case.⁴⁷

In German export law, no differentiation is made between exports of new weapons or equipment of the Armed Forces and exports of weapons that have been declared surplus. Export law applies to all weapon categories, there are no regulations specific to surplus SALW.

Storage of SALW and ammunition

The German Government relies on a number of standards and procedures to ensure that authorised *Bundeswehr* stocks of small arms are adequately managed and safe-guarded. As with export law, security measures apply to both weapons in active service or in reserve and surplus SALW. No special arrangements are made for storing surplus arms.

Table 3: National stockpile management and security procedures⁴⁸

Stockpile locations	Storage facilities for SALW and ammunition are decentralised in accordance with the National Defence Plan in order to be available to the Armed Forces. Although the number of locations is being reduced in line with the ongoing <i>Bundeswehr</i> reform, there are no plans to centralise stockpile facilities. Storage sites are selected by taking into account national construction regulations and safety procedures required by national and NATO guidelines and are equipped with safety measures according to national rules and laws (eg. fire protection, inspections, access, emergency exits, etc.).
Physical security measures	Measures such as key controls, storage building doors, alarm systems, lighting systems, guard patrols, dogs, etc. are used in order to control and prevent access to the storage sites. Technical devices are monitored and periodically checked. Arms and ammunition are stored in separate locations.
Access control measures	Access to storage facilities is limited to key personnel trained and qualified to specific requirements. Additional personnel working temporarily are accompanied by local staff, after being registered at the entrance. Access is granted to duty guard unit personnel and temporarily assigned after checking. The officer in charge has to provide a written order to permit access to keys for arms and ammunition stores for authorised personnel. Normally, no individual is allowed to have access to the keys for both arms and ammunition. Nevertheless, in certain time periods duty personnel and commanding officers have access to both areas for conduct of duty or of control.
Inventory management and accounting control procedures	All stocks of arms and ammunition are recorded. Continuous records are kept for ten years in excess of the time in which arms and ammunition are in possession of the Armed Forces. Record keeping within the forces is administered at different levels of the organisational structure.

⁴⁷ Private communication, written answer by the Ministry of Defence, 5 November 2002.

⁴⁸ Annual Report 2002 submitted by the Federal Republic of Germany, Information Exchange Pursuant to the OSCE Document on SALW, <www.auswaertiges-amt.de>

Depending on the type of the unit, security inspections are conducted periodically. The time interval of the auditing procedure depends on the effective use of ammunition. The more often ammunition is used in the unit, the more often checks are conducted. Nevertheless, there are minimum requirements on auditing procedures.

Security in transit

Every transport of arms and ammunition is accompanied by an armed escort of the Federal Armed Forces, and, if warranted by the amount and type of arms and ammunition, additionally by military police.

Although Germany has a relatively advanced system, the safe storage of arms or ammunition is not absolutely guaranteed. In the event that arms or ammunition disappear from stockpile facilities, the loss must immediately be reported in accordance with a special emergency reporting system. Each report is individually checked. The local commanding officer (for immediate investigations) as well as the civilian police are in charge of investigations of theft or loss of military arms and ammunition. In 2001, statistics provided by the Federal Armed Forces Intelligence Unit reported 5 pistols, 3 signal pistols, 2 assault rifles and 15 sport rifles as stolen.⁴⁹

The *Länder* police forces are individually responsible for managing and storing police weapons. Federal competence is limited to the Federal Border Police, the Federal Criminological Office and the Customs Office. Weapons in storage or reserve remain within reach of the *Länder* police forces and are stored in adequate facilities.⁵⁰

Rules and laws applicable to the destruction of SALW and ammunition

Once *Bundeswehr* SALW are earmarked for disposal or removed from active service, they are in most cases transported to destruction facilities. An armed military police escort squad accompanies the transport and carries the records on number, type and condition of the weapons. In co-operation with the German industry, destruction is conducted in four regional maintenance facilities of the Federal Armed Forces.

During removal from active service, serviceable parts or components are removed and stored as separate parts. During reduction, weapons are disassembled and the parts are separated according to a material separation scheme. In accordance with the planned reduction procedure, the weapons or their parts are entirely destroyed without keeping any spare parts.⁵¹ After removal from active service or reduction, each weapon is written off the *Bundeswehr* inventory records.

The most common method of destroying SALW and ammunition in Germany is the severing procedure, partly in combination with deformation. The procedures meet the requirements of demilitarisation as set out in the KWKG, additionally taking into account safety provisions, environmental protection requirements and verification principles.⁵²

Police forces autonomously destroy their surplus stocks in facilities separate from the ones used by the *Bundeswehr*. The melting procedure is often used in order to make weapons absolutely unserviceable.⁵³

Structures and practices

Government agencies holding SALW and ammunition individually decide on methods to dispose of their surplus stocks, that is whether to export, destroy or store weapons removed from active service or reserve holdings.

⁴⁹ Ibid.

⁵⁰ Interview with Hans-Joachim Mentzel, Ministry of the Interior, September 2002.

⁵¹ Annual Report 2002 submitted by the Federal Republic of Germany, Information Exchange Pursuant to the OSCE Document on SALW, <www.auswaertiges-amt.de>

⁵² Ibid.

⁵³ Private communication, written answer by the Interior Ministry of the Saarland, September 2002.

In recent years, the German Government has mostly refrained from exporting surplus small arms and ammunition formerly in service with the Armed Forces. Instead, the destruction of surplus weapons has become the preferred method of disposal in Germany. Compared to the huge sell-off of former NVA material in the past, the use of only one of the options to dispose of surplus marks a promising development.

It is not clear whether the same applies to surplus police stocks. Although police forces do not export their surplus arms, German police weapons find their way abroad via arms manufacturers and traders.

SALW exports

According to international comparisons, Germany is one of the world's major exporters of SALW, and ranks fifth behind the USA, Russia, France and Great Britain.⁵⁴ The share of small arms exports in total German exports, however, is relatively small, although the number of SALW and ammunition export licences increased in 2001 as compared to the year before. The following tables record the value of export licences for SALW and ammunition in the period from 1996 to 2001.⁵⁵

Table 4: Export licences for small arms (in million DM)

Year	EU member states	Non-EU NATO and NATO-equivalent countries	Third countries	Total value of individual and collective export licences
1996	1,75	5,08	3,65	10,48
1997	10,96	8,03	12,21	31,20
1998	4,08	28,71	12,85	45,64
1999	19,83	12,48	9,28	41,59
2000	9,72	7,00	0,53	17,25
2001	48,05 (64%)	12,95 (17%)	14,53 (19%)	75,52 (100%)

Table 5: Export licences for ammunition (in million DM)

Year	EU member states	NATO and NATO equivalent countries excl. EU	Third countries	Total value of individual and collective export licences
1996	0,59	0,97	0,18	1,75
1997	9,00	9,79	1,45	20,25
1998	9,07	19,74	1,23	30,04
1999	5,53	29,25	0,29	35,07
2000	5,50	5,56	0,08	11,14
2001	4,30 (13%)	24,37 (76%)	3,53 (11%)	32,20 (100%)

Licences however do not specify whether the exported weapon is a newly produced weapon or one that has been categorised as surplus. The share of surplus sales in total arms exports during the second half of the 1990's thus remains unclear.⁵⁶

In their submission to the OSCE in 2002, the German Government indicated the number of small arms that have been exported and their destinations. As the document specifically deals with small arms, it provides a clearer picture than the Report of the Federal Government on export policy for conventional armaments. The following table summarises this information by only focusing on the actual amount of exported weapons.

⁵⁴ Stockholm International Peace Research Institute (SIPRI), <www.sipri.se>

⁵⁵ *Rüstungsexportbericht 2001*, <www.bmwi.de>

⁵⁶ Private communication, answer received via email from BMWI, 29 October 2002.

Table 6: SALW Exports in 2001⁵⁷

Small arms				
Revolvers and self-loading pistols	Rifles and carbines	Sub-machine-guns	Assault rifles	Light machine-guns
548,136	32,299	6,014	11,860	56
Light weapons				
Hand-held under-barrel and mounted grenade launchers	Recoilless rifles	Portable launchers of anti-tank missile and rocket systems	Portable launchers of anti-aircraft missile systems	Mortars of calibres less than 100 mm
2,233	1	3	304	2,968

It has to be noted that these numbers depict regular exports of SALW, and do not include weapons that have been written off the inventory records.

Revenues from export sales directly flow into the federal coffers, that is to the Ministry of Finance. According to German law, no Ministry is authorised to have its own income. However, the *Bundeswehr* has been given the special permission to keep the revenue from surplus sales,⁵⁸ which gives Germany's commitment to halt the export of surplus SALW an even higher meaning.

A significant step towards small arms and export control was the decision taken by the German Government in 2000 to stop the export of surplus SALW. Small arms that fall under the KWKG remit have, as emphasised by the Government, not been exported since. The implementation of an applicable law has been announced,⁵⁹ and although no official law has yet been passed, a declaration formulated by the MFA affirms that surplus SALW and ammunition should, instead of being sold, preferably be destroyed.⁶⁰ Despite this positive trend, the German Government, at present, wishes to preserve the right to decide at its own discretion and is reluctant to engage in an effective policy change. Given Germany's role in promoting international arms control and its effort to stop the proliferation of small arms, it thus misses the chance to set an important political precedent.

Police forces have set up their own systems to manage the disposal of SALW and ammunition. Like the MoD, they do not export surplus arms and ammunition, but increasingly tend to destroy weapons no longer in service. In some cases, these weapons are stored in appropriate facilities until police forces have decided over their future and further use. As mentioned earlier, another way of getting rid of surplus stocks is to sell old weapons back to firearms producing companies.⁶¹ Revenues gained generally serve as income for federal police forces.

These old weapons are sold nationally or internationally to individuals or companies, often through arms brokers. Currently, the Interior Ministry of Lower Saxony is considering the option of selling a large amount of old police weapons on the free market. Up to 2006, around 15,000–17,000 type P7 pistols will be replaced by the more modern type P 2000 and will thus become redundant. According to the Ministry, these weapons will be 'sold to reliable companies and traders'.⁶²

The decision by the Ministry to sell their surplus stocks rather than destroy them has

⁵⁷ Annual Report 2001 submitted by the Federal Republic of Germany, Information Exchange Pursuant to the OSCE Document on SALW, provided by the Ministry of Defence.

⁵⁸ Interview with officials from the Ministry of Foreign Affairs and the Ministry of Defence, August 2002.

⁵⁹ Ministry of Defence, 16 January 2002, Written answer to an inquiry made by the German Initiative against small arms (DIGK).

⁶⁰ Private communication, written answer by the Ministry of Defence, 5 November 2002.

⁶¹ Private communication, written answer by the Interior Ministry of the Saarland, September 2002.

⁶² 'Alte Waffen nicht verkaufen', *Osnabrücker Zeitung*, 22 May 2002, <www.neue-oz.de>

caused some controversies, especially after the release of information on a murder case in Osnabrück involving a weapon formerly used by the Bavarian police.⁶³

SALW destruction

After reunification, Germany reorganised its Armed Forces and adapted its SALW holdings to new requirements. Despite the fact that export was the principal method of ridding the *Bundeswehr* of its surplus stocks, the option of destruction constituted a clear alternative. The MoD has provided information on the surplus weapons that were disposed of during the last ten years. The total number of surplus SALW destroyed during the period from 1990 to 2001 amounted to 1,477,405 pieces. In the year 2000 the *Bundeswehr* destroyed 1,207 pistols, 403 sub-machine-guns, 35,407 rifles and 863 machine-guns, equaling a total of 37,880 pieces.⁶⁴ In 2001, 24,743 assault rifles were deemed surplus and destroyed by the Federal Armed Forces.⁶⁵ Information on ammunition has not been provided.

As a result of the ongoing defence cuts and the downsizing and modernisation of the *Bundeswehr*, a high number of small arms will become redundant over the next few years. The Government announced that by 2007 around 400,000 G3-assault rifles will become surplus and gradually be destroyed. In the year 2002 alone, approximately 200,000 G3 rifles were declared surplus. This large-scale destruction process was initiated in July 2002, when circa 58,000 G3's were destroyed in public, near Heilbronn in Baden-Württemberg.⁶⁶ To raise awareness and to promote transparency the *Bundeswehr* invited independent observers as well as the press to attend and to monitor the destruction event. Unfortunately, the associated ammunition was not included in the destruction process. In fact, there is no commitment on the part of the Government to destroy the G3 ammunition in the future.

In its 2002 submission to the OSCE, Germany introduced a new structure of reporting by providing data from a wider range of official sources. The Government included numbers on weapons destroyed by police forces. Although the information is still limited and not harmonised among *Länder* police forces, it is a step towards a more advanced and transparent reporting mechanism. According to the document, only the *Länder* Bremen, Baden-Württemberg and Saxony have identified weapons as surplus and reduced surplus stocks by destruction in 2001. However, it is difficult to obtain details on different categories of SALW as, in the majority of cases, statistics provided by *Länder* police forces have not yet made this distinction.

Table 7: SALW identified as surplus and destroyed by police forces in 2001⁶⁷

	Small arms	Rifles and carbines	Sub-machine-guns	Assault rifles
Bremen	234			
Baden-Württemberg	89			
Saxony		6	159	21

Every year, a large number of SALW and ammunition are seized or confiscated by the Federal Border Police, the *Länder* police forces and the Customs Administration. Usually, these weapons are destroyed, subject to the legal constraints associated with preparing for criminal prosecution. In the case of very rare weapons, these are centrally collected and used for education purposes.⁶⁸ In most cases, the authority over the disposal of seized or confiscated weapons lies with the Ministry of Finance or the MoI.

⁶³ Ibid.

⁶⁴ Annual Report 2001 submitted by the Federal Republic of Germany, Information Exchange Pursuant to the OSCE Document on SALW, provided by the Ministry of Defence.

⁶⁵ Annual Report 2002 submitted by the Federal Republic of Germany, Information Exchange Pursuant to the OSCE Document on SALW, <www.auswaertiges-amt.de>

⁶⁶ Bonn International Center for Conversion (BICC), Press Release 18 July 2002.

⁶⁷ Annual Report 2002 submitted by the Federal Republic of Germany, Information Exchange Pursuant to the OSCE Document on SALW, <www.auswaertiges-amt.de>

⁶⁸ Ibid.

Reportedly, the Federal Border Police confiscated 1,000 SALW in the year 2002.⁶⁹ In addition, the Customs Administration also reports on ammunition:

Table 8: SALW and ammunition confiscated by the Customs Administration⁷⁰

	1998	1999	2000	2001
SALW	762	449	437	557
Ammunition	97.528	58.594	40.125	90.817

No information has been provided on whether or when these confiscated SALW were destroyed. However, the Federal Border Police (BGS) has planned the destruction of machine-guns. Due to changes in duties and organisational restructuring, around 10,000–15,000 machine-guns will become redundant and will be destroyed.⁷¹ Police forces, on the other hand, have explicitly distinguished between the number of weapons seized in 2001 and the amount of weapons destroyed in their report to the Government.

Table 9: SALW seized or confiscated and destroyed by federal police forces in 2001⁷²

Federal state	Seized or confiscated	Destroyed
Saxony-Anhalt	312	225
Mecklenburg-Western Pomerania	132	15
Lower Saxony	0	23
Saxony	183	0
Saarland	250	0
Bremen	na	74
Baden-Württemberg	1,252	141
Schleswig-Holstein	264	778
Rhineland-Palatinate	940	23
Bavaria	6,194	0
North Rhine/Westphalia	na	13,546
Brandenburg	415	10

The *Bundeswehr* plays a minor role in the seizure or confiscation of small arms and ammunition. However, SALW seized or confiscated by the *Bundeswehr* outside of Germany during operations under NATO control (SFOR, KFOR) were destroyed, either by NATO forces or local authorities.⁷³

SALW storage

Information on the amount of surplus weapons stored has not been provided by the *Bundeswehr* or the federal police forces. Surplus arms and ammunition are stored temporarily rather than permanently, until their future has been decided upon. Since weapons are constantly being stored for varying purposes, it is difficult to quantify the exact stock at a certain point in time.⁷⁴

International assistance

Germany has been involved in assisting countries in improving stockpile management practices and destroying excess SALW by providing technical and financial support. One of the most significant SALW related projects has been the weapons collection and destruction programme in Albania. In December 2000, Germany, together with

⁶⁹ Ibid.

⁷⁰ <www.zollkriminalamt.de/aktuell/waff-jahre.htm>

⁷¹ Interview with Hans-Joachim Mentzel, Ministry of the Interior, September 2002.

⁷² Annual Report 2002 submitted by the Federal Republic of Germany, Information Exchange Pursuant to the OSCE Document on SALW, <www.auswaertiges-amt.de>

⁷³ Ibid.

⁷⁴ Interview with officials from the Ministry of Foreign Affairs and the Ministry of Defence, August 2002.

Norway, Switzerland and the USA, reached an agreement with the Albanian Government on assistance for the destruction of 130,000 SALW.⁷⁵ Germany has provided personnel to assist in the training of local specialists, safety and cutting equipment, organisational and financial support, as well as electronic equipment for documentation. In the initial period, from December 2000 until April 2001, 40,000 units of SALW were destroyed and documentation on serial numbers, SALW types and destruction dates was finalised. Information on the destruction process as well as the equipment required has been handed over to local authorities in order to be able to continue destroying the remaining weapons. Germany has also supported SALW destruction efforts in Africa (Mozambique, South Africa, Sierra Leone, Horn of Africa) and Asia (Cambodia), and is considering assisting further projects in the future.⁷⁶

Reforms

During the last few years, the German Government has undertaken major reforms that today dictate Germany's small arms policies. Primarily as a result of restructuring the military forces, but also as a result of the modernisation of SALW stocks, a high number of small arms have been declared surplus, which have been and will continue to be destroyed. Instead of reducing surplus stocks by transferring them abroad, as done in the past, the strategy of destruction will be maintained. Thus, further reforms of existing policies will be marginal at best.⁷⁷

Germany is promoting the issue of SALW at both the national and international levels. With respect to reporting mechanisms and transparency, Germany acknowledges the need to harmonise further available data from a wider range of official sources. According to the Government, an internal dialogue between federal and *Länder* authorities on the possibility of establishing a common understanding on SALW reporting has been initiated.⁷⁸ Internationally, the Government is involved in the development of international agreements concerning small arms. Germany has initiated the debate on extending the Wassenaar Arrangement on military exports to SALW.⁷⁹

Concluding remarks

In the 1990s, the export of surplus SALW and ammunition helped to finance Germany's armament projects. In recent years, however, the German Government has revised its policies. Since the year 2000, no *Bundeswehr* SALW categorised as surplus has been transferred abroad. Instead, the Government follows and promotes the strategy of destruction at both a national and international level, and is well placed to make an important contribution to the collection and sharing of information gained from destruction initiatives. Germany's policies on the disposal of surplus small arms could in some ways serve as a model for countries wishing to reform their own.

The case of small arms formerly in service with German police forces is less clear. Information on current practices is very limited and demonstrates the need for a more targeted policy framework. By introducing an annual report on export policy and by publishing the annual submission to the OSCE on the Internet, Germany demonstrates its commitment to increased transparency on SALW issues. Still, some fundamental information is lacking, especially on weapon holdings as well as on numbers of

⁷⁵ Small Arms Survey 2002, (Graduate Institute of International Studies/ OUP, 2002), p 260.

⁷⁶ Annual Report 2002 submitted by the Federal Republic of Germany, Information Exchange Pursuant to the OSCE Document on SALW, <www.auswaertiges-amt.de>

⁷⁷ Interview with officials from the Ministry of Foreign Affairs and the Ministry of Defence, August 2002.

⁷⁸ Annual Report 2002 submitted by the Federal Republic of Germany, Information Exchange Pursuant to the OSCE Document on SALW, <www.auswaertiges-amt.de>

⁷⁹ Deutsche Gesellschaft für die Vereinten Nationen (DGVN), Bericht über Veranstaltung 'Kleine Waffen -Tödliche Wirkung' am 28 June 2001.

weapons stored and destroyed. Rather than blaming Government officials for their reluctance to provide comprehensive data, we would underline the need for more centralised reporting mechanisms. Internal dialogue between federal and *Länder* authorities must be enhanced to establish a common understanding on SALW reporting and to harmonise available data.

4

Switzerland

Silvia Cattaneo

Introduction

THE DATA OBTAINED FROM THE SWISS GOVERNMENT for this case study was subject to restrictions for reasons related to national security and also (particularly in the area of ammunition) where information requested fell outwith the definition of SALW in the OSCE Document. The collection of information was also complicated by a reform process in the Swiss Armed Forces, named 'Army XXI'. This will have a direct impact on the ways weapons and ammunition are defined as surplus. Pending its completion, some kinds of data sought could not be provided.

To have a full grasp of the Swiss policies and practices concerning the management and disposal of surplus SALW, it is necessary to keep in mind two peculiarities of its military and political systems.

At the military level, one needs to understand that the Swiss Armed Forces fit neither the definition of a standing army nor that of a reservist army. They operate instead according to what the Swiss Government calls a militia system, which will be described in detail below, resting mostly on non-active units that are activated for periods of training. This feature of the Swiss military forces is fundamental to understanding how the total number of men and women that need to be armed is established, and how the weapons set aside for their use are stored.

At the political level, it should be noted that Switzerland has a complex allocation of responsibilities at the central or federal level, and at the local, mostly cantonal, level. When it comes to surplus weapons management and disposal, these two levels sometimes function separately and at other times work together, because their responsibilities for such matters are either assigned to federal or to cantonal bodies, or to both.

Stocks and determination of surplus

Government agencies holding SALW

The Swiss Armed Forces (Air Forces and Land Forces) hold SALW. Other agencies entitled to their possession and use are the police forces (subject mainly to the authority of the Cantons), airport security forces, and the Border Guard. The following information, however, only refers to SALW held by the Armed Forces.

As mentioned in the introduction, the particular structure of the Swiss Armed Forces must be described in order to give a full assessment of the practices relating to the management and disposal of surplus SALW in the country. The Swiss Armed Forces are based on a militia system by which every male citizen fit for service serves his duty

from the age of 20 to the age of 42, for a maximum period of 22 years. They are composed of units that are temporarily activated for training every two years.

As of mid-2001, these forces counted 350,000 men and women. To these, two more categories must be added: professionals, who are mainly active in training, numbering 3,600, and recruits, numbering 20,000, of which two classes go through basic training each year. The Swiss Government, therefore, arms 373,600 male and female soldiers.

In order to allow for a quick reaction in case of conflict, the reservists hold their military equipment, including weapons, at home; each of them receives specific instructions and training concerning storage and safety measures.

Quantities of SALW and ammunition held by Government agencies

As of 1 January 2002, the Swiss Armed Forces possessed 625,000 assault rifles and 70,000 pistols. Disaggregated, these numbers comprise:

- 450,000 SIG 5,6mm Stgw 90 and about 175,000 SIG 7,5mm Stgw 57;
- 20,000 9mm Pist 49 and about 50,000 9mm Pist 75.

It is important to note that these numbers represent the total holdings of small arms, comprising both small arms in use during exercises and held by the troops, and those that are stored for the reserve. Numbers on ammunition were not provided for the reason mentioned above.

Civilian possession of SALW

Private people are allowed to hold SALW in Switzerland. However, the Swiss Government is not responsible for them; hence, it does not keep either records or statistics of privately-held SALW, with one notable exception. When leaving service, retiring soldiers are allowed to keep their weapons, provided they are permanently modified to fire single shots only.¹ The Army records to whom the weapons have been given, and keeps the record for ten years. A copy is also provided to the local police. Responsibility for these weapons, however, belongs to the Federal Department of Justice and Police under the provisions of the Arms Act.²

The Arms Act which entered into force on 1 January 1999 establishes that any person acquiring weapons or relevant parts of them must possess a permit. Permits are issued by the relevant Canton authorities. Necessary requirements for the acquisition of a permit are that the holder must be 18 years of age with no previous convictions for violent crimes or misdemeanors and there must be no apparent risk to the buyer or third persons.³ Also, the following weapons cannot be purchased by private individuals: automatic firearms, automatic firearms turned into shoulder-fired weapons or into semi-automatic handguns, as well as their component parts.⁴

It should also be noted that the Swiss Army lends weapons to Army personnel and participants in sports shooting events. This practice is regulated by the 'Decree of the DDPS governing the use of small arms outside the sphere of military service' (15 March 1996). The lending of personal service weapons (assault rifles only) to members of recognised shooting clubs, and to young riflemen for the purpose of participating in shooting exercises outside the sphere of military service and in military competitions, is permitted as long as the borrower is able to guarantee that the weapon will be handled, maintained and kept in a safe place in accordance with the relevant regulations.⁵

¹ The weapons held by retiring personnel are distinct from those held by the Swiss Army reservists in active service. Their number, therefore, is not included in the total of 625,000 assault rifles given above.

² The provisions contained in the Arms Act do not apply to the Armed Forces, the Military Administrations, Border Guards and Police Forces (Arms Act, 20 June 1997, art 2).

³ *lvi*, art 8.

⁴ *lvi*, art 5.

⁵ Brevier 95 (part of Service Regulations 95), para. 2.3 (1 January 1995).

Defining SALW surplus stocks

In Switzerland, the definition of SALW follows the one contained in the OSCE Document. Surplus stocks are identified by the Swiss General Staff (Planning Directorate). The definition of weapons as surplus, however, does not follow precise formulae. The Government does distinguish between weapons in active service and weapons in reserve. Estimates concerning surplus weapons are not available at the moment. The Swiss Armed Forces are in fact going through a reform process that will also affect the way both weapons and ammunition are identified as surplus. It is expected, however, that technological change and military reduction might be the factors most likely to produce weapons surplus.

Policies

Export of SALW and ammunition

In Switzerland, exports of SALW and ammunition are regulated by the Federal Law on War Materiel (*Kriegsmaterialgesetz*, FLWM) of 13 December 1996, and the Ordinance on War Materiel (*Kriegsmaterialverordnung*, OWM) of 25 February 1998.

Their general, underlying principle is that all activity referring to the manufacture and transfer of war materiel and related technology should be consistent with international law and international obligations binding Switzerland.⁶ In more specific terms, the Ordinance of 1998 establishes that authorisations concerning the transfer of war materiel must consider:

- Peacekeeping, international security, and regional stability;
- The situation in the country of destination, especially with respect to human rights;
- Swiss efforts in the area of co-operation and development;
- The attitude of the country of destination towards the international community, especially regarding the respect of public international law;
- The conduct of countries who are members of international regimes on export controls.⁷

Other than the OSCE criteria on conventional arms exports, Switzerland follows those established by the Wassenaar Arrangement, the Missile Technology Control Regime and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Landmines and on their Destruction. Although there is no list of specific proscribed destinations, Switzerland undertakes to respect UN arms embargoes.⁸

Licences

Each activity connected with war materiel is subject to Government authorisation. Persons willing to engage in the manufacture, trade, or brokering of war materiel must, first of all, obtain an initial authorisation (permit). Specific authorisations (licences) are also necessary for the manufacture, brokering, import, export, transit and transfer of intellectual property.⁹ Import, export and transit licences last for 12 months and can be extended by six months.¹⁰ They can be suspended or revoked due to exceptional circumstances.¹¹ The authorisation regime establishes two exceptions:

- Provisions concerning initial authorisation and authorisation to manufacture do not apply to armament companies of the Confederation; nor do provisions on brokering, import, export, and transfer of intellectual property if the operation concerns armaments destined for the Swiss Army.¹²

⁶ FLWM, art 1, 22.

⁷ OWM, art 5.

⁸ FLWM, art 25.

⁹ *Ivi*, art 12.

¹⁰ OWM, art 15.

¹¹ FLWM, art 19.

¹² *Ivi*, art 4.

- No authorisation is required for the temporary import or export of arms by Swiss or foreigners participating in shooting competitions or training.¹³

In all cases, the competent authority regarding authorisations is the Swiss Federal Office for Foreign Economic Affairs (OFAEE).¹⁴

End-user certificates

In general, export authorisations can only be granted if the receiving party, a government or an agency working for a government, declares that the material will not be re-exported. Exemptions to this rule might be transfers of separate parts or assembly parts if they are to be integrated into a product abroad and not re-exported as such.¹⁵

Penalties

Penalties for infringement of these disposals are imposed by article 33 of the FLWM. Depending on the type of violation and the degree of intentionality, they might include imprisonment, fines, or both (the maximum penalties are 10 years of imprisonment and/or 5 million Swiss francs).

Storage and destruction of SALW and ammunition

The destruction of SALW and ammunition is regulated by directives of the Swiss Defence Procurement Agency of the Department for Defence, Civil Protection and Sports (DDPS).

The administration, storage and protection of SALW is regulated by a series of directives issued by the General Staff:

- Directives of the Chief of General Staff dated 1 July 1991 concerning security measures for low-risk objects, goods and facilities of the DDPS;
- Directives of the Chief of General Staff dated 6 August 1993 concerning security measures for objects, goods and facilities of the DDPS in risk category 5;
- Directives of the Chief of General Staff dated 30 December 1994 concerning security measures for objects, goods and facilities of the DDPS in risk category 1, 2, 3 and 4.

These directives are based on the security policy defined by the DDPS, which is currently in the process of being updated due to the planned implementation of the Army XXI reform project.

Strictly speaking, there are no ordnance depots or armouries in Switzerland. Weapons are stored together with other materials in special military depots. Security regulations for SALW, therefore, are those that apply to the depot as a whole.

Suitable locations of national depots for SALW

Location criteria, defined on the basis of the DDPS security concept, are based on an assessment of both active and passive risks. Sites for depots may be under or above ground, and in central, protected or outlying areas. The location of depots is decided according to three criteria – the required readiness of the concerned military unit, security requirements and economic efficiency. The new Army XXI concept makes a distinction between the national and the regional level. At the national level, it calls for more regional location of depots, and thus of armouries, while at the regional level the aim is for depots to be centralised. In order to minimise costs, weapons destined for destruction are stored centrally.

¹³ OWM, art 9.

¹⁴ *Id.*, art 13.

¹⁵ FLWM, art 18.

Inside the depots, pistols, automatic pistols, assault rifles, machine-guns (max calibre of 9mm), and 40 mm gun sights are stored in special security rooms. Such depots are subject to the legal provisions of the Federal Environmental Protection Act,¹⁶ determining safe distances for facilities that may cause harm to human beings or the environment. Regulations for dealing with emergencies must be in place, and monitoring must be guaranteed.

The suitability of a building as an arms depot is decided by the IT and Object Security Division of the General Staff (AIOS).

Inspections

Inspections can be carried out at different levels, from audits (management level) to individual controls of personnel. They comprise inventory controls, status checks, technical inspections, and can be carried out at intervals of two or more years. Audits are ordered by the relevant sector heads. Certain weapons might be subject to specific inspection regulations established by the manufacturer.

Physical security measures

Physical security measures depend on the location and type of the depot. In general, however, security zones in military depots have their own locking systems. Authorisation checks are always performed before keys to other storage rooms are handed out.

Weapons are stored under lock and key in security rooms equipped with armour-plated doors and alarm systems. They are located in administration buildings that are also equipped with alarm systems and kept under surveillance.

In principle, weapons and ammunition are stored separately. For small quantities, however, joint storage is allowed, as well as for non-classified weapons during military service. If the SALW depot does not meet all security requirements, the functional parts of all weapons are stored separately as much as possible.

Access

Access is restricted to authorised personnel, with a differentiation according to the type and category of weapon. It is granted or denied on the basis of proof of authorisation, and directives and regulations are in force specifying the relevant authority for the various weapons systems. For classified systems/components and for defined security zones all personnel are subject to security checks (Armed Forces, civilian personnel, contractual staff, and security corps). Keys to major depots are handed over only in return for a signed receipt. For other depots, this procedure is applied only if requested by specific directives and regulations. The principle of double-checking applies for ammunition stores and major weapons depots.

Inventory and record-keeping

Switzerland has laws regulating the keeping of records on stored items, their use, issue and disposal. Depot inventories are recorded, and records are retained for ten years in both electronic and paper form. In case of losses, records are kept until retrieval of the weapon or liquidation of the weapon system.

All records must be examined at least once within six years. In weapons depots of the Fortification Guard (FWK), records are reviewed on a regular basis.¹⁷ Reviews may be

¹⁶ 10 October 1983, art 10.

¹⁷ The Fortification Guard is a professional formation of the Swiss Armed Forces. It fulfils tasks relating to security, technology and training support. Also, it is a crisis reaction element of the Armed Forces that can be deployed by the Chief of General Staff and the national government, both in Switzerland and abroad. Information from <<http://www.vbs.admin.ch/internet/Heer/FWK/e/Index.htm>>

performed as general controls of all inventories or as spot checks.

Emergencies

Intervention plans for occurrences relating to safety and security are in place, as well as procedures to alert civil emergency services. Agreements are also made with the police and other non-military bodies to provide outside assistance if this should be required. Depots are not allocated to special intervention units. Instead, interventions are carried out by the civil organisation of the administration concerned and by the responsible fire brigade. If needed, further assistance can be given by the civilian fire brigade, the police, operative personnel, FWK emergency vehicles and Army emergency squads.

Theft or loss

A procedure for immediate reporting in case of loss is available around the year and throughout the day. Immediate reporting is required for major events, while for other occurrences the report is made the following morning. All reports go to the AIOS division of the General Staff.

The responsibility for investigating the loss or theft of weapons and ammunition lies with the military examining magistrate. If explosives are involved, the federal public prosecutor is also involved. Minor cases are the responsibility of civilian authorities. These are also always brought in if civilians or civil goods are involved. An investigation is always carried out if a security report has been generated. Prosecution of theft by military personnel is the responsibility of the military legal authorities.

Transport security

Concerning security, ad hoc directives issued by the administration and orders issued by division commands are applicable. As regards safety, the following are applicable:

- The European Agreement on the Transport of Dangerous Goods by Road and the International Ordinance of the Transport of Dangerous Goods by Rail;
- The special agreements between the Federal Office of Transport, the Federal Roads Authority and the Department of Defence, Civil Protection and Sport;
- Regulations issued by division commands.

As a rule, routes are planned in advance for transports with classified loads. Specific protection measures are defined on a case-by-case basis. Transport routes are not normally specified or planned in advance. However, additional measures may be taken, such as the securing of railway freight wagons, accompanied transports, and accompanying papers to be signed for receipt.

Within the FWK, armed personnel accompany transports of weapons and ammunition as required and appropriate. Upon request, and in special cases, the FWK can also put armed personnel at the disposal of other federal authorities.

Considerations of quantity and resources determine whether weapons and ammunition are carried together. For large quantities and for STINGER light anti-aircraft guided missiles, weapons and ammunition are always transported separately.

Training

When they commence their duties, all personnel receive security training, normally updated if changes occur. For emergency situations, FWK personnel receive regular training, while administrative personnel and ranks do so with varying frequency and at various levels, depending on their duties.

Structures and practices

Both the Swiss General Staff (Planning Directorate) and the Swiss Defence Procurement Agency for technical and commercial issues or guidelines are in charge of the disposal of surplus SALW originating from Government stockpiles. The collection and confiscation of weapons and ammunition are, however, under the judicial supervision of canton and federal police. In case of surplus, SALW stocks are destroyed, taken out of the Swiss Armed Forces, or sold to private holders under the control of and in accordance with Swiss civilian legislation.

Destruction of surplus weapons can be executed by both state-owned agencies and private contractors. Numbers on stored weapons could not be made available.

During 2001, 19,270 small arms and 1,147 light weapons from Swiss military stocks were destroyed. These numbers included: 5,726 9 mm Automatic pistols 1943/44, 13,544 7.5mm assault rifles, 995 6 cm Werfer 87 (partial liquidation), and 152 7.1 cm Le Gw 74. During the same year, 559 small arms and 16 light weapons were exported.

For SALW owned by the Swiss Armed Forces, regular reviews of holdings are made by the General Staff (Planning Directorate).

Switzerland has also been involved in international activities concerning the elimination of surplus weapons. Among others were the organisation of a course on Stockpile Management and Security (Brugg, Switzerland, 2001) and of another on Weapons Collection and Destruction for the PfP countries (Spiez, Switzerland, 2002).

Reforms

In the course of implementing the OSCE Document, the Swiss Government has taken measures in various domains. Among them are:

- Improved co-operation between the concerned Government departments;
- Reporting for the OSCE Information exchanges (2001 and 2002);
- Collaboration in elaborating the OSCE Best Practice Guide;
- Co-operation between the OSCE and the UN.

Major changes in policy are also under way in the country. New legislation on arms is being prepared by the Federal Department of Justice. Restrictions on the handing over of personal arms to retired members of the Armed Forces for private ownership are being contemplated.

In the same vein, Switzerland does not exclude future participation in international assistance programmes for the elimination of SALW.

Norway

Camilla Waszink

Introduction

THIS PAPER IS MAINLY BASED on information from Norwegian Government ministries and agencies involved in the stockpile management and disposal of surplus small arms and light weapons (SALW). In the few cases where additional sources have been used, this is indicated in a footnote. Where the requested information could not be obtained due to confidentiality, this is indicated in the text.

Norway's national rules and regulations regarding SALW were considered to be in accordance with the OSCE Document when it was adopted in November 2000. Generally speaking, Norwegian policies and practices regarding the management and disposal of surplus SALW have therefore remained unchanged since its adoption and there are currently no plans to alter existing practices. At the same time, the OSCE Document has helped focus the attention of national authorities on norms, standards and best practice in this area.

Stocks and determination of surplus

National stocks of SALW and ammunition

Norwegian legislation allows two Government agencies to hold SALW in their inventory: the Norwegian Armed Forces and the Norwegian Police Force. Some 300,000 SALW are currently held by the Armed Forces. The amount of SALW ammunition in their inventory is considered confidential information, and was therefore not available for this survey.

In total, some 14,000 SALW and 2.4 million rounds of ammunition are held in storage for the Police Force. The Police Procurement Service (PPS) controls all stored weapons and ammunition used by the Police Force. As a standard operating procedure, the Police Force carries out its duties unarmed. Consequently, all SALW and ammunition held by the Police are normally stored in designated sites. Most stocks of SALW and ammunition are stored at the headquarters of the various police districts, while a relatively small number are stored in central facilities at the PPS. Under certain task-related circumstances, Norwegian legislation allows the Police Force to carry weapons. The approval of high-level officials (normally the Chief of a police district) is necessary for SALW and ammunition to be signed out of storage for use during a specific task. At the end of such a mission, the SALW are returned to designated storage sites under close control by officials. All transfers in and out of storage are registered.

No private people or organisations are allowed to hold SALW as defined by the OSCE.

Determination of surplus stocks

The Government distinguishes between weapons in active service, weapons in reserve, and surplus weapons – with surplus holdings being reviewed on an annual basis.

The Defence Command Norway is authorised to define and identify surplus stocks of SALW and ammunition in the inventory of the Armed Forces, while this authority rests with the PPS for weapons and ammunition in use by the police.

Surplus SALW and ammunition can arise due to a number of reasons, including technological change, changing missions and military reductions. However, technological changes and military reductions/structural reform are normally used as criteria for defining surplus stocks in the Armed Forces, while expiry and technological innovation are the most common reasons for defining surplus stocks in the Police Force.

Policies

Export of SALW and ammunition

National/OSCE common export control criteria and other international commitments

Norway controls the export of SALW on the basis of national legislation for armaments, equipment and technology, including the Act of 18 December 1987 relating to control of the export of strategic goods, services, technology. Export control practices are strict, taking into account criteria such as international security, stability and non-proliferation concerns. No licences are issued to embargoed destinations or areas of concern.

Norway follows the criteria and principles of the EU Code of Conduct, the UN Register on Conventional Arms Transfers, The Wassenaar Arrangement, the Australia Group, the Nuclear Suppliers Group, the Missile Technology Control Regime and various regional initiatives.

Types of licences

An individual licence, issued by the licensing authority (the Ministry of Foreign Affairs (MFA)) authorises the export of one or several pieces to a recipient upon application. Collective licences are not issued for defence-related exports.

Number of licences and members of staff

15 SALW licences that led to exports were issued in 2001. Three MFA employees are engaged in the export licensing procedures for every licence issued. Transfer records are kept for 10 years.

Period of validity, revocation and exceptions

The period of validity for SALW export licences is normally up to three months. Licences for temporary export are issued in cases of repairs, demonstrations and exhibition purposes.

Licences are not required when SALW are used by national contingents participating in peacekeeping operations and military training exercises. Private persons on temporary travel with legally owned weapons are exempted from the licence requirements.

An export licence granted in accordance with the regulations may be revoked if the licence holder to a considerable extent misuses the licence or to a considerable extent fails to fulfil the terms specified therein. A licence may also be revoked if new facts or changes in the facts become known, or the political situation in the recipient state or area changes, so that the basis on which permission was granted is significantly altered. General rules concerning the reversal of individual decisions also apply.

End-use, verification and re-transfer

An End User Certificate, International Import Certificate or other official authorisation issued by the receiving state is required. Verification can be carried out when there is reason to suspect a violation of export control rules. In certain cases, re-transfer is restricted by a specific clause in the End User Certificate.

Assistance

Provision of assistance to other states with regard to export controls occurs in the form of bilateral talks and co-operation between Norwegian and different foreign authorities such as export control officials, customs officials etc.

Law enforcement and penalties

According to the Act of 18 December 1987 relating to control of the export of strategic goods, services, technology, persons resident or staying in Norway, as well as Norwegian companies, foundations and associations, are prohibited from trading, negotiating or otherwise assisting in the sale of arms and defence materiel from one foreign country to another without special permission. Unless the matter is subject to a more severe penalty otherwise provided by statute, a penalty may be imposed of fines or imprisonment for up to five years, or both.

Storage of SALW and ammunition

Legislation or regulations covering stockpile security issues:

- Basic Regulations on the Responsibilities Concerning Stockpile Security (MoD, KtF I/12 1976)
- MoD Regulations on Stockpiling and Securing of Attractive Materiel (MoD, KtF I/8 1976)
- MoD Regulations for the Arming of Civilian Guards (MoD, KtF I/2 1978)
- Chief of Defence Directive for the Stockpiling and Securing of Armed Forces Equipment. (CHOD DSFM 1976)
- Chief of Defence Guidelines for the Stockpiling and Safekeeping of Materiel and Documents (VSF)
- Service Regulations for the Armed Forces Class 7 – materiel management (Tff KI 7)
- Regulations on the linking of electronic alarms to local police units (Dep of Justice, 27 Feb 1980)
- Various local regulations

Storage safety measures

There are four defined protection levels for military materiel in storage. The defined protection levels have two elements: physical security and surveillance. Dangerous or attractive materiel should be kept at protection level II or better (reinforced concrete and protection delaying an intruder for at least 30 minutes), unless they are at sites with continuous surveillance.

Storage buildings are increasingly centralised. The areas are restricted, no-photo zones and they do not appear on public maps. Arms and ammunition are stored separately, but weapons are stored assembled in the central depots. Locks are of an approved non-pickable type. Keys are kept in safes, and are signed in and out. Storage doors have double locks and are built with measures to delay cutting by torch or grinding tools.

Stores are fenced in, and most have alarm systems and continuous lighting. The alarms systems are centralised in regions. All central depots have alarm systems giving silent

alarm to a central alarm point. These systems are subject to quality control. Local, smaller sites may still have alarms without systematic follow-up, but the number of such sites is decreasing.

The site chief is responsible for granting access to the storage site. He formally authorises all personnel requesting admittance including visitors. The site chief has an obligation to judge the competence and the physical and psychological fitness of his staff. Furthermore, access can only be granted if there is a professional need, and all military and civilian personnel requesting admittance are subject to security clearance.

The authorisation for access is in most cases general, with keys to the arms and ammunition stores being available during working hours against signature. Within military units at company level, the same person may be allowed access to both the arms and ammunition store. Within the logistics organisation, the same person never has access to both arms and ammunition. Personnel not belonging to the site are normally escorted inside storage buildings.

Weapons held by the Police are mainly kept in a storage facility monitored and controlled by the PPS. Storage, registration, transport and management of these weapons are regulated by internal rules and routines.

Inspections of storage facilities

Storage buildings are inspected daily by verifying from the outside that no intrusion has taken place. The frequency of inspections may vary depending on access to the location, content, intrusion protection and alarm. The inspections are carried out by military guards or civilians hired for the task. The unit responsible for the storage performs periodic overall inspections of materiel, buildings, fencing and surroundings. These take place at intervals ranging from one week to two months in length depending on the site's contents, intrusion protection and alarm. The central defence authorities perform a main inspection at intervals of less than four years. These inspections entail a systematic revision of buildings and materiel, the storage site, stockpile accounts and all paperwork.

Registration, inventory management and accounting control procedures

All weapons, including stored weapons, are registered in central databases and remain in these databases until every weapon of a specific type has been destroyed, lost or otherwise disposed of. Full records are kept of holdings, use, expenditure and disposal. The records are kept for at least 10 years after the last entry. The transaction history for ammunition is available longer for logistic purposes. Central defence authorities inspect records at least once every four years as mentioned above. The local commanders, however, are responsible for the local, smaller scale inspections, and decide how frequently they take place.

Theft or loss

There are procedures for the reporting of losses. Thefts are reported to the civil police, who are responsible for the investigation. There are also routines for reporting within the Armed Forces. Embezzlement is generally rather complicated to discover and prove.

There are plans for physical protection, alarm systems, response to detected intrusions, and detailed checks of records. Programmes for increasing physical security have been going on for decades.

Very few thefts have been reported over the last 10 years. Cases of disciplinary action based on negligence in the performance of duties are also extremely rare. No statistics are available on either type of incident.

Security measures for emergency situations

With regard to security measures, the depot staff depend entirely on alarm systems. There are reaction plans for sites equipped with alarm systems, and they are practised regularly. Some sites have assigned military response forces, while others depend on police response. The time for response may be relative to the level of physical protection of the site.

General training on security and stockpile management is provided for staff. Basic training programmes are provided to all ammunition personnel, and specialised training to personnel in key positions. Staff are trained to handle emergency situations like fires and accidents, but there is currently no specific training for depot staff with regard to armed attacks.

Transportation security

There are regulations for transporting ammunition, mainly concerning explosive safety. Arms and ammunition are never transported in the same vehicle. Arms are rarely disabled before transportation. The transports are planned in advance, and only the depots involved know the transportation route and arrival time. The transport documents specifying type of materiel are protected. The load is sealed and the transports have communication equipment.

Armed escorts are not provided as a general rule and will always have to be cleared with police authorities. Additional measures are being discussed, including the use of armed guards in specific cases, alarms on vehicles, and the use of electronic equipment such as tracers.

Destruction of SALW and ammunition

Weapons to be destroyed are transported by the responsible agency to a civilian facility that carries out the destruction. A list of all weapons (with serial numbers) is drawn up for each shipment. Agency personnel monitor the destruction process and check the data on the weapons destroyed against the lists issued by the sending authority. The weapons are then labelled “Destroyed” in the central register of weapons. All weapons remain in the database(s) until every weapon of a specific type has been destroyed, lost or otherwise disposed of.

Decisions to destroy individual weapons are taken by the Norwegian Defence Logistic Organisation (FLO) and the PPS respectively. Weapons designated for destruction usually display such a degree of wear or damage that it is no longer cost-effective to repair them.

As a rule, all weapons are cut into pieces of roughly 25 x 25 mm. This is standard procedure for all weapons types falling within the definition provided in the OSCE Document.

Structures and practices

Disposal of surplus stocks

When it comes to the actual disposal of surplus weapons, the FLO is in charge of this for the Armed Forces and the Police Directorate/PPS for the Police. The National Bureau of Crime Investigation (KRIPOS), in co-operation with local police, is in charge of the disposal of collected and confiscated SALW and ammunition. Both stated-owned and private contractors execute SALW destruction, monitored and controlled by representatives of the Armed Forces or the Police.

With regard to the number of SALW and rounds of ammunition categorised as surplus stocks, no exact figures can be given for the Armed Forces as the number varies over time. The Government reviews its surplus holdings on an annual basis, and there is a continuous and ongoing process of destruction of surplus stocks in the Armed

Forces. Stocks are destroyed after a relatively short period following the decision to categorise them as surplus stocks. During the last two years, some 14,000 SALW have been destroyed.

In the Police Force, some 6,400 SALW and 1.2 million rounds of ammunition are categorised as surplus stocks and stored at present. Over the last 5–6 years, some 8,000 SALW and 100,000 rounds of ammunition have been destroyed.

No surplus SALW or rounds of ammunition have so far been exported. Some 14,000 old model army rifles (Mauser 98 k) have been sold on the domestic commercial market over the last five years. These are sold to licensed persons and mainly used for hunting and competition. No rounds of ammunition have been made available on the commercial market. Revenues from sales are transferred to the defence budget (not applicable with regard to the police).

Very few SALW or rounds of ammunition have been retrieved from the civilian population, but exact figures are not available since parameters in the current statistics do not correspond to the definition of SALW contained in the OSCE Document. However, it is worth noting that in the course of 2003, a countrywide amnesty will be introduced so that people can turn in unregistered weapons without penalty. Although the majority of the estimated 500,000 unregistered weapons in civilian hands are believed to be shotguns, the objective is also to collect unregistered military-style weapons. At the same time, a national weapons register is being established. The amnesty programme was first introduced as a pilot project in four police districts, resulting in the collection of 5,000 weapons.¹ All weapons retrieved from the civilian population have been destroyed.

International assistance and co-operation

Norway is currently involved in close to 20 international co-operation and assistance programmes in the area of SALW, mainly focused on Africa and the Balkans. It spends about US\$2 million annually on such programmes. Assistance for destruction of surplus SALW is a key component of Norwegian SALW policy – indeed it funded the present study.

The largest project Norway is involved in is a bilateral agreement between Norway and South Africa on the destruction of surplus and confiscated weapons and ammunition held by the South African Defence Force and by the South African Police Service. Furthermore, in collaboration with the United States, Norway offers to send evaluation teams to countries asking for assistance to review surplus stocks. Assessments have so far been carried out in Bulgaria, Macedonia and Romania. Norway has also provided personnel to the OSCE for training/briefing purposes during seminars conducted in Central Asia.

Norway supports collection and destruction programmes in several regions, in particular in the Balkans, and has so far been a main contributor to the UNDP Trust Fund for Small Arms. In addition, Norway is involved in a number of peace-building projects where small arms is one of several components, such as the 'Training for Peace' programme in the region of the Southern African Development Community.²

Concluding remarks

The Armed Forces and the Norwegian Police Force are the only two Norwegian Government agencies with stocks of SALW as defined in the OSCE Document. No private individuals or organisations are allowed to hold SALW that fall under this

¹ 'Våpenamnesti over hele landet', *Aftenposten* online edition, 28 August 2002; 'En halv million uregistrerte hagler i Norge', *Aftenposten* online edition, 21 January 2003.

² A complete list of Norwegian SALW projects will be communicated to the Small Arms Survey, DFID/UK and other databases.

definition. There are detailed regulations for the management of Government stockpiles of SALW and ammunition and full records are kept for at least 10 years of SALW holdings, use, expenditure and disposal. The current policies and practices are considered by Norway to be in accordance with the standards established in the OSCE SALW Document, and there are currently no plans for significant reforms.

The Government distinguishes between weapons in active service, in reserve and surplus weapons, and conducts annual reviews of surplus stocks. Surplus holdings for the Armed Forces generally arise due to technological development and structural reforms, while technological innovation and expiry are the most common reasons for surplus holdings in the Police Force. In the Armed Forces, there is a continuous process of surplus destruction, and surplus stocks are therefore not stored long before being destroyed. Norway has so far not exported any of its surplus SALW or ammunition.

Assistance for stockpile management and surplus destruction are key elements of Norway's policy to improve international control of small arms and light weapons. It is currently engaged in a number of co-operation and assistance projects, so far focused mainly on the Balkan and Southern African regions.

6

Poland

Piotr Jaworski with contributions from **Simon Rynn**

Introduction

UNTIL VERY RECENTLY NO ONE CONSIDERED POLAND, a former mainstay of the Warsaw Pact, as a country whose SALW policy should be emulated. Currently, however, Poland is a NATO member and the largest of the states acceding to EU membership in 2004. It is often presented as a country that has made great progress in SALW policy. This sits well with the political establishment's self-image as a leader in international co-operation, legislative reform and integration. Such claims are largely well founded, since successive governments have enthusiastically pursued European integration in the hope of achieving stability and prosperity. In practice, this has meant deep economic and political reform throughout the 1990s, the twin objectives being NATO and EU membership.

Although Poland has achieved periods of strong macroeconomic growth, as in other Central and East European countries these reforms have posed some difficulties. For the military this has meant bringing the overly large Warsaw-Pact style forces under civilian control while reducing and modernising them along NATO lines.¹ The military and its supporting industry has had to modernise, privatise, restructure, prepare for global competition and downsize all at the same time. Since 1989 the country has gone from an Army of almost 400,000 to less than 150,000. The modernisation of the military continues, not without criticism from those who allege over-spending and unnecessary delays – though mostly with respect to the procurement or manufacture of major weapons systems.²

Despite these challenges, Poland achieved full NATO membership in 1999. This was a welcome recognition of its credentials as a secure and peaceable liberal democracy, already honed through its participation in the PfP and the Visegrad group, of which it is a long-standing member. With its accession now fixed for 1 May 2004, Poland is well prepared to attain its long-term ambition of EU membership. In diplomatic terms, Poland can also justifiably claim to have been a force for improved dialogue between the EU and Central and Eastern European candidate countries, one example being the EU Code of Conduct on Arms Exports. Since 1989 Poland has also introduced many laws and regulations concerning the control of arms transfers and related technology in a continual attempt to bring its legislation into line with international standards.³ Among candidate countries it has often led the way, legislating comprehensively to

¹ Reforms are conducted according to the 2001–2006 Defence Plan, passed by parliament in 2001.

² Walentek, Andrzej, Warsaw *Życie Warszawy*, *Modernization With No End*, 17 April 2002, p 4.

³ More about this can be found in: Mariani, B, Hirst, C, *Arms Production, Exports and Decision-making in Central and Eastern Europe*, (Saferworld, London 2002).

control the possession, export, import and production of arms including SALW. In some cases Poland has outdone its West European counterparts. For this reason there has been no need to distinguish between the periods before and after the passage of the OSCE Document on SALW in the Polish case – the principles and mechanisms contained in the Document were already present because of the legislation introduced in the 1990s.⁴

Given the combination of large amounts of obsolete military hardware and severe cuts in the military budget, sizeable surpluses would seem impossible to avoid. An official of the Military Property Agency (MPA), a key agency in this respect, has gone on record to the effect that the state has large stocks of Soviet-era SALW and ammunition which it is keen to sell or destroy. Polish decision-makers and experts have also displayed a high level of openness during this research, even permitting the publication of some data previously submitted under the state-to-state OSCE information exchange on SALW. However, the picture that emerged from official circles remains slightly unclear. Officially, Poland is said to have no real surplus SALW problems, because surpluses are said to be low, controls tight and inter-agency and international co-operation good. Yet, our study has not been able to establish clearly who is responsible for designating weapons as surplus in a given case, or whether stored weapons are in fact surplus or reserve. This is partly because there are a large number of armed formations in Poland, either governmental or quasi-governmental, that sometimes make it difficult to pinpoint the responsible party. It is also because officials could not clearly state whether in addition to active and surplus weapons, there is a third category of reserve weapons that are not in use, but not deemed fully redundant either. The existence of reserves seems highly likely from our research, but further research may be needed to clarify this. Yet if further questions remain, it must still be said that Poland has achieved a great deal in recent years. Though there may be ambiguities and gaps, we have not identified any serious concerns with regard to Polish SALW surpluses and have in fact found much to applaud. It seems likely that the Polish experience has much to offer those in a similar position.

Stocks and determination of surplus

Government agencies holding SALW

There are several acts in Polish law that regulate the possession, trade, storage, carrying and registration of arms and ammunition. None, however, contains a full list of Government agencies holding small arms and light weapons. The access of state formations to arms and ammunition is regulated by several separate legal acts. The most comprehensive list of Government agencies holding arms can be found in the Act on Arms and Ammunition (*Ustawa o broni i amunicji*) of 21 May 1999.⁵ Article 3 of this act lists the institutions whose access to arms and ammunition is regulated by other, separate acts: the Armed Forces of the Republic of Poland (*Siłły Zbrojne RP*), the Police, the Internal Security Agency (*Agencja Bezpieczeństwa Wewnętrznego*), the Intelligence Agency (*Agencja Wywiadu*), the Border Guard (*Straż Graniczna*) and the Prison Service (*Służba Więzienna*). A short description of those institutions with an explanation of their place within Government structures can be found below.

The Armed Forces of the Republic of Poland consist of the Land Forces (*Wojska Lądowe*), the Air Force and Air Defence Force (*Wojska Lotnicze i Ochrony Powietrznej*) and the Navy (*Marynarka Wojenna*). The Armed Forces are policed by the Military Police (*Żandarmeria Wojskowa*); there is also the Military Information Service (*Wojskowe Służby Informacyjne*), a special services branch acting independently from the Internal Security Agency and the Intelligence Agency. According to the

⁴ In an interview, a government official stated that no reforms had been needed to implement the OSCE Document because the existing regulatory framework concerning SALW was even more advanced. Interview with a government expert on SALW, Warsaw, 1 October 2002.

⁵ Dz. U. (Dziennik Ustaw, Polish Journal of Laws), 19 June 1999.

Constitution of the Republic of Poland,⁶ the Armed Forces are subject to civil and democratic control and their supreme commander is the president. The Head of State appoints the Chief of the General Staff and the commanders of the Armed Forces. According to the Constitution, in times of peace the President of the Republic of Poland exercises control over the Armed Forces through the Minister of National Defence. In practice, the ministers have exercised this control independently and the real influence of the president over the Army (the key military institution) depended to a large extent on whether the minister was from the same political camp. The Minister of National Defence is the supreme state authority with regard to national defence and controls the entire activity of the Armed Forces in times of peace.⁷ The Chief of the General Staff, who is the highest ranking soldier in active military service, reports to and commands the Armed Forces on behalf of the Minister of National Defence. Both the minister and the Chief of the General Staff play crucial roles with regard to the emergence and management of SALW surpluses. The minister exercises general authority over the satisfaction of the material, technological and financial needs of the Armed Forces, while the Chief of the General Staff is responsible for material and financial programming and planning. Another pertinent institution is the MPA described in more detail below. Established in 1993, the MPA is a state agency with the status of a legal person whose task is to efficiently utilise all disused military property. It is supervised by the Minister of National Defence.

There is only one armed and uniformed formation in Poland whose aim is to maintain law and public order and which has the right to use the name police (*Policja*).⁸ It consists of many branches: criminal, preventive, anti-terrorist, court police and research and development units. It is headed by a commander-in-chief, who is responsible to the Minister of Internal Affairs and appointed by the Prime Minister upon request of the minister. Metropolitan and *poviat*⁹ police commanders are appointed in agreement with local government authorities.

Polish special services were restructured in 2002. The Office for State Protection (*Urząd Ochrony Państwa*) was replaced by the Internal Security Agency and the Intelligence Agency.¹⁰ The Internal Security Agency is responsible for the identification, prevention and suppression of threats endangering the internal security of Poland, while the Intelligence Agency protects the external security of the state. Both agencies play very important roles in controlling the manufacture, possession and trade of arms and ammunition. One of the tasks of the Internal Security Agency is the prevention and detection of crimes “concerning the manufacture and trade of goods ... of strategic value [and] illegal manufacture, possession and [international] trade in arms and ammunition”.¹¹ The Intelligence Agency is responsible for, among other things, “the examination of international trade in arms and ammunition.”¹² The chiefs of the Internal Security Agency and the Intelligence Agency are appointed by the Prime Minister¹³ and are directly accountable to him. The lower chamber of the Polish parliament (*Sejm*) plays an important role with regard to the functioning of special services in Poland. The task of one of its committees is to control the activities of both agencies. Apart from the Internal Security Agency and the Intelligence Agency, the security of the state is protected by several other institutions.¹⁴ To make the supervision and co-ordination of these activities more effective,¹⁵ the Special Services Board

6 Art 26, Art 134.

7 The ‘Act on the office of the Minister of National Defence’, 14 December 1995 (Dz. U., 30 January 1996).

8 Act on the Police, 6 April 1990.

9 The middle-level structure in Poland’s three-level administrative system.

10 ‘Act on the Internal Security Agency and the Intelligence Agency’, 24 May 2002.

11 Ibid, Art 5.

12 Ibid, Art 6.

13 The Prime Minister appoints the chiefs of the Internal Security Agency and the Intelligence Agency after consulting the President of the Republic of Poland, the Special Services Board and the Sejm Special Services Committee.

14 For example Military Information Services, Police, Border Guard, Military Police, Prison Service, Government Protection Bureau, Customs Inspection (*Inspekcja Celna*), Inland Revenue etc.

15 The Act on the Internal Security Agency and the Intelligence Agency, Art 11.

(*Kolegium do Spraw Służb Specjalnych*) was established. It is intended to be a key organ for evaluating important state security matters.¹⁶

The Border Guard is a unified, uniformed and armed formation whose task is to protect the state border on land and sea and to control border traffic.¹⁷ It is headed by the commander-in-chief, who is subordinate to the Minister of Internal Affairs and is appointed by the Prime Minister upon request of the minister, just as in the case of the police.

The Prison Service is a uniformed body charged with supervising and reforming prison inmates. Given its responsibility for maintaining law and order inside prisons, it is also armed.¹⁸ All officers of the Prison Service are subordinate to the general director who in turn is subordinate to the Minister of Justice and is appointed by the Prime Minister upon his request.

Apart from the institutions listed above, the Act on Arms and Ammunition also mentions “other armed state formations” in connection with the possession of arms and ammunition. Unfortunately no list of these formations is given, implying that the state may expand or restrict the number of ‘formations’ that are armed depending on needs and institutional changes. Armed formations not explicitly named in the Act on Arms and Ammunition include, among others, the Government Protection Bureau (*Biuro Ochrony Rządu*),¹⁹ the State Hunting Guard (*Państwowa Straż Łowiecka*), the Marshal’s Guard (*Straż Marszałkowska*)²⁰ and the Tribunal Guard (*Straż Trybunałowa*).²¹ Other uniformed agencies with access to arms include Railway Protection Service (*Służba Ochrony Kolei*)²² and industrial guard units maintaining order in the area of state-owned industrial plants.²³ Although it is not a Government agency, the Railway Protection Service merits particular attention because of its wide remit.

The Railway Protection Service is a uniformed and armed formation established by the management of the railways upon consent of the Minister of Transport and in agreement with the Minister of Internal Affairs to maintain security and order in the railway sector.²⁴ The Polish State Railways currently employ over 3500 Railway Protection Service officers, usually armed with P-64 pistols.²⁵ Further research is required to establish how such quasi-governmental bodies deal with surpluses. What seems likely, however, is that the Government does not play a major role in this regard.

Civilian possession of SALW

Polish citizens may also possess firearms, though the list of permissible items is comparatively short, shorter than that specified in the OSCE Document on Small Arms and Light Weapons. In 2000, the Minister of Internal Affairs and Administration issued a regulation²⁶ specifying those arms for which licences may be issued and those arms whose possession is limited or prohibited. When issuing a licence, the authorities distinguish between applications for personal protection and for the protection of property. In the first case a licence for offensive firearms – pistols and revolvers (calibre between 6.35 mm and 9.65 mm) – is issued. The list of firearms that may be used to

¹⁶ The rank and influence of this newly formed body is reflected in its composition: it is chaired by the Prime Minister and its members are the secretary of the Board, the Minister of Internal Affairs, the Minister of National Defence, the Minister of Finance and the chief of the National Security Bureau (*Biuro Bezpieczeństwa Narodowego*).

¹⁷ The Act on the Border Guard, 12 October 1990 (unified text: Dz. U. no 171, 2002, item 1399).

¹⁸ The Act on the Prison Service, 26 April 1996 (Dz. U. no 61, 1996, item 283 as amended).

¹⁹ The Government Protection Bureau is a uniformed, armed formation whose task is to protect persons, facilities and installations. It protects the most important persons in Poland, foreign guests and Polish diplomatic missions abroad. The Bureau is headed by its chief, who is subject to the Minister of Internal Affairs and appointed by the Prime Minister upon request of the minister.

²⁰ A uniformed formation maintaining order in the Parliament.

²¹ A uniformed formation maintaining order in the Constitutional Tribunal.

²² The Railway Protection Service is part of the Polish State Railways, a state-owned company.

²³ Including the defence industry.

²⁴ The Act on railway transport of 27 June 1997 (Dz. U. no 96, 1997, item 591 as amended).

²⁵ Pezda, A, *Kolejowa samoobrona*, ‘Gazeta Zachodnia’, 16 September 2002.

²⁶ The regulation of the Minister of Internal Affairs and Administration of 20 March 2000 on the types of particularly dangerous arms and ammunition and the types of licensed arms depending on the grounds for the issue of an arms licence (Dz. U. no 19, 2000, item 240).

protect property is longer, including signal pistols (calibre 26 mm), sub-machine-guns (calibre between 6.35 mm and 9.65 mm) and 12 gauge repeater shotguns. It must be noted, however, that sub-machine-guns and 12 gauge repeater shotguns may be used only by highly specialised armed formations while escorting money or other valuable or dangerous items. The Minister of Internal Affairs has also issued a list of particularly dangerous firearms for which licences are unobtainable.²⁷ It includes, among other things, automatic firearms (with the exception of the above mentioned escorting formations) and weapons with silencers, laser or infrared sights and modified arms. Obtaining an arms licence, issued by the *voivodeship*²⁸ police commander, is not easy and entails meeting several precisely specified requirements concerning age, psychological and physical fitness, criminal record, etc. A distinction is made in Polish law between licences for possession and for carriage. The police may limit or exclude the right to carry firearms when issuing an arms licence.

Civilian possession is not widespread in Poland which, unlike in certain other European regions, has not developed a 'gun culture'. There are few registered firearms in the possession of private individuals – in a country with almost 40 million inhabitants, there were 29,998 short firearms and 197,121 hunting firearms owned by private persons in 2000.

Table 1: Total number of licensed items in Poland
(Press Department of the General Headquarters of Police)

SALW	31 December 1997	31 December 1998	31 December 1999	31 December 2000	31 December 2001
Handguns	40,241	44,301	45,584	47,319	47,248
Hunting guns	182,965	188,893	193,335	197,693	202,381
Machine-guns	4,369	3,890	3,555	3,451	3,452

Table 2: Total number of licences issued in Poland
(Press Department of the General Headquarters of Police)

SALW	31 December 1997	31 December 1998	31 December 1999	31 December 2000	31 December 2001
Handguns	23,379	28,993	30,127	30,334	25,028
Hunting guns	102,668	102,889	104,717	105,842	107,337
Machine-guns	1,247	1,031	963	796	748

However, there has been a sharp increase in the numbers of short firearms owned by private individuals – a surge of almost 50 percent between 1997 and 2000.

Table 3: Total numbers of licences and items held by private persons in Poland
(Press Department of the General Headquarters of Police)

SALW	31 December 1997		31 December 1998		31 December 1999		31 December 2000	
	Items	Licences	Items	Licences	Items	Licences	Items	Licences
Handguns	20,282	19,213	26,854	25,696	29,225	27,146	29,998	27,551
Hunting guns	182,293	102,454	188,274	102,707	192,743	104,553	197,121	105,676

This change can be explained in a number of ways, but rising crime rates and accompanying feelings of insecurity (fuelled by the media) are certainly two important factors. The fact that politicians from the governing social-democratic party support proposals to make access to firearms easier reflects the public mood.

²⁷ Ibid.

²⁸ The highest of Poland's three levels of administrative structures, comparable to an EU region.

Determination of surplus

The multitude of armed Government agencies in Poland makes it extremely difficult to state exactly who is responsible for the identification of SALW. According to information received from the Government, a special commission composed of three “suitably qualified persons” is responsible for determining surpluses based on a listing of equipment provided by the numerous armed units.²⁹ It seems that the situation in the Armed Forces of the Republic of Poland is the most clear-cut. The Act on the Management of Certain Property of the State Treasury and on the Military Property Agency of 30 May 1996³⁰ specifies the principles and procedures for managing property controlled by the Ministry of National Defence. The Minister of National Defence or another military organ authorised by the minister orders the transfer of property to the agency without charge. Although not officially confirmed by the representatives of the Government, it may be surmised that a suitable organisational unit within the Ministry of National Defence decides which SALW are listed as redundant and which are transferred to the MPA. Based on such lists, the above-mentioned special commission makes the decisions concerning the rejection of a given firearm.

When asked about the formulas used by the Government to calculate the military need for SALW and ammunition, a Government official said that they exist but that he could not describe them more precisely. Unfortunately, as stated above, Polish authorities have not conclusively indicated whether they divide arms into the three categories: actively used; used as reserve; and surplus. However, based on the material gathered during research, a positive (although indirect) answer may be given. The existence of the first category seems obvious. Based on the materials submitted to the OSCE by Poland, the existence of small arms surpluses is also confirmed. The only uncertainty concerns reserve arms. Two things testify to the existence of firearms categorised as such. Firstly, according to the Act on the Modernisation of the Armed Forces of the Republic of Poland passed by the Parliament in 2001, one of the basic ways in which this modernisation is to occur is “the gradual replenishment of stocks of weapons and materials”.³¹ Secondly, the information gathered at the MPA shows that situations occur in which the Agency encounters demand for certain stocks of older types of arms and asks the Ministry of National Defence for their transfer. Because financial resources gained by selling these arms can be used to purchase more modern equipment, the ministry agrees to transfer them to the MPA. If the Armed Forces of the Republic of Poland are capable of fulfilling their tasks without the arms which are earmarked for sale, it should be assumed that there is a category of ‘reserve’ arms in Poland, which are not actively used and do not have the status of surplus arms.

There are several basic reasons for the emergence of arms surpluses in Poland. One of them is the significant decrease in the size of the Polish Army. Initially the size of the Polish Army was to be 250,000 soldiers, but this figure was later changed several times and decreased even further. According to the Act on the Modernisation of the Armed Forces of the Polish Republic, their final size will not exceed 150,000 soldiers.³² At the moment, 135,832 soldiers³³ serve in the three Polish Armed Forces, ³⁴ much less than the limit of 234,000 envisioned in the CFE treaty.³⁵ The scale of the changes taking place in the Polish Army is illustrated by the fact that garrisons in 132 towns are to be disbanded between 1987–2006.³⁶

Another important reason for the emergence of arms surpluses in Poland is the drive towards inter-operability with NATO forces. A large part of the armaments used by the Army dates from the Warsaw Pact era, so the 2001 Act lists “the decommissioning of

²⁹ Interview with government SALW expert, 27th September 2002.

³⁰ Dz. U. no 90, 1996, item 405 as amended.

³¹ Art 2 of the Act on the reconstruction, technological modernisation and financing of the Armed Forces of the Republic of Poland in the years 2001–2006, 25 May 2001 (Dz. U. no 76, 2001, item 804 as amended).

³² Ibid.

³³ <<http://www.wp.mil.pl>>

³⁴ The Land Forces, the Navy and the Air Force and Air Defence Force.

³⁵ Conventional Forces in Europe Treaty.

³⁶ <<http://www.wp.mil.pl>>

obsolete and outdated military equipment”³⁷ as one of the priorities in modernising the Army. This phrase probably refers primarily to heavy military equipment, but the list of arms on offer at the MPA suggests that SALW are also included in the programme of decommissioning obsolete armaments.³⁸

Policies

Legislation governing arms export

Since 1989, various new laws have been introduced to govern arms exports. The Law on the Rules of Particular Control of the Foreign Trade in Goods and Technologies in Connection with International Agreements and Obligations³⁹ was passed in 1993. In 1997, this law was supplemented by the Law on Administering of the Foreign Trade in Goods and Technologies and on the Arms Trade,⁴⁰ which was accompanied by several executive regulations and instructions.

Additional legislation on export controls was passed on 29 November 2000.⁴¹ According to the new law, trade in SALW is subject to very strict licensing procedures and is only permitted upon fulfilment of the conditions specified in the law, but also in Poland’s other arms laws and international commitments.⁴² This new law changed the Polish export control system considerably, bringing together all aspects of export control for conventional arms and dual-use items under one legal act.⁴³

The most important elements of the law are:⁴⁴

- The introduction of a new licensing system, including Individual Licences, General Licences and Global Licences for trade in dual-use goods;
- The existing state register of enterprises authorised to carry out trade has been replaced with a company certification system;
- Companies are obliged to establish internal control systems to ensure compliance with the law and to collect information that assists in end-user verification, including a requirement to ascertain whether the arms might be used to violate human rights, threaten peace and regional stability and facilitate or encourage terrorism or international crime;
- The introduction of the ‘catch-all’ principle, for the control of technologies that are not on arms control lists but can be used in the production of military goods;
- A comprehensive definition of ‘brokering services’ which are subject to licensing requirements;
- The introduction of a mechanism to control intangible technology transfers;
- A more detailed system of criminal and administrative penalties for violations of the law;
- An end-user certificate requirement that is subject to strict verification. In particular cases, confirmation of receipt of the shipment is also required.

Foreign trade in SALW in Poland is conducted by a number of different enterprises.⁴⁵

³⁷ Art 2 of the Act on the reconstruction, 25 May 2001.

³⁸ The full list of small arms, light weapons and ammunition offered for sale by the Military Property Agency can be found in the Section ‘Structures and Practices’.

³⁹ Dz. U. no 129, 1993.

⁴⁰ Dz. U. no 157, 1997.

⁴¹ Law On International Trade in Goods, Technologies and Services of Strategic Significance for State Security and Maintenance.

⁴² Poland also maintains a ‘black list’, which was made public. The Council of Ministers’ Decree of 20 August 2002 on the Limitation and Trade Ban of Goods of Strategic Significance for State Security introduced two lists of countries: Annex 1, countries to which export or transit are banned and Annex 2 where exports or transit are limited. Seven countries fall into the first category (Afghanistan, Angola, Iraq, Liberia, Rwanda, Sierra Leone, Somalia) and ten into the latter (BiH, China and Taiwan, Congo, Iran, North Korea, Cuba, Libya, Myanmar, Sudan, Syria). However, some international and local actors operating in the countries covered by Annex 1 are exempted from the ban, eg United Nations Mission in Sierra Leone or government of Rwanda. The Decree also banned the export of antipersonnel mines to all countries.

⁴³ Apart from the Law of 11 December 1997 there are also eight decrees issued by the Minister of Economy and Minister of Finance, which provide operative provisions for the implementation of the new legislation.

⁴⁴ Mariani, B, Hirst, C., *Arms Production, Exports and Decision-making in Central and Eastern Europe*, (Saferworld, London 2002), p 114.

⁴⁵ For a list of Polish producers of SALW and other arms see Mariani, B and Hirst, C., *Arms Production, Exports and Decision-making in Central and Eastern Europe*, (Saferworld, London 2002), pp 118, 136.

The Minister of Economy has issued a regulation specifying a list of arms – taking into account the relevant international listings – which can only be traded under licence. At first glance the licensing system seems to be very business friendly, and in principle all businesses can be granted a licence. However, licences for international trade in strategic goods, technologies and services can be granted only to those businessmen who have applied an Internal System of Control and Management of trade (ISCM) for at least three years. What is more, this internal system must comply with the international norm ISO 9000. By setting this hurdle, the Government has in fact transferred a significant part of the responsibility for export control to businessmen. With two watchdogs (government and private sector) controlling exports, the whole system is supposed to be more secure. The Ministry of Economy actively promotes this new internal system of control among exporters. It organises training and distributes CD-ROMs containing the ISCM computer programme free of charge. By doing this, the Ministry of Economy hopes to bring Polish entrepreneurs closer to EU standards and prepare them for the tough competition of the European market.

In order to acquire an individual licence an applicant must submit an application containing the following information:⁴⁶

- Name and address of individual applicant;
- Company registration number;
- Description of the business activity conducted by the enterprise;
- Identification of the exporter and importer, their addresses;
- Identification of the producer and end-user, their addresses;
- Identification of the strategic products or services involved in foreign trade, their description, quantity and value;
- Information on the utilisation of the strategic products by the end-user;
- Identification of the country of final destination;
- Declaration that the entrepreneur will make every possible effort to ensure that the products mentioned in the application reach the end-user, and that he will advise the foreign importer that any change in utilisation or end-user requires prior consent by the Polish organ of control;
- Other data elaborated in separate regulations.

An application must be also accompanied by a declaration that:

- The contract does not involve circumstances threatening human rights or basic freedoms;
- The delivery of arms will not threaten peace or otherwise undermine stability in the region;
- The final destination country does not support or facilitate terrorism or international crime;
- The arms will not be used for purposes other than the valid security and defence needs of the recipient country.

In addition, the licensing authority must be notified of all business partners, including brokers, commercial consultants, persons arranging contracts, shippers, forwarding agents and others.

Applications and all other documentation required in the licensing process are processed and recorded electronically. The very first system of this kind, Polish Export Licensing & Tracking System (PELTS),⁴⁷ was introduced in 1996. PELTS was a software based on the Apple Macintosh system platform and used entirely for licensing of dual-

⁴⁶ Polish MFA.

⁴⁷ The system was created with the help of foreign governments, particularly the US.

use goods and technologies. This system has linked the Ministry of Economy with the Ministry of Foreign Affairs (MFA), the Ministry of Defence (MoD), the Ministry of Internal Affairs and Administration, the former State Security Office⁴⁸ and the Chief Customs Office. The new Law of 2000 on Foreign Trade extended the remit to the export, import and transit control mechanisms to cover both dual-use goods and technologies and armaments. Harmonised application and licence forms were introduced for both groups of commodities. Because of this a new computer system was introduced in 2001, based on Windows software and a US programme 'TRACKER'.⁴⁹ It stores and processes a great deal more data and runs detailed decision-making process analyses. Since June 2002, all agencies taking part in decision-making process have been connected to the network: the Export Control Department in the Ministry of Economy, MFA, Internal Security Agency, Intelligence Agency, MoD, Ministry of Finance, Ministry of Internal Affairs and Administration and State Nuclear Agency. No licences may be issued without their collective endorsement. According to representatives of the Ministry of Economy, the system works very well and has aroused the interest of many other governments.⁵⁰

Another important aspect of arms export controls is inter-agency co-ordination, a field in which Poland has made good progress. In 1999, the Council of Ministers Sub-Committee for the Arms Trade was replaced with the Sub-Committee for Export Controls, Defence Industry Co-operation, Non-proliferation and Disarmament. Within its framework an inter-ministerial working group on SALW was created. This group, chaired by the MFA, is a focal point for governmental activities in the field of SALW. The group works on two levels:

- Expert level: responsible for the co-ordination and allocation of tasks to different agencies, exchange of information, analysis of data and preparation of Government positions;
- Executive level: which has decision-making powers.

There are experts and executives from different agencies working in the group: MFA, Ministry of Economy, Ministry of National Defence, Ministry of Interior and Administration, (including Police and Border Guard), Ministry of Justice, Customs Office and Intelligence Services.⁵¹

Legislation governing production, trade and registration of SALW

Poland has also made progress in controlling the production, trade and registration of SALW in recent years. The new Law of 22 June 2001⁵² regulates issues pertaining to the control of the manufacture and trade in SALW. The responsibility for implementing controls lies with the concession-granting organ (the Ministry of Internal Affairs and Administration and the Ministry of the Economy, the latter especially with regard to storing and marking weapons). Control can also be exercised by *voivodship* level police chiefs or by a specialised state body authorised by the concession-granting organ. The new law introduced an obligation for producers to mark weapons and their essential parts. This obligation also applies to imported firearms, which must be stamped with an individual serial number and markings identifying the importing country and the importing enterprise. There is no uniform system of marking weapons in Poland. The method of marking is specified each time for every type of weapon by the producer in the technical documentation and endorsed by particular ministries. All weapons have to be appropriately marked. The following types of markings are used:

⁴⁸ Replaced in 2002 by two separate intelligence agencies responsible for i) internal and ii) external security.

⁴⁹ The new system, like the previous one, was created with the help of the US government.

⁵⁰ Interview with an official from the Department of Export Control in the Ministry of Economy, 4 October 2002.

⁵¹ Information based on: Information of the Polish Government to the Secretary General of United Nations in the context of the UN Action Program for the Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

⁵² Law of 22 June 2001 on business activity with regard to the production of and trade in explosives, arms, ammunition and other products or technologies with military or police applications (Dz. U. 2001 no 67, item 679 with further changes).

- The logo of the producer (or his name), year of production, series marking and serial number;
- This group of marks is applied in a durable way on the essential part of the weapon, identified in the documentation, most commonly the chamber or the bolt (in the case of handguns);
- The series symbol and serial number may be repeated on another key part of the weapon, which is identified in the documentation (eg barrel, breech, breechblock piston, magazine);
- Wherever the calibre is documented, it is also marked in a durable way on the barrel, chamber or bolt;
- The 'probe of tests' with increased-pressure cartridges is applied in a durable way on the barrel;
- The result of the military acceptance trial is marked in a durable way on key parts of the weapon, identified in the documentation.⁵³

International co-operation

Poland is involved in numerous international initiatives devoted to SALW at the United Nations, the Organisation for Security and Co-operation in Europe and the Euro-Atlantic Partnership Council. Poland takes an active part in international peace operations in post conflict areas: Bosnia and Herzegovina (SFOR), Kosovo (KFOR) and FYROM (Task Force Fox). Confiscation, storage and destruction of SALW within the framework of Disarmament, Demobilisation and Reintegration processes are key objectives of Poland's peace forces, particularly in the Balkans. At present Poland provides aid for disarmament as well as training on the development of national legislation and procedures to control the trade, manufacture, storage and destruction of SALW. An example of this policy is Poland's participation in an international weapons destruction programme in Albania.⁵⁴ Apart from this, the Polish Government co-hosted two regional conferences devoted to SALW in 2000. The first was organised jointly with the NGOs Saferworld (London) and the Institute of Public Affairs (Warsaw). The Polish MFA has a good reputation for co-operation with NGOs dealing with the problem of SALW. The second conference was convened with Canada under the EAPC initiative 'Disarmament and Peacekeeping Operations'.

As an EU candidate country, Poland has aligned itself to three major EU initiatives: the Code of Conduct on Arms Exports, Joint Action on SALW, and Programme for Combating and Preventing Illegal Trafficking in Conventional Arms. Polish legislation concerning SALW export permits is highly influenced by rules and standards adopted by the EU.

Apart from this Poland is very active at UN level, having actively participated in work on the UN Convention on Transnational Organised Crime, with the Polish draft of the convention providing a basis for discussions. The country is currently finalising preparations for signing and ratifying the Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, one of the supplementary protocols to the Convention Against Transnational Organised Crime. Even before the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (New York, July 2001), most legal institutions, instruments and procedures to meet the provisions of the UN Program of Action had already been adopted.

The Polish representative at the UN Conference on SALW also stated that in future, all international developments in the field will be monitored and, if need be, existing

⁵³ Information based on: *Information of the Polish Government to the Secretary General.*

⁵⁴ To date Poland has donated US\$10,000 for the destruction of ammunition in Albania.

systems improved.⁵⁵ There is every reason to believe that Poland will continue to be engaged in international co-operation and assistance programmes with regard to SALW.⁵⁶ Poland's involvement in international efforts towards conventional disarmament is a result of its strategic foreign policy goals.⁵⁷ Apart from SALW, the country is also actively co-operating internationally with respect to landmines, other kinds of conventional arms, biological, chemical and nuclear weapons. According to a representative of the Polish Government, political actions are to be accompanied in the future by economic assistance to implement the elimination of SALW.⁵⁸ Its scale, however, will depend on the economic situation of the country, which is now facing the great challenge of European integration.

Structures and practices

The military property agency

According to the information obtained from the Polish Government, a special commission conducts all activities with regard to the identification and scrapping of military weapons. Unfortunately, no confirmed information has been obtained about the position of this commission within institutional structures. However, the MPA plays an extremely important role in managing the arms considered to be redundant by the military. This agency deals with everything the Army considers no longer necessary, from T-55 tanks to light weapons, furniture or buildings. According to newspaper reports the MPA has large stockpiles of Soviet-era small arms and ammunition and tens of thousands of firearms, many of which were manufactured in the 1940s and 1950s.⁵⁹

It is difficult to estimate the volume of sales of SALW by the MPA. According to collected information, there is little demand for old light weapons. The agency is still reportedly looking for customers who would like to buy the 4000 legendary PPSch 41 sub-machine-guns with curved box magazines and several thousand newer PPS-43 sub-machine-guns lying in warehouses.⁶⁰ Some of the arms are probably de-activated and sold to collectors, movie studios, etc.⁶¹ There is little demand for such arms in Poland because licences are required even for permanently de-activated firearms. Exports of SALW from Poland are not high. According to official data, in 2001 Poland exported only 25 9 mm BRS-99 semi-automatic rifles; the importing country was Canada.⁶² The Director of MPA's special turnover team claimed in 2001 that the agency had so far managed to export only 20 percent of the ammunition it received from the Army. The buyers of this mostly Soviet-era ammunition are said to be mostly African, sometimes Asian. Armaments and military equipment are only offered to parties that have the required licences and permits, but this does not exclude the possibility of purchasing deactivated military equipment, eg for private collections. SALW are important items on the MPA list. The most recent catalogue of the agency lists 12 types of arms that can be categorised as SALW according to the OSCE definition. As noted above, however, there is a wide choice of ammunition on offer. It seems then that the

55 "Poland is deeply convinced that the effects of uncontrolled spread of SALW ... require urgent adoption of international agreements, incorporating suitable preventive measures". For the full text of the statement see: Mariani, B and Hirst, C, *Arms Production, Exports and Decision-making in Central and Eastern Europe*, (Saferworld, London 2002), p 138.

56 Interview with government SALW expert, 27th September 2002. This is in line with what was said by Stefan Meller, Head of the Polish Delegation at the UN July Conference: "Poland, as a country that has established over the past 11 years an export control system meeting the most advanced standards, is ready to share its experience". United Nations Conference on illicit Trade in Small Arms and Light Weapons in All Its Aspects, New York, 11 July 2001.

57 See: Information by the Minister of Foreign Affairs on the fundamental directions of the Polish foreign policy (presented at the 16th Session of the Sejm on March 14th, 2002), <<http://www.msz.gov.pl>>

58 Interview with government SALW expert, 27 September 2002.

59 "30 million pieces of ammunition that it does not need in stockpiles [...] various bullets with a calibre of 12.5mm up to over 100mm", 'Decommissioned Armaments Up for Grabs', *Warsaw Życie Warszawy*, p 3, 5 April 2001.

60 Ł. Głowala, 'Orzeł na sprzedaż', *Rzeczpospolita*, no 246.

61 'Decommissioned Armaments Up for Grabs', *Warsaw Życie Warszawy*, p 3, 5 April 2001.

62 Data submitted by the Polish government to the OSCE. Source: MFA. The list of military equipment for sale offered by the Military Property Agency in 2002 (Military Property Agency) is as follows: 82 mm Portable Medium Mortar, model 37; 5.45 mm TANTAL Automatic Rifle, model 88; 7.62 mm Degtariev Automatic Rifle; 7.62 mm Goriunov Heavy Machine-gun model 43; 7.62 mm SGM Heavy Machine-gun; 7.62 mm PPS Sub-machine-gun model 43; 7.62 mm PPSH Sub-machine-gun; 7.62 mm DP Automatic Rifle; 7.62 mm DPM Automatic Rifle; 9 mm RAK Sub-machine-gun model 63; 12.7 mm DSzK Machine-gun model 38/46; 14.5 mm KPWT Machine-gun.

sale of weapons and ammunition is a common strategy for disposal.⁶³ In fact the remarks by MPA officials point to something of a sales philosophy in the organisation. As a former chief said recently, “If we have a client interested in ... military equipment, we immediately ask the Ministry whether we can get it.”⁶⁴ The funds that MPA generates in this way are a welcome contribution to the Army’s drive to catch up with ‘old’ NATO members, and as much as 10 percent of the Army’s annual restructuring costs come from MPA profits.⁶⁵ The Act on the Modernisation of the Armed Forces obliges the MPA to contribute at least 93 percent of its annual profit to the military modernisation budget. According to the agency’s Jerzy Rasilewicz the military was set to receive approximately \$62.2 million from the agency in 2002 in order to buy new equipment.⁶⁶

Storage and destruction of weapons

According to the information received from Government experts, surplus holdings are regularly reviewed. The review process is conducted on two levels: firstly at storage facility level, secondly at ministry level. All data received from the first level is transferred to Warsaw and checked against the data received at ministry level. The double control system is to ensure that any mistakes are eventually identified and corrected. Apart from this, regulations require storage facilities to be inspected without warning on a regular basis.

These storage checks and more strict regulations on arms exports are supposed to prevent the illegal arms trade which is thought to have occurred in the mid-1990s.⁶⁷ According to newspaper allegations, military depots were a source for 20,000 items, including pistols, rifles and ammunition, which were illegally sold to the Russian Mafia, and to Croatia and Somalia while these countries were under embargo between 1992 and 1996. It remains to be seen what will follow from these allegations.⁶⁸

Apart from the weapons transferred to the MPA by the Ministry of National Defence, some arms are given surplus status and destroyed. Destruction of surplus SALW is conducted according to the following rules:

- Rejection of weapons is based on a listing of equipment approved by the appropriate units, and is conducted by a special committee composed of at least three suitably qualified persons.
- Rejected firearms are de-activated in the following way: the parts listed for salvage are recorded, while the remaining components are subject to total destruction. In the case of firearms, the barrels, chambers and bolts are destroyed through crushing, burning or cutting with torches. Wooden elements (stocks) are separated, rendered useless and designated as firewood.
- Scrapped firearms are packed in crates, sealed by a commission and then guarded. The crates with the scrap are transported to a designated steel mill in covered railcars under convoy. All procedures are conducted by a verifying commission.⁶⁹

63 When asked in 2001 in the Polish Senate about the way the army deals with old artillery ammunition, Bronisław Komorowski, formerly of the Ministry of Defence said, “I am not going to find additional sources for utilisation of ammunition, because other countries make money on this. And now, we are starting to earn money in this way. It turned out that by changing ammunition utilisation system we can have some profits. These profits, of course, are not big enough to cover the cost of production and purchase of ammunition. But they are relatively big in comparison to the costs of storage, maintenance and conservation of this ammunition”. 84th Session of the Polish Senate (20–22 June 2001). Discussion on the Act on the reconstruction, technological modernisation and financing of the Armed Forces of the Republic of Poland in the years 2001–2006. <<http://www.senat.gov.pl/k5/pos/pos.htm>>

64 *Ekonomika wojskowa*. The interview with Andrzej Jamrozek, the chief of MPA, ‘Polska Zbrojna’, no 51(206), 11 December 2000.

65 MPA Financial Report for 2000 accepted by Economic Committee of the Council of Ministers on 12 July 2001, <www.kprm.gov.pl>

66 PLN 250 millions is equal to about Euro 62,5 millions. *Trudno niech mnie mają za gangstera*. An interview with Jerzy Rasilewicz, the chief of the Military Property Agency, ‘Polska Zbrojna’, no 22(280), 27 May 2002.

67 According to J. Zemke, deputy minister of defence, “...if these allegations are confirmed then there will be no mercy”. He also said that the arms exports control is much stricter now, *Marszałek A, Polska broń dla terrorysty*, ‘Rzeczpospolita’ no 247.

68 The same report claims that officers of the Military Information Services played a role in these transactions and the trial was adjourned in October 2002 as a result. *Ibid*.

69 All information based on: *Information of the Polish Government to the Secretary General of United Nations in the context of the UN Action Program for the Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*. Source: MFA.

According to data submitted to the OSCE, less than 15 items of surplus SALW were destroyed in 2001 (a figure which included combat knives), most of which were the result of confiscations.

Table 5: Small Arms & Light Weapons surplus and seized and/or destroyed (Data submitted by Polish MFA to the OSCE for 2001)

Category and sub-category of small arms and light weapon/type	Deemed surplus and destroyed/disposed of	Seized or confiscated and destroyed/disposed of
Handguns	–	481
9 mm pistol P-64	10	–
Combat knife 55	3	–
Long barrel weapons	–	2
Automatic weapons	–	21
Semiautomatic rifles	–	241 including 105 deactivated or out of order
Bayonet for automatic rifle – AKMS 9 mm	1	–

This indicates that Poland declares very few SALW as surplus, preferring to sell old weapons in order to collect money for its modernisation programme. The wide range of SALW offered for sale by the MPA supports this conclusion. Accordingly, older types of SALW have the status of reserve until the MPA finds a client who wants to purchase them, then weapons are transferred to the MPA and sold.

Another reason for the small number of destroyed surplus weapons is the exchanges that take place between agencies. Instead of destroying or selling weapons no longer required, the Polish Army or security forces (eg police) try to exchange them for whatever they lack. So, for example, police give their long barrel guns to the Army in exchange for handguns.

Confiscated SALW

In recent years, around 2,500 firearms a year have been confiscated by the police. Polish police officers arrest over 500 persons on suspicion of illegal possession of arms each year and confiscate over 100,000 rounds of ammunition. A large part of the confiscated arms have been obtained by criminal means. Each year, criminals steal around 500 firearms from hunters, private individuals, state institutions and security guards.⁷⁰

Table 6: Weapons retrieved by the police (Press Department of The General Headquarters of Police)

Year	Weapons in total	Including handguns	Including automatic guns	Including long barrels
1991	1,359	208	35	109
1992	1,598	317	42	157
1993	3,135	376	35	343
1994	3,190	590	49	217
1995	3,546	514	36	157
1996	3,106	417	60	113
1997	3,163	413	61	196
1998	2,571	636	55	135
1999	2,283	479	73	153
2000	3,008	760	114	261
2001	2,439	494	21	241

⁷⁰ Source: Press Department of the General Headquarters of the Police (Wydział Prasowy Komendy Głównej Policji).

When the police confiscate an illegal firearm, criminal proceedings are initiated. The court is authorised to decide whether the firearm should be confiscated or destroyed. If the confiscated weapon is considered to be of historical value, it is transferred to an appropriate museum. Other firearms are scrapped by the police.

Concluding remarks

Since the fall of the iron curtain, Poland has established a normative and regulatory framework for the control of production, registration, possession, storage, transfer and destruction of arms. In general it is in line with the most advanced international standards and while there may be scope for improvement, the Polish authorities remain satisfied with the considerable progress that has been made. It is hard to overestimate the influence of international co-operation on Polish policy on SALW. Its legislative framework and electronic export control system are based on international solutions and standards. The country also takes an active part in all international initiatives on SALW and tries to set internationally agreed standards in the field.

While it is clear that the combination of a good legislative framework, political will and international co-operation has generated good results, there are at least two areas where further research might be beneficial. Firstly, the SALW policies and practices of quasi-governmental bodies could not be readily determined during this research. Some of these organisations, such as the Railway Protection Service, may retain large numbers of weapons. Their policies and practices probably deserve further attention. Second, the rationalisation and modernisation of the Polish military and security forces has not generated the level of SALW surpluses one normally expects. It may well be the case that surpluses are not arising because weapons are exchanged between governmental agencies or sold by the MPA, but these reserve holdings also deserve further attention. However, on the basis of information received during the research, it would appear that Polish SALW surpluses are not a cause for concern.

7

Romania

Vera Chrobok and Glenn McDonald

Introduction

DURING THE COLD WAR Romania developed a relatively self-sufficient arms industry. Most of its military equipment was produced domestically, and arms sales became a major source of export revenues. In the early 1980s, Romania was the ninth-largest arms exporter in the world. Although Romania's arms industry contracted substantially after the Cold War, arms production and export still make up a considerable share of Romania's economic activity and trade.¹

The Romanian Government is now co-operating closely with regional and international organisations such as the UN, OSCE, EU and NATO to align Romanian policy and practice with regional and international arms control initiatives.² At the NATO Prague Summit in November 2002, the country was invited to start accession negotiations. The prospect of becoming a NATO member has led Romania to restructure and downsize its Armed Forces, making large quantities of weapons surplus to requirements.

Stocks and determination of surplus

In Romania, the Ministry of Interior (MoI) and the Ministry of National Defence are the two main Government agencies whose structures hold small arms and light weapons (SALW) and the ammunition for such weapons. These two ministries account for the military, the regular and specialised (eg border police) police forces and the Gendarmerie.

Stocks of SALW and ammunition held by Government agencies

No information is currently available on the numbers of weapons held by the Romanian Armed Forces. A process of military reform and restructuring is currently underway in Romania. The country's principal defence objective is to "develop a modern, properly structured and flexible military force that is trained and equipped to operate effectively with NATO".³ In line with the reform process, the number of military personnel is currently being reduced. The military strength of the Romanian Armed Forces was lowered from almost 180,000 in the mid-1990s to 129,063 by 25 June

¹ Mariani, B, Hirst, C, 'Romania', *Arms production, exports and decision-making in Central and Eastern Europe*, (Saferworld, 2002).

² South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), Short Mission Report, Romania, July 2002.

³ Mission of Romania to NATO, 'Update on Romanian Military Reform', <<http://www.nato.int/pfp/romania>>

2002. 98,530 of the latter number are military personnel, with the others civilian support staff. Restructuring will continue, with senior officials and civilian staff especially susceptible to further cuts. During 2003, Romania plans to further reduce its force strength to 112,000 military personnel and 28,000 civilians.⁴

The MoI does not release data on the SALW holdings of Romanian police forces. However, it does report that at Independent Service Weapons, Explosives and Toxic Substances (ISWETS) within the General Inspectorate of Romanian Police (GIRP), 387 persons are authorised to hold 398 pistols. The GIRP further records 838 security companies holding 240 guns of various calibres, 1,550 pistols and 907 pressured air guns.⁵

Civilian possession

Civilians in Romania are not authorised to possess military-style firearms as defined by the OSCE Document on SALW. They are only permitted to hold such firearms legally if they are involved in the exercise of public authority. Similarly, only private companies authorised by the police to guard goods and items of value are permitted to hold military-style firearms.

Several laws and regulations apply to the legal possession of firearms in Romania:

- Law no 17/1996 on firearm and ammunitions;
- GD no 679/1997 for the approval of the regulation on firearms and ammunition;
- Law no 26/1993 on the organisation and functioning of the Body of Public Guardians;
- Order no 211/2002 for the approval of the regulation on obtaining a hunting permit; and
- Order no 305/2002 on the prohibition of using certain automatic sub-machine-guns (types AKM and SKS, of calibre 7.62 x 39 mm, derived from the Kalashnikov automatic sub-machine pistol, manufactured by the commercial companies 'Sandu' and 'Cugir').⁶

Civilian possession of firearms is regulated through licensing. Government officials state that SALW play some role in criminal activities. The involvement of organised crime in the trafficking of weapons in Romania remains a potential threat to Government attempts to control SALW. However, most arrests concern small-scale smuggling of individual weapons into the country. Policing initiatives such as the Regional Centre for Combating Trans-border Crime in Bucharest are helping to address this problem.⁷

The Government has drafted a new arms law on civilian possession-Directive 1991/477/EEC, which is currently awaiting further refinement before being submitted to Parliament. According to Government officials, this new law will be as strict or even stricter than the laws on civilian possession in some Western European countries.⁸

Defining SALW surplus stocks

The responsibility for defining and accounting for surplus SALW and ammunition lies with the Ministry of National Defence as well as the MoI. Within the MoI, surplus stocks are calculated using specific methods. Since SALW and ammunition requirements are determined on the basis of legal provisions, SALW surplus is the amount exceeding the legal provision.⁹

The Ministry of National Defence distinguishes between weapons that are in active service, in reserve, or surplus. Weapons in active service are distributed to units, sub-

⁴ Ibid.

⁵ Fax received from the Romanian MoI, 10 January 2003.

⁶ Ibid.

⁷ South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), Short Mission Report, Romania, July 2002.

⁸ Ibid.

⁹ Fax received from the Romanian MoI, 10 January 2003.

units, formations, etc since the Government determined the quantities needed for these structures. Weapons in reserve are weapons held in separate storage facilities by different command levels. Reserve weapons quantities are a percentage of active service weapons and are determined by governmental decision on the basis of “existing norms”. Surplus weapons are those weapons that are in excess of the force’s needs.¹⁰ In essence, these are weapons that exceed military requirements.¹¹

Romania keeps a ‘strategic reserve’ of weapons for military purposes, located in depots throughout the country. Information on the number of weapons held in these ‘strategic reserves’ has not been released by the Ministry of National Defence.¹²

Quantities of SALW and ammunition categorised as surplus

Mainly as a result of Romania’s military reforms, large quantities of SALW have become redundant. In its 2002 submission to the OSCE information exchange on small arms, the Government provided a detailed account of SALW identified as surplus in 2001. These numbers refer to weapons held by the Romanian Ministry of National Defence.¹³

Table 1: SALW identified as surplus in 2001 by the Ministry of National Defence¹⁴

	Category and sub-category	Deemed surplus
Small arms		
Revolvers and self-loading pistols	Pistols of calibre 26 mm md. 1944 SRS	1,700
	Pistols of calibre 26 mm other models	614
	Total:	2,314
Rifles and carbines	—	—
Sub-machine-guns	SMG of calibre 7.62 mm md. 1941	124,992
	SMG of calibre 7.62 mm md. 1954 with normal butt	7,765
	SMG of calibre 7.62 mm md. 1954 with folding butt	18,907
	SMG of calibre 9 mm md. 1938	110
	SMG of calibre 9 mm md. 1941/1948	6,730
	SMG of calibre 9 mm UMC	8,133
	Total:	166,637
Assault rifles	—	—
Light machine-guns	LMG of calibre 7.62 mm md. 1945	4,797
	LMG of calibre 7.62 mm md. 1958	2,506
	LMG of calibre 7.92 mm md. 1930	12,519
	Total:	19,822
Light weapons		
Heavy machine-guns	HMG of calibre 7.62 mm different models	4,144
	Total:	4,144
Hand-held under-barrel and mounted grenade launchers	—	—
Portable anti-aircraft guns	—	—
Portable anti-tank guns	—	—
Recoilless rifles	—	—

¹⁰ Fax received from the Romanian Ministry of National Defence, 28 January 2003.

¹¹ WFSa workshop on ‘Export, Import and Brokering of Small Arms and Firearms. Identifying the Problems, Partnerships for Solutions’, Naples, June 13–14 2002, Presentation by Col. Marin Radu (Romanian Ministry of National Defence, Department for Euro-Atlantic Integration and Defence Policy).

¹² Grillot, S, ‘Small, but Deadly: the Central and East European Role in the Global Supply and Control of Small Arms’, University of Oklahoma, unpublished paper.

¹³ WFSa workshop on ‘Export, Import and Brokering of Small Arms and Firearms. Identifying the Problems, Partnerships for Solutions’, Naples, June 13–14 2002, Presentation by Col. Marin Radu (Romanian Ministry of National Defence, Department for Euro-Atlantic Integration and Defence Policy).

¹⁴ Romanian Submission to the OSCE Information Exchange on SALW, 2002.

	Category and sub-category	Deemed surplus
Portable launchers of anti-tank missile and rocket systems	AG -2	668
	AG -7	80
	Total:	748
Portable launchers of anti-aircraft missile systems	—	
Mortars of calibre less than 100 mm	Mortars of calibre 82 mm different models	1,725
	Mortars for explosive grenades of calibre 40 mm	120
	Total:	1,845
Total number of SALW deemed surplus:		195,510

None of the SALW deemed surplus in 2001 were destroyed.¹⁵ However, the Romanian Government is working with the United States and Norway on a project for the destruction of almost 200,000 SALW.¹⁶ This number probably refers to the quantity of weapons identified as surplus in 2001, shown in **Table 1**.

Romania's MoI is currently being reorganised. As a result of this process, the following SALW stocks were deemed surplus as of 31 December 2001:

Table 2: Quantity of SALW deemed surplus by the MoI¹⁷

SALW type	Quantity
Barrels of calibre 5.6 mm md. U.M.C.	420
Sub-machine-guns of calibre 7.62 md. 64	624
Automatic sub-machine-guns of calibre 7.62 mm	372
Automatic sub-machine-guns of calibre 14.5 mm	282
Automatic sub-machine-guns of calibre 12.7 mm	249
Rifles of calibre 7.62 mm (md.56 SKS, md. 44)	1,589
Semi-automatic sub-machine-guns of calibre 7.62 mm type GP	962
Pressurised air guns of calibre 4.5 mm	22
Signal guns of calibre 26 mm	6,349
Portable launchers of anti-tank missile AG-7	1,500
Portable launchers of anti-tank missile AG-9	280
Bomb launchers of calibre 82 mm	190
Total number of SALW	12,839

Reasons for surplus

The main reason for the creation of huge stockpiles of surplus SALW in Romania is the restructuring and downsizing of the Armed Forces, including changing armament requirements.¹⁸

Within the structures of the MoI, technological changes and the reorganisation of the police, border police and Gendarmerie resulted in a SALW surplus. Weapons stocks of subordinate units will be reduced and taken out of service. The Ministry plans to transfer these surplus arms to other public institutions that are part of the national defence system free of charge. Otherwise, "if necessary", they will be destroyed.¹⁹

¹⁵ Ibid.

¹⁶ South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), Short Mission Report, Romania, July 2002.

¹⁷ Fax received from the Romanian MoI, 10 January 2003.

¹⁸ WFSAC workshop on 'Export, Import and Brokering of Small Arms and Firearms. Identifying the Problems, Partnerships for Solutions', Naples, June 13–14 2002, Presentation by Col. Marin Radu (Romanian Ministry of National Defence, Department for Euro-Atlantic Integration and Defence Policy).

¹⁹ Fax received from the Romanian MoI, 10 January 2003.

Policies

Export control regime

Since the early 1990s, Romania has moved to enhance and extend governmental control over the country's arms exports. The Government made important changes in its laws, incorporating the standards outlined in the EU Code of Conduct, the OSCE Document on SALW and other guiding international instruments such as the UN Program of Action and the Regional Implementation Plan to Combat the Proliferation of Small Arms, formulated by the Stability Pact for South Eastern Europe.²⁰

The Romanian export control regime underwent significant change during the early 1990s, when Government Decision no 594/1992 on the control of sensitive military items was adopted. It was subsequently modified and enhanced by Government Ordinance no 31/1994. Further revisions have since been made, and today Romania's policy on the export of conventional arms is governed by the principles set forth in Government Ordinance 158/1999 on the import and export of strategic goods (further amended in 2000 by Government Ordinance 36). This law, together with Government Decision no 844/2001 approving the list of arms, munitions and other military goods subject to the export and import control regime, provides the legal basis of Romania's current arms control system. This legal framework is supplemented by orders issued by the State Secretary of the National Agency for Export Control (ANCEX) for procedures, regulations and other means of enforcement of conventional weapons controls.²¹

Romania does not specifically regulate the trade in surplus weapons. Its legislation does not differentiate between new weapons and used ones-both are subject to the export control regime. The following operations involving strategic goods, including SALW, are subject to control, as stipulated in Government Ordinance 158/1999:²²

- Imports, exports, re-exports and other commercial operations involving permanent or temporary transfer into or out of Romanian territory;
- Non-commercial operations involving the permanent or temporary transfer into or out of Romanian territory;
- International transit through Romanian territory;
- Trans-shipments conducted on Romanian territory.

These operations must be authorised through the issuance of licences or permits. Romanian policy prohibits exports of SALW to regions of conflict, states that support terrorism and to states which raise proliferation concerns. Romania does not use a prohibited destination list. Instead, all decisions are taken on a case-by-case basis. ANCEX administers the export licensing process. In 2001, it was brought under the control of the Ministry of Foreign Affairs.²³ The agency reports directly to the Prime Minister and has authority over all arms exports, including those carried out by other Government ministries.²⁴ All applications for arms exports and transfers through Romanian territory must be approved by ANCEX. If the applications are consistent with national law, EU and OSCE criteria and UN arms embargo regimes, they are forwarded to another Government review body.²⁵ This body, the Interministerial Council, comprises representatives of the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of National Defence, the MoI, the Ministry of Industry, the Ministry of Trade, the Ministry of Waters, Forests and Environmental Protection, the Ministry of Justice, the Department of European Integration and ANCEX. If the

²⁰ WFSa workshop on 'Export, Import and Brokering of Small Arms and Firearms. Identifying the Problems, Partnerships for Solutions', Naples, June 13–14 2002. Presentation by Col. Marin Radu (Romanian Ministry of National Defence, Department for Euro-Atlantic Integration and Defence Policy).

²¹ Romanian Submission to the OSCE Information Exchange on SALW 2002.

²² Fax from the National Agency for Export Control (ANCEX), 10 January 2003.

²³ South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), Short Mission Report Romania, July 2002.

²⁴ Mariani, B, Hirst, C, 'Romania', *Arms production, exports and decision-making in Central and Eastern Europe*, (Saferworld, 2002).

²⁵ South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), Short Mission Report Romania, July 2002.

Council approves the relevant transaction, the Ministry of Trade and Industry subsequently issues the licences.

The following criteria are applied in assessing applications for licences/permits:²⁶

- Strict compliance with the resolutions of the UN Security Council, OSCE decisions and the common positions and joint actions of the EU Council;
- Conformity with the principles and criteria of the EU Code of Conduct on Arms Exports;
- Conformity with the guidelines and decisions adopted within the framework of international non-proliferation and export control regimes;
- Compliance with international commitments, conventions and treaties in the non-proliferation field;
- The conduct of the country of import/end-use;
- The conduct of the individual exporter/importer and end user;
- Any denials for licences that have been issued by participating or member states of international control regimes to which Romania is party.

Two kinds of licence are granted for weapons transfers: an individual licence “is granted to a specific exporter or importer for the export or import of one or several products to or from a single foreign partner”; a general licence “is granted to a specific exporter or importer for one or several products and can be valid for exports and imports to or from one or several determined countries”.²⁷ Romanians applying for an export licence must present an International Import Certificate (IIC) or other equivalent document certified by the relevant authority in the importer’s/end-user’s country. The Romanian exporter must also receive a Delivery Control Certificate (DCC) from the foreign partner within four months of delivery in order to certify that the item arrived at the declared destination.²⁸

The Romanian arms trade is dominated by the import-export company *Romtehnica*, the Defence Ministry’s international marketing arm. It plays a major role in the negotiation of foreign contracts since it handles all relations with foreign companies.²⁹ Negotiations for arms sales abroad do not have to be notified in advance to ANCEX. Romanian companies wishing to export weaponry can negotiate a sales agreement with their foreign partners and then apply for a licence.

Romania’s participation in peacekeeping operations and joint military training abroad, involving the transfer of arms and military goods, is considered a non-commercial transfer and requires a permit issued by ANCEX. The Ministry of National Defence and the MoI monitor these transfers.³⁰

In September 2002, ANCEX issued Romania’s first *Report on Arms Export Controls for 2000–2001* in the Romanian language, representing a major step towards increased transparency. An English version will be issued in 2003.³¹

Storage of SALW and ammunition

The following table summarises Romania’s relatively comprehensive stockpile management and security procedures:

²⁶ Fax from the National Agency for Export Control (ANCEX), 10 January 2003.

²⁷ Art 12, Sections 1–2 of Government Ordinance 158/1999.

²⁸ Fax from the National Agency for Export Control (ANCEX), 10 January 2003.

²⁹ Mariani, B, Hirst, C, ‘Romania’, in, *Arms production, exports and decision-making in Central and Eastern Europe*, (Saferworld, 2002).

³⁰ Romanian Submission to the OSCE Information Exchange on SALW 2002.

³¹ Fax from the National Agency for Export Control (ANCEX), 10 January 2003.

Table 3: National stockpile management and security procedures³²

Stockpile locations	Stockpile locations for SALW are decentralised in order to ensure the efficient supply of military personnel. According to 'Law no 17/1996 on firearms and ammunition and other military regulations', a number of safety measures are in place, such as the storage of arms and ammunition in different locations, daily inspections, and adequate security standards of storage buildings. A study on the possibility of centralised storage for different types of military materials, based on NATO standards, is currently underway.
Physical security measures	Physical security measures, such as key controls, storage building doors, alarm systems, lighting systems for building perimeters, guard patrols/dogs, and fencing, are used to ensure strict control. Centralised electronic surveillance systems are not currently used.
Access control measures	Only a restricted number of staff have access to storage facilities. Access within depot premises is allowed only with an entry licence, entry ticket or access delegation. All personnel (military, civilian or contracted) are subject to security clearance. While arms and ammunition are stored in different buildings, they are administered by the same person (the chief of armament and ammunition depot). This person also has access to the keys to both the arms and ammunition stores.
Inventory management and accounting control procedures	According to Ministry of National Defence Order no M-8/1999, full records of weapons holdings, use, expenditure and disposal are kept. These records are checked daily by the storehouse administrator and quarterly by the unit commander. Ministry of National Defence Order no M-81/2000 sets out the auditing procedures. Their results are recorded in unit control registers and in the Audit Directorate Report. They are forwarded to the Minister of National Defence every month.
Security in transit	Regulation A-114/1989 (Arts. 64–75) and other military regulations ensure the security of transportation routes (air, land and sea). Depending on types, amounts and situations, arms and ammunition are transported in different vehicles, and are always accompanied by an armed escort.

The above procedures and regulations apply to SALW and ammunition held by the structures of the Romanian Ministry of National Defence. Police forces store their weapons separately.

No data concerning losses or thefts is available. According to orders issued by the Ministry of National Defence, any loss or theft of SALW and ammunition from the storage sites is reported immediately. Military law enforcement units are in charge of criminal investigations of the theft or loss of military arms. Civilian law enforcement is included in the investigation if there is evidence that civilians were involved in the theft.³³

Destruction of SALW and ammunition

The Ministry of National Defence uses the following procedures for the destruction of SALW:³⁴

- Strip weapons of all non-metallic parts;
- Heat the receiver with an oxyacetylene torch;
- Crush the receiver and barrel with a hydraulic press;
- Transport metal scrap to a smelter for melting and recycling.

The MoI destroys SALW according to the provisions of Technical Regulation no 439.702/1999 on the destruction of goods and Instruction no 229/2002 on the removal and destruction of goods. The destruction of arms once ammunition has been removed entails the following operations:

³² Romanian Submission to the OSCE Information Exchange on SALW 2002.

³³ Ibid.

³⁴ Ibid.

- Components that can be re-used are removed from the weapon;
- Components that have no use are separated from the rest of the weapon;
- The arms, including breeches, are melted into steel.

Structures and practices

Given Romania's financial constraints, the Government has been reluctant to date to destroy surplus arms, preferring instead to store them in case they are needed for future operations.³⁵

SALW exports

As noted earlier, official data on Romanian arms exports is now being made publicly available. In recent years, such exports have fallen dramatically.

Romania's arms industry reports that in 2001, revenues from arms exports amounted to only US\$ 24 million, much less than the volume of trade before the end of the Cold War, which has been estimated at US\$ 800 million between 1985 and 1989. The head of ANCEX, Nineta Barbulescu, states that in 2001, "Romania sunk to the lowest level of arms exports in the last 12 years due to the fall of traditional markets and change of the security environment".³⁶

The Romanian Government's submission to the 2002 OSCE information exchange contains the following information.

Table 4: SALW Exports in 2001³⁷

Category and sub-category	Final importer state	Number of items
Small arms		
Rifles and carbines	USA	110,978
(semi-automatic rifle WASR 10,	Austria	75
AES 10, MIS 10, SAR 1, SAR3,	Slovak Republic	28
PAR 1, PAR 3, ROMAK 3,	Czech Republic	5
PSL 54, PSL 51)		
Sub-machine-guns, of calibre 7.62 mm	France	30
Light machine-guns, of calibre 7.92 mm	USA	47

SALW destruction

Tables 1 and 2 suggest that relatively large quantities of surplus SALW are held by the Defence and Interior Ministries. Both Ministries state that these weapon stocks are awaiting destruction. In fact, the Government is working with the United States and Norway on the development of a project for the destruction of surplus SALW at an estimated cost of US\$ 4.8 million. One condition for funding of the project laid down by the US is the use of a private company to undertake destruction using existing industrial facilities.³⁸

In September 2002, a contract between the US Department of State and the ROMARM firm was signed for the destruction of almost 200,000 SALW, including pistols, sub-machine-guns, machine-guns, grenade launchers and mortars, 1,281,524 pieces of 7.62 mm ammunition and 62,400,000 pieces of 7.92 mm ammunition.³⁹ These quantities

³⁵ Grillot, S, 'Small, but Deadly: the Central and East European Role in the Global Supply and Control of Small Arms', University of Oklahoma, unpublished paper.

³⁶ 'Tough line on embargoes hits Romanian exports', *Jane's Defence Weekly*, 23 October 2002.

³⁷ Romanian Submission to the OSCE Information Exchange on SALW 2002.

³⁸ South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), Short Mission Report Romania, July 2002.

³⁹ South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), News Section, <<http://www.undp.org.yu/seesac>>

closely match the quantities of SALW identified as surplus by the Ministry of National Defence in 2001. As of early 2003, the Romanian Government was seeking additional funding for destruction, specifically for ammunition.⁴⁰

Seized and confiscated weapons

Law no 98/1999 and Government Ordinance no 128/1998 regulate the storage of confiscated SALW and ammunition, and Romanian police handling of these weapons. According to these laws, the Romanian regular police and border police forces are authorised to confiscate SALW and ammunition. Confiscated weapons become state property, and are delivered to material evidence storage rooms. After clarifying the legal status of each firearm, a MoI commission gives the order for destruction.⁴¹

In 2001, the Romanian police confiscated 1,393 firearms and 61,990 rounds of ammunition of various calibres. In 2002, 1,774 firearms and 159,226 rounds of ammunition were confiscated. It is reported that these weapons have been stored in the material evidence rooms of MoI units.⁴²

SALW storage

Romania lacks the funds it needs to destroy weapons stocks. To date, the Government has therefore stored surplus SALW. Tables 1 and 2 above give figures for SALW deemed surplus by the MoD and MoI.

International assistance

Romania currently participates in a variety of international and regional initiatives for the control of SALW. The country co-operates closely with other EU states through EU liaison offices in Romania. It also takes part in OSCE and EU field training sessions on countering SALW trafficking. Romania has also been an active participant in the small arms initiatives of the Stability Pact for South Eastern Europe.⁴³

To date, Romania is more a recipient than a provider of international assistance. As mentioned earlier, the country is working with the United States and Norway on the destruction of a large number of surplus weapons.

Concluding remarks

The restructuring of Romania's Armed Forces has resulted in significant quantities of SALW and ammunition being made redundant. The Government has announced plans to destroy these weapons with the support of external funding and, for the moment, they are being held in storage. Romania has taken steps to strengthen its arms export control regime. In addition, the Government has issued an annual report on arms exports (with an English version expected in 2003), enhancing transparency in this area significantly.

⁴⁰ Ibid.

⁴¹ Fax received from the Romanian MoI, 10 January 2003.

⁴² Ibid.

⁴³ Fax received from the Romanian MoI, 10 January 2003.

8

Bulgaria

Dimitar Dimitrov

Introduction

THE DISPOSAL OF SMALL ARMS AND LIGHT WEAPONS (SALW) is not a new phenomenon in Bulgaria. Old weaponry and ammunition is periodically destroyed within the Bulgarian Armed Forces. A current challenge is posed by the large quantities of surplus SALW that resulted from the implementation of military reforms and the necessity of a new approach to the disposal of redundant armaments. In the past, the export of surplus SALW was considered to be the only viable option by the Bulgarian Government. Combined with an imperfect national arms-control regime, this cemented a rather negative image of Bulgaria's arms trade. During the late 1990s, Bulgaria was regularly accused of violating international arms trade agreements and standards. Recently, however, political changes within the country – a new political will as well as national aspirations to join the EU and NATO – have resulted in serious attempts to improve Bulgaria's export policies and arms control regimes.

Stocks and determination of surplus

Government agencies holding SALW

The two main Bulgarian Government agencies holding SALW are the Ministry of Defence (MoD) and the Ministry of the Interior (MoI). The MoD consists of a Central Administration with a staff of approximately 600 people,¹ and the Armed Forces with a staff of 65–70,000.² The MoI includes the National Police, the National Gendarmerie, the Border Police, the National Security Service, the National Fire Protection and Emergency Safety Service, and the National Service for Combating Organised Crime, with a combined staff of 55,000 persons. Both ministries have storage facilities as well as capacities for repair. In addition, the MoD possesses installations for testing and destruction.

Numbers of armed personnel in other Government agencies are relatively small and vary between 300 and 1700. Other agencies permitted to hold weapons include: the National Customs Agency (belonging to the Ministry of Finance), the National Forest Administration (part of the Ministry of Agriculture and Forestry), the State Agency for Civil Defence (directly subordinated to the Council of Ministers), the National Intelligence Service and the National Service for Protection (both directly subordinated to the President), the National Investigative Service, the Judicial Police and the National Administration of Prisons (included in the independent judicial system).

¹ Statutory regulations of the MoD, State Gazette 72, 13 August 1999.

² 53,484 uniformed and 10,458 civilians as of June 2002, Monitor, 11 November 2002.

Until recently, SALW were also held by troops of the Ministry of Transportation, troops of the Ministry of Construction and troops of the Ministry of Communications. With the last changes of the Military Doctrine (1999), these troops were dismissed and their personnel demilitarised. Some of Bulgaria's larger cities have created their own City Police Forces for the protection of public order, which are also holders of SALW.

Bulgaria is a producer of SALW. The main manufacturers are:

- Arsenal Joint Stock Company (JSC) in Kazanlak,
- NITI JSC in Kazanlak,
- VMZ JSC in Sopot,
- Arkus Co. JSC in Lyaskovets,
- Dunarit JSC in Rousse,
- Two branches of the Terem Company (owned by the MoD) in Veliko Tarnovo and Kostenetz.

Quantities of SALW and ammunition held by Government agencies

The amounts of SALW and ammunition held by Government agencies seem to be a very sensitive matter to the Bulgarian Government. Any publication of information on wartime plans and preparedness (where some of the data about stored SALW and ammunition is included) is directly prohibited by the new Law for the Protection of Classified Information (April 2002). The spirit of secrecy regarding military and security affairs inherited from the communist era is still strong. The lack of special regulations on the implementation of the Law further complicates the matter.

Any information on weaponry, military preparedness, arms deals, and defence-industrial capacities is classified according to the Law, a problem that deserves increased attention. Not surprisingly, state officials and experts on SALW seem to be much more reluctant to provide information on internal affairs than to discuss international co-operation and international initiatives in the field of SALW. The lack of access to relevant information raises questions about the transparency of Government policies.³

Estimates only comprise numbers of current peacetime personnel and the size of the wartime Armed Forces (which includes reservists). According to the last changes in the Bulgarian Military Doctrine, the wartime strength of the Armed Forces has been reduced from 500,000 to 250,000 in 1999, and will be further reduced to 100,000 in 2004. The peacetime size of Bulgarian Armed Forces will be reduced from the current size of 65–70,000 to 45,000 in 2004. However, these estimates depend on wartime plans, which are classified.

Civilian possession

In Bulgaria, private people and companies are allowed to hold revolvers, self-loading pistols, rifles and carbines only, as is explicitly stated and regulated in the Law for Control on Explosives, Firearms and Ammunitions (LCEFA) and its Regulations. This legislation regulates the activities of individuals, legal entities and traders. They are allowed to possess, store and use explosives, firearms and ammunitions for protection, self-protection, production, hunting, sport and cultural purposes (collectors) and are obliged to apply to the MoI for temporary licences (three years at present). In the event that permissions are refused or cancelled, the MoI is obliged to confiscate and store these weapons. Overall control for this is exercised by the Interior Minister. Sub-machine-guns are licensed only for cultural purposes (collections and art productions), and for such purposes they are made inoperable. It is forbidden to sell ammunition designed for military or security purposes to private people and companies.

³ Interview with Prof Dr Tilcho Ivanov, Head of Department 'National and Regional Security', University of National and World Economy, Sofia, 15 October 2002.

According to the requirements stated in the Law and in the Regulation on the Implementation of the Law, traders and producers also have to apply for licences. They are obliged to keep records and to ensure that security measures are adequate. If they break the law, permissions will be cancelled and they will be subject to prosecution. With the recent changes in the Law, control has been strengthened, as new requirements were added and sanctions increased.

During the last three years, Bulgaria has taken steps to control SALW proliferation within its borders by establishing a Central Registry of Firearms at the National Police headquarters, and encouraging registration of civilian firearm possession in full accordance with the law. To date, 107,707 pistols and 146,096 sporting guns have been registered and 103,485 Bulgarian citizens are licensed firearms owners.⁴

Former and current MoD and MoI officers are allowed to acquire pistols and revolvers for their personal needs, once they have received permission according to the general procedures of the Law. The LCEFA and its regulations are not applicable to the activities of the MoD and the MoI, which are controlled and regulated by their own laws – the Law on Defence and the Armed Forces and the Law for the MoI.

Defining SALW surplus stocks

The Bulgarian Government has both general policies on SALW and specific arrangements at its MoD. At the general level, the principal authority is the Inter-departmental Council on the Military-Industrial Complex and Mobilisation Preparedness, which reports directly to the Council of Ministers. The Inter-departmental Council issues limited or full general licences for foreign trade activities, keeps a register of licensed foreign trade companies, co-ordinates the activities of the ministries and other departments on related issues, including international contacts, and asserts control over trade in arms and dual-use goods and technologies. Currently Mr Vassilev, both Deputy Prime Minister and Minister of Economy, chairs the Interdepartmental Council. Its permanent members include the Deputy Ministers of Economy, Defence, Finances, Foreign Affairs, the Interior, Transport, Regional Development and the Deputy Head of the General Staff, as well as the Head of the National Investigative Service and the National Security Service. This senior Government co-ordination body has a permanent secretariat headed by a secretary appointed by the Prime Minister. The secretariat includes three 'sector' specialists (or assistants to the secretary) on strategic reserves, mobilisation preparedness and export controls. The Council's three main responsibilities with regard to SALW are the preparation of war-time plans, the issuing of general licences for trade, including surplus SALW, and the preparation of the draft 'National Programme for the Utilisation and Destruction of Surplus Ammunition on Bulgarian Territory'.

According to the Law on Defence and the Armed Forces, the Defence Minister has direct obligations related to the definition of SALW surplus stocks. The Minister is responsible for and directly governs processes of elaborating plans for organisational restructuring of the Armed Forces, plans for war-time preparedness, programmes for development of Bulgarian Armed Forces, as well as proposals for defence strategic reviews. As a result of these activities, surplus SALW stocks are identified.

The Chief of the General Staff is primarily responsible for defining SALW stocks, as a result of state policy on the restructuring of the Armed Forces and plans for military preparations in times of peace and war. The Defence Policy and Planning Directorate at the MoD is responsible for drafting general wartime plans, and is therefore responsible for identifying surplus weapons. The International Co-operation Directorate at the MoD provides the international framework for overall defence planning, in particular in the field of SALW and related ammunition – by co-ordination and participation

⁴ Report published by SEESAC (South Eastern Europe Clearinghouse for the Control of SALW), <<http://www.undp.org.yu/seesac/about/bulg.htm>>

of the Bulgarian MoD in regional military initiatives, as well as execution of MoD activities with regard to international obligations, agreements and work of international organisations in the field of security and defence. One of the concrete results of this co-ordinated work within the MoD is the annual *List of surplus material*, including SALW, prepared in accordance with 'Plan 2004' (the current plan for military reforms).

The MoD uses a specific formula to calculate the military need for SALW and ammunition. This formula is mainly the result of work carried out by the Defence Planning Directorate and the General Staff. However, it has not been provided by the Bulgarian Government.

The Government distinguishes between weapons in active service, weapons in reserve and surplus weapons. This is partly regulated by the Law on Defence and the Armed Forces and Government regulations for wartime preparedness. Although there is no special legislation applying to surplus SALW, they are clearly identified as a by-product of military planning. Once identified, within the lists of surplus material, the future of these weapons is determined. Generally, weapons belonging to different categories are stored separately, depending on some technical requirements.

Reasons for surplus

SALW surpluses in Bulgaria arise mainly through military reductions. According to the latest military plans, the peacetime strength of the Armed Forces will have been reduced by a half, from 80–90,000 in the middle of the 1990s to 45,000 in 2004. Military reserves have been reduced from 500,000 to 100,000. To a certain extent, changing requirements and technological progress can also be considered as surplus creating factors to the extent that they make some kinds of weapons and ammunition obsolete.

Quantities of SALW and ammunition categorised as surplus

The Bulgarian Armed Forces are currently in the process of transformation (to be completed by 2004). For that reason, numbers on surplus stocks have not been provided. According to the Government, the exact number of surplus SALW and ammunition will depend on the final structure and composition of the Armed Forces.

Policies

Export of SALW and ammunition

The Bulgarian defence industry reached its peak in the late 1980s, with 130 companies and a total workforce of approximately 150,000. One of the specialities of the Bulgarian defence industry was SALW, ammunition for such weapons, and their maintenance and repair.

After this high point, the industry began a decade-long period of downsizing and decline resulting from the demise of the Soviet Union and the abrogation of the Warsaw Pact. During the 1990s, the drying up of traditional Warsaw Pact and other markets, the slow pace of reforms in Bulgaria, the decline of the defence industry, the weakness of the economy in general, and the corresponding need for hard currency earnings all fuelled Bulgarian arms exports. Thus, for most of the 1990s, there were many press reports of Bulgarian arms entering conflict areas – from Africa to Latin America. As a US think tank observed: “[n]umerous reports indicate that a number of these sales were made through an underground economy involving middlemen or brokers, rather than normal trade channels, and were aided and abetted by a lax regulatory system for exports.”⁵

However, after the elections of 1997, the new democratic Government of Ivan Kostov cracked down on the small arms trade, as did its successor under Simeon Saxe-Coburg

⁵ 'The Bulgarian Defence Industry Strategic Options for Transformation, Reorientation & NATO Integration', Atlantic Council of the United States, Policy Paper, July 2001, p 26.

Gotha. It is now unusual to find press reports on new supplies of Bulgarian SALW entering regions of conflict or countries of concern. Even when such deals are reported, it is hard to tell when the deliveries were made from Bulgaria, and whether Government officials were aware of them.

The process of arms trade regulation passed through different stages. On 12 February 1991, the Council of Ministers issued Regulation no 13 on state control of the arms trade, military technologies and equipment. A licensing authority was also created – the Governmental Commission for Arms Trade Control, headed by the Defence Minister. Later in 1991, the Commission was transformed into the afore-mentioned Interdepartmental Council under the Council of Ministers, which oversees the production and trading of military equipment and technology. It is also responsible for mobilisation preparedness. Usually the Inter-departmental Council is led by the Prime Minister or Vice-Prime Minister. The Council includes, at deputy minister level, ministries that have relations with the defence industry. A double-licence control regime for the arms trade was established, with the Interdepartmental Council responsible for issuing both types of licences (until 1995) – the so-called general licence and the licence for each individual transaction. At the end of 1992, the Government passed Regulation 114 on Bulgaria's dual-use export controls. This regulation established controls and licensing regimes on the import, export, re-export and transit of goods, materials, technologies, equipment and services that can be used for the creation of nuclear, chemical, biological and other weapons of mass destruction.

On 8 November 1995, the Bulgarian National Assembly passed the Law on the Control of Foreign Trade Activity in Arms and Dual-Use Goods and Technologies.⁶ The Law confirmed the established double-licence regime for arms trade and dual-use goods and technologies. Two licensing authorities were established by law. The role of the Interdepartmental Council was confirmed with regard to general licences for companies to trade in military or dual-use equipment. The second licence authority is the Special Commission⁷ within the Ministry of Trade (later the Ministry of Economic Affairs), which is responsible for issuing the second type of licence. These licences are issued for individual transactions concerning export, import or re-export. Bulgaria joined the Wassenaar Arrangement and ratified several international agreements for non-proliferation. Currently, 47 companies possess a general licence for trade of military equipment and 53 for trade in dual-use goods and technologies.

The experience accumulated in the application of this regime led, in September 2000, to the amendment of the Law on the Control of Foreign Trade Activity in Arms and Dual-Use Goods and Technologies. The main changes were:

- An exchange of information with corresponding competent authorities in other countries;
- Both kinds of licence are granted only to companies that are registered in Bulgaria and more than 50 percent Bulgarian-owned;
- Foreign counterparts must possess similar trade licences in their own countries.
- Transport companies must also be licensed;
- New requirements were imposed to provide more information using different channels and mechanisms were established for improved and continual control during transactions, including: additional documentation checks, provision of external export opinions (if needed by the state authorities), and prohibition of re-export to third countries;
- Traders are obliged to present more detailed information about a deal – including agreements, technical specifications, payment methods and bank documents, original end-user certificates and obligations to keep special registers of the deals;

⁶ Law on the Control of Foreign Trade Activity in Arms and Dual-Use Goods and Technologies, State Gazette 102, 1995.

⁷ Its full name is Commission for Control and Permissions of Foreign Deals with Arms and Goods and Technologies with possible dual-use to the Ministry of Economic Affairs.

- All brokers participating in arms deals involving Bulgaria must be registered in Bulgaria;
- Decisions of the Commission to the Ministry of Economic Affairs must be taken unanimously according to the Law.⁸ If there is disagreement, the licence is not granted;
- Sanctions and penalties were increased drastically.

At the moment, according to the Law on Defence and the Armed Forces, the Council of Ministers, through its Interdepartmental Council, manages and controls the manufacturing and trading of military and dual-use goods and technologies. In addition to the last amendments to the Law on Arms Trade Control, the Council of Ministers approved Decree no 91 of April 2001, which explicitly lists the countries and organisations to which the sale and supply of arms and related material is prohibited or restricted. Furthermore, only two people in Bulgaria are permitted to sign an end-user certificate as a guarantee against illegal import or re-export. Bulgarian authorities implemented the 'TRACKER' system (donated by the US Government) in order to facilitate the identification of weaponry and the exchange of information on weapons between respective Government agencies, customs and national police. The system provides, among other things, centralised and automated access to information required for export control. It further provides specialised databases, a high level of information protection, possibilities for electronic documents processing, and support for the process of classifying goods and technologies with possible dual use.⁹

Bulgaria's interest in developing a strong export control policy is twofold. First, ineffective controls undermine the international credibility of Bulgaria and limit its access to legitimate markets for arms and other products. Second, they also undermine Bulgaria's efforts to join NATO and the European Union.

The amended Law on the Control of Foreign Trade Activity in Arms and Dual-Use Goods and Technologies is a product of wide-ranging consultation with EU member states and other countries in the region. It has increased the overall control exercised by the responsible state institutions, and it is regarded as a very modern law, with effective control and verification mechanisms.¹⁰ It is believed that future Bulgarian NATO membership will facilitate the exchange of information among the allies and would have a strong disciplinary effect.¹¹ In a speech delivered to the Bulgarian Parliament, NATO Secretary General Lord Robertson stressed the importance of sharing intelligence information among the Euro-Atlantic community and ensuring firm export controls.¹² There are hopes that the Bulgarian defence industry might be included in internal NATO defence production programmes, which could provide viable alternatives for the production and export of SALW.¹³

Destruction of SALW and ammunition

The process and organisation of destruction is described in detail in the LCEFA and its Regulation for Implementation. However, this Law refers only to weapons held by the civilian population. For destruction of SALW and ammunition the MoD uses similar internal regulations stemming from the Law on Defence and the Armed Forces. The whole process of destruction of SALW within the structures of the MoD, from identifying to scrapping the weapons, is regulated under the control of the Defence

⁸ Amendment of the Law on the Control of Foreign Trade Activity in Arms and Dual-Use Goods and Technologies, Art 7(2), State Gazette 75, 2002.

⁹ Capital, 11 May 2002, *Sega*, 12 April 2002.

¹⁰ Interview with Dragomir Zakov, Ministry of Foreign Affairs (MFA), NATO and International Security Directorate, Sofia, 15 October 2002.

¹¹ Interview with Prof Dr Tilcho Ivanov, Head of National and Regional Security Department, University of National and World Economy, Sofia, 15 October 2002.

¹² <www.nato.int/docu/speech/2003/s030217a.htm>

¹³ 'The Bulgarian Defence Industry Strategic Options for Transformation, Reorientation & NATO Integration', Atlantic Council of the United States, Policy Paper, July 2001, p 26.

Minister.¹⁴ It includes: registration, storage, transfer, transportation, management, record-keeping, preservation of serial numbers and other measures for identification and verification, including site inspections and filming, in some cases with the participation of foreign experts. These processes are monitored by the military counter-intelligence service and the military police.

Structures and practices

In Bulgaria, the MoD is the main authority responsible for the disposal of surplus SALW. It possesses and controls storage facilities, procedures and practices for destruction, and it is responsible for meeting security standards. Surplus weapons formerly in service with the MoI or confiscated from the population are handed over to the MoD for disposal.

According to the LCEFA, the MoI is in charge of the collection and confiscation of illegal weapons. The Law and its Regulation also describe the obligations of the MoI with regard to repair, destruction and scrapping of SALW for private use (out of SALW owned by the MoD and the MoI). For every case of destruction and scrapping, a special committee has to be created, with the participation of the MoI and the Ministry of Culture. Destruction has to be properly documented and carried out in a place of safety, and is generally carried out by the MoD.

Although well described in the LCEFA, the amount of SALW the MoI itself disposes of is negligible.¹⁵ The MoD is the main organisation authorised to carry out the destruction of surplus SALW. The main agent within the MoD responsible for the processes of destruction is the Logistics Command, part of the General Staff. The Logistics Command accounts for available surpluses and destroyed items. A special section for the utilisation of armament and ammunition exists within the Logistics Command structure.¹⁶

SALW exports

There is no publicly available information on numbers of SALW and ammunition sold or exported by the Bulgarian Government. In principle, this is classified under the Law for the Protection of Classified Information. According to internal regulations and orders of the MoD, the Government bodies responsible for deciding over sales of surplus material are the MoD-owned Terem company, the Supply and Trade Directorate, the Supply Management Directorate and the MoD agency Management of Private State Property. These agencies possess required trade licences and permissions and they obey the requirements and procedures of the Law on the Control of Foreign Trade Activity in Arms and Dual-Use Goods and Technologies. If necessary, they may contact other licensed trade companies. The 'List of surplus material' specifies which of the weapons are destined for export or for destruction.

On the authority of the Council of Ministers, confirmed with decisions of the National Assembly, surplus SALW and ammunition have been donated to foreign governments, such as the new Government of Afghanistan and the Government of Georgia.¹⁷ These donations were closely co-ordinated with the USA and the international community. The value of these transfers amounted to several hundred thousand US dollars.¹⁸

¹⁴ Interviews with Lt.-Col Anri Georgiev, Deputy Head of Section for Utilisation of Armament and Ammunition, MoD, General Staff – Logistics Command, Sofia, 9 October, 2002 and Nikola Mihaylov, Head of Department 'International Organisations and Arms Control', International Co-operation Directorate, MoD, Sofia, 18 October 2002.

¹⁵ Interview with Lt.-Col Anri Georgiev, Sofia 9 October 2002.

¹⁶ Interview with Lt.-Col Anri Georgiev, Sofia 9 October 2002.

¹⁷ Interview with Dragomir Zakov, NATO and International Security Directorate, MFA, Sofia, 15 October 2002.

¹⁸ Monitor, 21 October 2002, Dnevnik, 23 September 2002, Pari, 23 August 2002, Novinar, 20 August 2002, Monitor, 15 June 2002.

In general, revenues from surplus SALW sales are added to the MoD budget. Any intermediary company receives a commission of between 2 and 5 percent.¹⁹

SALW destruction

The overall process of disposing of surplus weapons is co-ordinated by the Logistics Command, which is part of the General Staff structure of the MoD. The Logistics Command is responsible for the co-ordination, control, and recording of the destruction process.²⁰ The actual destruction is carried out by the company Terem – mainly in one of its branches in Veliko Tarnovo. Today, Terem, a former military arsenal-type factory, is 100 percent state-owned. The directors of Terem are appointed by the Defence Minister. The factory in Veliko Tarnovo is well situated – it is in the middle of the country surrounded by mountains, close to one of the MoD's central military storage facilities. This is advantageous in terms of transport, security, protection, storage and economies of scale. The Veliko Tarnovo facility also offers expertise in safety conditions and weapons repair. In recent years, it has developed technologies for SALW destruction. Once identified as surplus, SALW stocks are stored in the MoD's military storage facilities to await destruction. The storage facility in Veliko Tarnovo serves as a kind of waiting room for the Terem factory. The whole procedure, including the transfer of SALW from military units and local storage to central military storage (which is subordinated to the Logistics Command) and then to the factory in Veliko Tarnovo, is recorded so that the weapons are accounted for.

The entire destruction process is documented according to internal rules of the MoD and/or other additional requirements. Also involved in the process are the military counter-intelligence service and the military police. According to the Bulgarian Government, the destruction of surplus SALW and ammunition is a regular process within the MoD. However, information on destroyed weapons is very limited.²¹

As part of an ongoing co-operation programme between Bulgaria and the US State Department, 77,050 small arms, 612 light weapons, 435 tons of small arms ammunition (6,896,216 rounds) and 135 tons of artillery and anti-tank ammunition (9,370 rounds) were destroyed at Veliko Tarnovo in 2001. These weapons were very old, but a new destruction agreement is under way.²² The extension of the US-Bulgaria programme foresees the destruction of an additional 23,295 weapons, including 10,000 AK-47s and ammunition, at a cost of US\$119,000.²³ A further project to destroy SALW ammunition is expected to receive \$430,000 in funding.²⁴ As part of the co-operation with South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) and the United Nations Development Programme (UNDP), it is planned that another 20,000 AK-47's will be destroyed.²⁵ Bulgarian officials state that only financial reasons are hindering further progress in that direction.²⁶

Bulgaria has also entered into bilateral co-operation on security issues with the Netherlands and Norway, whose MoD is working with the State Department on the restructuring of the Bulgarian Armed Forces and the identification of surplus military equipment and SALW.²⁷

In 2001, only 2,000 illicit weapons were confiscated by the Bulgarian border police – a relatively small amount compared with the amount of drugs seized. The majority of

¹⁹ Private Communication.

²⁰ Interview with Prof. Dr. Boyan Petkov, General Staff – Logistics Command, MoD, Sofia, 9 October 2002.

²¹ Interviews with Lt.-Col Anri Georgiev, Sofia, 9 October 2002, and Nikola Mihaylov, Sofia, 18 October 2002.

²² Interviews with Lt.-Col Anri Georgiev, Sofia 9 October and 'Controlling small arms proliferation: the view from Bulgaria', Bulgarian Red Cross/Saferworld seminar report, 2002, pp 5, 11.

²³ Short Mission Report, SEESAC consultation in Bulgaria, 8–10 July 2002, <www.undp.org.yu/seesac/about/bulg.htm>

²⁴ Ibid.

²⁵ 24 chasa, 20 December 2002.

²⁶ Interviews with Lt.-Col Anri Georgiev, Sofia 9 October, 2002 and Nikola Mihaylov, Sofia 18 October, 2002.

²⁷ Short Mission Report, SEESAC consultation in Bulgaria, 8–10 July 2002 <www.undp.org.yu/seesac/about/bulg.htm>

the 2,000 weapons confiscated or turned in were handguns, sporting rifles or shotguns collected along the Bulgarian-Serbian border.²⁸

Bulgaria's SALW destruction technologies, facilities and capacity exceed its own surplus. Bulgaria has the potential to become a regional centre for SALW destruction, as the infrastructure, facilities, technologies and qualified labour force are available.

Reviewing surplus holdings

The Government reviews its surplus holdings regularly, once through the process of military planning and wartime preparedness, involving many state agencies, and also through the process of compiling and managing its annual 'List of surplus material'.

International assistance

The Bulgarian Government is involved in international assistance programmes for destruction of SALW mostly as a recipient. For Bulgaria, destroying SALW is a relatively expensive process. National resources are limited and are mostly used for restructuring and modernisation of the Armed Forces in order to meet NATO standards. The Government therefore has to rely on international assistance, especially financial assistance, as the limited national resources are usually spent on the destruction of ammunition, for safety and environmental reasons. Weapons are generally stored. If there is a market for these weapons, export seems to be a viable option.

Financial help from western donors is a cost-effective way to reduce the risks of legal or illegal export of surplus weapons. For example, the agreement between Bulgaria and the USA amounts to around US\$0.5 million. In addition, it provides some internal political dividends, such as support from the population for the process of destruction and help for the local economy.

Reforms

Reforms undertaken by the Bulgarian Government include the following:

- The OSCE Document on SALW and related activities and documents, together with other measures, led to more transparency. Bulgaria exchanges information within the OSCE, the Wassenaar Arrangement, and the UN Register. It should be noted that the Bulgarian submission to the OSCE is not accessible to the broader public and that access to information still is not properly regulated by the new 'Law for Protection of Classified Information'.
- Recent changes in legislation (September 2002).²⁹
- Compliance with arms embargoes and other limitations imposed by the United Nations Security Council, the European Union, the OSCE, the Wassenaar Arrangement and other international export control and non-proliferation regimes.³⁰

For this purpose, the Government regularly adopts legally binding acts to regulate explicitly the obligations of Bulgarian legal entities and individuals under the restriction and prohibition regimes and to impose penalties against possible violators. For example, the Republic of Bulgaria has directly implemented the sanctions adopted by the UN Security Council against states and organisations such as UNITA (Angola), FR Yugoslavia, Afghanistan (the Taliban), Sierra Leone, Ethiopia and Eritrea in its legal framework.

²⁸ <www.undp.org.yu/seesac/about/bulg.htm>

²⁹ See 'Policies' above.

³⁰ Counter-Terrorism Activities of the Republic of Bulgaria in implementation of Resolution 1373 (2001) of the UN Security Council on Measures to be Adopted by the UN Member-States for the Suppression of Terrorism, National Report, <www.mvr.bg>

In compliance with the Resolutions of the UN Security Council, the EU and OSCE, the Republic of Bulgaria approved, by special Decree no 91 of the Council of Ministers of 9 April 2001, a list of states and organisations against which a ban or restrictions on sales and deliveries of armaments-related equipment and dual use goods and technologies were imposed.

As an OSCE member, in November 2000 Bulgaria made a political commitment to the implementation of the principles, norms, and measures included in the OSCE Document on SALW. On 1 February 2001, the Council of Ministers approved the OSCE Document and its nationwide implementation.

Bulgaria participated in the UN Conference for Prevention of Illegal Trade in Small Arms and Light Weapons (SALW) in all its aspects and has made a political commitment to implement the Action Plan adopted by this Conference. The Republic of Bulgaria has been a member of the Wassenaar Arrangement since 1996.

In August 1998, the Republic of Bulgaria acceded to the EU Code of Conduct in the field of trade in arms, and in December 1998 to the Joint Action of the EU Council for non-proliferation of SALW.

The problem of surplus weapons was first identified in a governmental programme of 2001. In December 2001, the Council of Ministers decided to prepare a 'National Programme for the Utilisation and Destruction of Surplus Ammunition on Bulgarian Territory'.

The MoD is continuing their agreements with the USA for financial help with surplus SALW destruction. Bulgaria expressed its desire and readiness to be a regional centre for destruction of SALW. Active participation in international programmes for destruction and co-operation is a part of Bulgarian policy on SALW elimination.

Concluding remarks

The problem of surplus SALW is not new for Bulgaria. This country has a system for identification, registration, storage, protection, technologies, facilities and authorised structures to deal with SALW. The SEESAC 2002 mission in Bulgaria concluded that "Bulgaria has made great progress towards a comprehensive programme of SALW control, particularly in the areas of arms export legislation, registration and destruction. While Bulgaria has strong arms export legislation, which is soon to be improved further, more effort is needed to implement these laws, especially on the micro level, to improve internal checks and balances, tracing and end-use/end-user verification and to achieve greater transparency".³¹ The disposal of SALW is regulated by relevant laws. Cases of illegal possession, confiscation or production of SALW from the population are negligible. Arms control regimes are in accordance with international requirements. Export agreements are being implemented. Bulgaria actively participates in international activities and initiatives with regard to SALW, including the exchange of information with relevant national and international authorities. The process of destruction and utilisation of surplus SALW in Bulgaria could be accelerated easily with small financial help. Bulgaria actively seeks financial and technical assistance for the destruction of SALW. To a certain degree, the inherited secrecy and existing military culture contributes to the safety of disposal and arms control. On the other hand, it complicates the process of transparency and public accountability.

31 <www.undp.org.yu/seesac/about/bulg.htm>

Russia

Maxim Pyadushkin and **Ruslan Pukhov**

Introduction

THE DISPOSAL OF SURPLUS SMALL ARMS AND LIGHT WEAPONS (SALW) is new to Russia. In Soviet times, there was no planned destruction of surplus weapons in the Soviet Army or other militarised state agencies. During the Cold War, with the Soviet political and military leadership preparing for global war and dwelling on the Red Army's catastrophic shortage of weapons early in World War II, it seemed inconceivable for weapons of any kind to be redundant.

The concept of 'weapons disposal' as a separate process emerged in the USSR in the late 1980s. It was concerned first of all with the destruction of nuclear weapons and their means of delivery within the framework of the START Treaty.¹ Since 1991, the list of weapons eligible for disposal has been expanded. The acknowledgement that certain weapons were redundant and required disposal became possible as a result of several developments. These included: the dissolution of the Soviet Union, the formation of the Russian Armed Forces, the withdrawal of the Soviet and Russian troops from Eastern Europe, and the diminution of the threat of global conflict. In the post-Soviet era, deep cuts in military expenditure were followed by a reduction of Russia's huge stockpiles of weapons. This chapter surveys the disposal of surplus SALW in Russia from the mid-1990s to the present.

Stocks and determination of surplus

Government agencies holding SALW

In addition to the Armed Forces, the Russian Federal Law on Arms² allows the militarised formations of the following Government agencies and institutions to possess small combat arms:

- The Interior Ministry (MoI), including its Interior Troops numbering 151,000 servicemen;³
- The Ministry of Justice;
- The Federal Security Service (militarised formations with up to 4,000 personnel⁴);
- The Federal Border Service (about 140,000⁵);
- The Foreign Intelligence Service;

¹ Interview with an official from the Ministry of Economic Development and Trade of Russia, 24 December 2002.

² Federal Law of the Russian Federation 'On Arms', adopted by the State Duma on 13 November 2003.

³ The Military Balance 2001/2002. London, IISS, 2001.

⁴ Ibid.

⁵ In March 2003 merged with FSB. See Zapodnitskaya, E, 'Silovoi priem', Kommerant, 12 March 2003.

- The Federal Bodyguard Service (10,000–30,000⁶);
- The Federal Service for Special Construction with its own militarised formations for special construction and road construction, the maintenance of communication lines for purposes of defence and national security;
- The Service for Special Facilities under the Russian President;
- The Federal Tax Police Service;⁷
- The State Customs Committee;
- Prosecutors' offices;
- Federal Railway Troops that are in charge of maintenance of the railways in the interests of the Armed Forces, as well as the construction of new lines and the repair and expansion of the current network. Out of its 70,000-strong personnel 57,000 are armed servicemen;⁸
- Civil defence troops that are designed for assistance to the civilian population in emergencies, for rescue and reconstruction operations. Since 1991 they have fallen under the Ministry for Civil Defence, Emergency Situations and the Elimination of Consequences of Natural Calamities;
- The Federal Agency for Government Communications and Information (FAPSI) (54,000 armed servicemen⁹);
- The State Courier Service of the Russian Government.

In addition to the above, the Law on Arms gives a number of other Government institutions the right to borrow combat small arms from MoI bodies for performing prescribed security functions. These are:

- The Central Bank of Russia (Bank of Russia);
- The Savings Bank of Russia (Sberbank);
- The main centre for special communications of the Ministry of Communications;
- The Ministry of Foreign Affairs (MFA);
- Other legal entities with special chartered tasks, except private security agencies.

Civilian possession

The Russian Law on Arms allows only the Government militarised agencies listed in it to acquire small combat arms, ie small arms manufactured or modified according to military specifications for combat use. All other legal entities, government or private, with appropriate chartered objectives have the right to acquire service arms, and citizens of the Russian Federation may acquire civilian arms. Unlike combat arms, civilian and service weapons:

- Have certain restrictions in size;
- Have restrictions in the magazine size (no more than 10 cartridges);
- Must be incapable of automatic fire;
- Have ammunition of limited power.

Defining SALW surplus stocks

Russia does not have one specific government body that is responsible for defining and disposing of surplus SALW stocks. The Soviet Union had a centralised system of managing SALW flows and stocks under which all small arms and light weapons were controlled by the MoD, which also assigned weapons to Government bodies that were allowed by law to use arms for service purposes.

⁶ The Military Balance 2001/2002. London, IISS, 2001.

⁷ In March 2003 merged with FSB. See Zapodnitskaya, E, 'Silovoi priem', Kommerant, 12 March 2003.

⁸ 'On the Railway Troops of the Russian Federation', Decree of the Russian President no 1302, 26 December 1995, <www.fsgv.ru>

⁹ Disbanded in March 2003. Personnel and facilities are distributed between MoD and FSB. See Zapodnitskaya, E, 'Silovoi priem', Kommerant, 12 March 2003.

Nowadays the militarised formations that are armed with SALW deal directly with surplus SALW definition and disposal questions. Within the Armed Forces, the General Staff is responsible for these matters. Other federal militarised agencies – the MoI, the Border Service and special services – have set up their own systems to manage the transportation, stocks and disposal of their SALW.

The Main Organisational Mobilisation Department (GOMU) of the General Staff determines the required amount of arms and surplus in the Russian Armed Forces on the basis of information about SALW stocks at arsenals and Army units and depending on mobilisation deployment plans.¹⁰ It decides on the amount of weaponry necessary for the existing units of the Armed Forces, depending on their staffing (weapons in active service) and also on the size of reserves for mobilisation deployment depending on existing plans (weapons in reserve). Arms are regarded as surplus if they are:

- Excess to the amount required for regular supplies of existing formations of the Armed Forces and reserves for mobilisation deployment;
- Worn out, ie requiring repairs that would cost 70 percent of their value.

The chief of the General Staff issues orders on the disposal of surplus SALW on the basis of these GOMU assessments.¹¹

A comparable system of determining surplus SALW exists at the MoI. The ministry is responsible for both SALW stocks in its own formations and the combat weapons used for service purposes by other federal bodies: the Ministry of Emergencies, the Federal Postal Service etc.¹² Appropriate MoI bodies also determine the amount of weaponry required for the staff and reserves for mobilisation deployment. Currently, the MoI does not have a great surplus of SALW, as during the past few years the ministry's staff has been steadily growing. Therefore mainly old arms unfit for further use have been declared surplus.¹³

Quantities of SALW and ammunition categorised as surplus

According to current estimates, the Russian Armed Forces are planning to decommission one million pieces of small arms between 2002 to 2005.¹⁴ In addition, there are 140 million cartridges for foreign-made small arms¹⁵ in Army stocks assigned for disposal.

The amount of SALW deemed surplus by other Russian militarised services is not known, but it is probably insignificant, because unlike the Armed Forces the other militarised formations do not have big stocks of SALW. Besides, far from being radically cut back, their personnel is in most cases being increased.

Reasons for surplus

Government procurement of SALW and other weaponry has dwindled to almost nothing in Russia. Therefore there are no modern arms coming into the stockpile and replacing older models. Under these conditions, when SALW are declared surplus, it is for the following reasons:

- As a result of cut-backs in personnel. From 1992 to August 2003 the personnel of the Russian Armed Forces was cut down from 2.75 million to 1.16 million persons. Current plans would further reduce that number to 1 million by 2005.¹⁶
- As a result of changes in mobilisation plans, stemming primarily from the population decline and the resulting decline in the number of conscripts. While at the time of

¹⁰ Interview with an official from the Russian MoD, 16 December 2002; Interview with an official from the Ministry of Economic Development and Trade of Russia, 24 December 2002.

¹¹ Interview with an official from the Russian MoD, 16 December 2002.

¹² Interview with an official from the MoI of Russia, 23 December 2002.

¹³ Ibid.

¹⁴ Egorov, I, Mikhailov, V, 'Prodaite patrony', Gazeta, 30 May 2002.

¹⁵ Ibid.

¹⁶ 'Aktualnye zadachi razvitiya Vooruzhennykh Sil Rossiyskoy Federatzii', Krasnaya Zvezda, 11 October 2003.

disintegration of the USSR in 1991, Russia had a population of about 148 million, in 2001 it had contracted to 144.8 million.¹⁷ Today, the share of conscripts in the Armed Forces is 80–85 percent of enlisted personnel. Between 2005 and 2011, the number of potential conscripts is expected to plummet by 40 percent, reducing the share of conscripts in the Armed Forces to 50 percent.¹⁸ The changes in mobilisation plans and the reduction of conscription may also be related to changes in military doctrine. The declining probability of a global war and the appearance of new threats that do not require the deployment of massive armies are changing Russia's military posture.

- Through attrition. Weapons wear out, break down or are degraded by age (as in the case of explosives). Ammunition that is nearing or past its expiry date may be boosting the surplus.

In an overwhelming majority of cases, the types of SALW that are currently defined by the General Staff as surplus are obsolete arms dating back to the First and Second World Wars, and have already been decommissioned by the Russian Armed Forces. Nonetheless, many must still be in good working order, and these could be used for legitimate or illegitimate purposes if sold or given away.

Policies

Export of SALW and ammunition

Russian legislation does not have separate export procedures for SALW. The general legislation on arms and military hardware exports also applies to SALW. It comprises the following legal acts:

- The 1995 federal law On Government Regulation of Foreign Trade Activities;
- The 1996 federal law On Arms;
- The 1998 federal law On the Russian Federation's Military-Technical Co-operation with Foreign States;
- The 1999 federal law On Export Control;
- The 2000 presidential decree no 1953 Issues of the Military-Technical Co-operation of the Russian Federation with Foreign States;
- The statute On the Transit of Armaments, Military Hardware and Military Property across the Territory of the Russian Federation approved by a Government resolution in 2000.

The 1998 federal law On the Russian Federation's Military-Technical Co-operation with Foreign States is the legal foundation for all Russian arms exports. Under this law, Government authorisation is required for all transfers of armaments and military hardware. This control is implemented by a system of permits. When the Government approves an intended transaction, it issues a licence for the right to engage in foreign trade with military-purpose goods or for the importation and exportation of such products. Only state-controlled designers and manufacturers of military-purpose goods and Government mediators have the right to deliver such goods to foreign countries.

The Government mediators are in fact specialised federal companies fully owned by the state and established by presidential decree. After the latest reform in military-technical co-operation (MTC)¹⁹ of November 2000, there is only one Government agent for the arms trade – *Rosoboronexport*. Designers and manufacturers of arms and military hardware have the right to foreign trade operations if no less than 51 percent of their shares are federal property, and Russian legal entities or individuals own the rest. Russian private individuals are not allowed to engage in MTC.

¹⁷ Demographic Yearbook. Moscow, Goskomstat of Russia, 2002.

¹⁸ Statement by GOMU Chief General-Colonel Vladislav Putilin, 18 April 2002. Cited in *Nezavisimoe voennoe bozrenie*, 26 April 2002.

¹⁹ The Russian *voennoe-tehnicheskoe sotrudnichestvo (VTS)*, denotes sales and transfers of technology, arms and expertise.

Under law the official arms export policy is formulated by the president. He also defines lists of armaments permitted for exportation and the geography of their deliveries in the form of two lists:

- A list of military-purpose goods permitted for transfer to foreign customers (list no 1);
- A list of states to which the transfer of military-purpose goods named in the first list is permitted (list no 2).

The president also has the right to limit or expand by decree both lists with due respect for UN restrictions and Russia's other international commitments.

The Cabinet carries out the official policy by issuing, within the limits of its powers, regulatory acts on designing, manufacturing and exporting military-purpose goods, and setting the domestic and foreign trade prices of such goods.

The Russian Federation Committee for Military-Technical Co-operation with Foreign States (CMTC) was set up to implement the decisions of the President and Government and also to regulate and control arms exports. The purpose was to make the committee the central co-ordinating agency in arms exports, a link between the President, federal executive bodies and parties to MTC. The CMTC:

- Submits proposals to the President on whether to give to the relevant parties the right to independent foreign trade operations or whether to strip them of this right;
- Issues licences for exports/imports of military-purpose goods;
- Controls the operations of *Rosoboronexport* and other Russian arms exporters;
- Accepts official orders for arms deliveries from foreign customers and distributes them among Russian companies.

Formally, the committee is subordinate to the MoD, and its chairman holds the post of Deputy Defence Minister. However, under Statute the President oversees the CMTC's operations, while the Cabinet co-ordinates them. The Defence Minister commands the CMTC only in a very limited number of cases.

To export their goods, designers and manufacturers of arms and military hardware have to obtain a permit for foreign trade operations concerning military-purpose goods. The procedure is determined by a respective statute issued with the presidential decree Issues of the Military-Technical Co-operation of the Russian Federation with Foreign States. After the Government decides to give a company such a permit, CMTC includes the company in the register of enterprises with permission for foreign trade operations with military-purpose goods.

Currently only two SALW designers and manufacturers have the right to independent foreign trade transactions with military-purpose goods. These are the Tula-based Instrument Building Design Bureau, which manufactures portable anti-tank systems (permit issued on 19 January 2000 for 5 years)²⁰, and the Kolomna Machine-Building Design Bureau, which makes man-portable air-defence weapons, MANPADs (permit issued on 28 December 1999).²¹ All other manufacturers export their output through *Rosoboronexport*, which is responsible for about 90 percent of all Russian arms exports.

Deliveries of armaments and military hardware to foreign customers are regulated by the following legal documents, approved in keeping with Presidential Decree no 1953:

- The statute on the procedure for military-technical co-operation with foreign states;
- The rules for the licensing of imports and exports of military-purpose goods that require such a licence;
- The rules for handling official applications from foreign customers and co-ordinating draft decisions on deliveries of military-purpose goods.

²⁰ INFO-TASS electronic database, 'Vega' base, 19 January 2000.

²¹ INFO-TASS electronic database, 'Vega' base, 28 December 1999.

Military-purpose goods are exported under licences issued by CMTC. The committee is authorised to decide on arms exports if these comply with List nos 1 (eligible products) and 2 (eligible countries). In all other cases, exports of military-purpose goods require two decisions: one by the president and one by the Government. The Government specifies how to implement the presidential decision. If these two bodies decide to authorise the transfer, the CMTC will issue an export licence. However, a licence for SALW exports is not issued if the importer fails to produce the following documents:

- A permit (licence) for the specific deal issued by an authorised Government agency of the country where the company ordering Russian SALW is registered;
- The original end user certificate issued by an authorised Government agency and containing the commitment of the recipient country to use the imported SALW only for its own needs and to prevent their re-exportation or transfer to a third country without Russia's consent.

All arms exports must also be reviewed by federal executive bodies, namely:

- The MFA;
- The Ministry of Defence (MoD);
- The General Staff;
- The Ministry of Finance (if deliveries involve federal budget money);
- The Ministry for Property Relations (if deliveries are made from the stocks of federal executive bodies).

If the exportation of military goods requires a presidential decision, the list of federal agencies must also be reviewed by:

- The Foreign Intelligence Service;
- The Federal Security Service;
- The State Technical Commission under the president;
- The Ministry of Justice (if the transfer involves results of military-purpose research and development).

These agencies do have a veto, but once a decision on arms exports reaches the CMTC or the President, it means that the company has managed to settle all disagreements with the reviewing bodies.

Export licences are issued for a period that the Government considers adequate for the fulfilment of contractual obligations.

An analysis of the pattern of decision-making on Russian arms exports shows that the Government exercises total control over the operations of arms exporters through a large number of controlling bodies and barriers. The reform of the Russian arms export system at the end of 2000 and the beginning of 2001 was an attempt to establish presidential control. When the CMTC was formed and given broad powers, the MoD lost most of its control over arms exports.

On the one hand, such strict export controls reduce the risk of unauthorised arms exports and enable the Government to observe international non-proliferation commitments effectively. It also helps to prevent the loss of Government revenue from sources such as state-owned weapons sales or taxes on arms exports. About 30 percent of the returns from such sales are supposed to go to federal and regional coffers in the form of taxes.

On the other hand, as all decision-making on arms exports is concentrated at the presidential administration, public control is limited in this domain. Under the current system of MTC, the Russian parliament has been left out of all control mechanisms. All key legal acts determining the Russian arms export system are in fact presidential decrees signed without consulting the parliament. In Russia, all existing arms export companies are 100 percent state owned. Arms exporters are not accountable for their operations to the parliament or public, neither in the form of

Government reports nor company reports. There are no legal provisions that oblige the state to report on their arms trade to its own citizens.

Furthermore, the large number of controlling agencies and the vagueness of criteria for decision-making named in the legislation on MTC stand in the way of transparency and accountability. This can result in corruption.

Storage of SALW and ammunition

Russia has no uniform procedure for the storage, transport, management or disposal of Government stocks of SALW. Under the federal law 'On Arms', the Government determines the procedure for handling SALW stocks. In 1997, the Government adopted the Rules of Circulation of Combat Small Arms and Other Weapons, Ammunition and Cartridges for Them as well as Side Arms at Government Militarised Organisations.²² However, the rules are more a general interpretation of the law than detailed practical instructions. Under them the procedure of storing, managing, transporting and disposing of small arms is determined by regulatory legal acts of Government militarised institutions. The rules contain only a general framework for composing such legal acts. Hence every Government institution possessing small arms has its own arms storage, accounting, transportation and disposal instructions.

Structures and practices

Russia does not have a centralised system for the disposal of surplus SALW. Each Government agency that is legally entitled to use SALW for service purposes disposes of the surplus itself. The MoI scraps the surplus SALW of the federal agencies that borrow arms from the ministry, that is to say the Ministry of Emergencies, the Federal Postal Service etc.

In the Armed Forces, the Chief Rocket and Artillery Department of the MoD is responsible for the disposal of surplus SALW. For all practical purposes, this means the destruction of redundant SALW and their ammunition. There was no purposeful destruction of such surpluses in the Armed Forces of the Soviet Union or Russia until 1994. Disposal as a separate process began in 1994, but no funds were assigned for this purpose from the national budget. Apparently it was believed that the expenses of SALW disposal should be covered by proceeds from the sale of recycled materials.

Since 2002 spending on arms disposal including SALW has been included in the Government defence order. In 2002, 32 million rubles (about US\$1 million) were assigned from state coffers to SALW disposal. In 2003, 28 million rubles (about \$900,000) are to be spent from the budget and also 3 million rubles (about \$100,000) from non-budget sources (returns from sales of disposal products).²³ Related products and spare parts such as ammunition magazines, gun sights, as well as repair and maintenance kits are usually not sold, but destroyed together with the weapons.

It is a general practice of the MoD to hold tenders for conventional arms disposal contracts. A disposal contract may go to a private company having a Government licence for such operations or to a Government-owned facility. However, this procedure does not apply to SALW for the following reasons:

- SALW disposal is unprofitable, therefore private companies are not interested in it. In the 1990s, futile attempts were made to apply a package principle when orders for the disposal of SALW were put up in a tender together with the disposal of other, more profitable types of armaments²⁴.

²² Adopted by the Russian Government Decision no 1314 on 15 December 1997.

²³ Interview with an official from the Russian MoD, 16 December 2002.

²⁴ Ibid.

- The MoD fears that involving private companies in the disposal of SALW will lead to a loss of control, and result in SALW assigned for disposal to continue to be trafficked illegally.

Hence surplus SALW from the stocks of the Armed Forces are scrapped at military arsenals or industrial facilities belonging to the MoD. First, all wooden and plastic parts are separated from the weapon. The remains are melted until the metal becomes soft and are then pressed into a metal bar.

SALW exports

In general the Russian MoD can either export its surplus weaponry either through the Government arms mediator (*Rosoboronexport*) or sell the surplus small arms in Russia on condition that they are modified for either civilian or service use. However, the success of such programmes is hindered by the fact that most of the small arms classified as surplus are obsolete First and Second World War models such as *Mosin* rifles, *Shpagin* sub-machine-guns, and *Maxim* and *Degtyaryov* machine-guns.

This explains why there is no demand in the international market for the surplus SALW of the Russian Armed Forces. Since the beginning of the planned disposal of surplus SALW, there have been no recorded cases of their being sold to foreign buyers.²⁵ On the other hand, *Rosoboronexport*, like one of its predecessors, *Promexport*,²⁶ is exporting arms from the stocks of the Armed Forces, including SALW. Here we can name the delivery in October–November 2001 of up to 100 *Malyutka* (AT-Sager) and Fagot (AT-4 Spigot) anti-tank missile systems to the Northern Alliance in Afghanistan²⁷ and the 2002 contract with Malaysia for the delivery of Igla-9K39 (SA-18) MANPADs worth US\$48 million.²⁸ However, such weaponry is still in use in the Russian Armed Forces and belongs rather to stocks than surplus. Returns from such export deals are channelled to the MoD budget after the payment of due taxes and commission fees to the state intermediary.

The past few years have seen several transfers of small arms from the stocks of the Armed Forces on the domestic market. At the beginning of the second military campaign in Chechnya in 1999, the MoD transferred 4,000 SKS combat carbines from its stocks to militia units in Dagestan.²⁹ Since the mid-1990s the MoD has also been transferring a certain amount of SKS carbines from its stocks to Vyatskiye Polyany Molot machine-building factory to be converted into OP-SKS hunting carbines and later sold on the domestic market. The conversion involves the removal of the bayonet, the varnishing of the wooden parts and the addition of a protective layer to the metal parts of the weapon.³⁰ However, the sales of these arms on the domestic market are insignificant because the market is saturated with other Russian-made state-of-the-art hunting weapons.³¹ The profits are divided between the ministry and the factory.

SALW destruction

There are various figures available on the amount of surplus SALW destroyed in the Russian Armed Forces in the last years. **Table 1** shows the amount of scrapped SALW reported by Government officials during the study.

²⁵ Interview with an official from the Russian MoD, 16 December 2002.

²⁶ *Rosoboronexport* was created in November 2000 by merging two Russian state arms trade intermediary companies, *Rosvoorouzhenie* and *Promexport*.

²⁷ 'Lend-lease of Sergeya Ivanova', *Nezavisimaya gazeta*, 4 December 2001.

²⁸ *Interfax-AVN*, 10 April 2002.

²⁹ Sukhov, I, 'Brigadnyi podryad', *Vremya novostey*, 7 August 2000.

³⁰ Ponomarev, Y, 'SKS obraztsa 2000 goda', *Kalashnikov. Oruzhie, boepripasy, snaryazheniy Monthly*, no 4, 2000.

³¹ Interview with an official from the Russian MoD, 16 December 2002.

Table 1: Disposal of surplus SALW in the Russian Armed Forces

Years	Number of arms destroyed, pieces ³²
1994–1999	450,000 SALW
2000	No disposal of SALW
2001	No disposal of SALW
2002 (planned)	560,000 SALW, as well as 115 million SALW rounds and hand grenades

However, the information Russia reported on surplus SALW disposal at the UN Conference on Illicit Trade in Small Arms and Light Weapons in All Its Aspects in 2001 differs from the figures in the table. The Russian speaker at the conference said that between 1998 and 2001 the Russian MoD had disposed of 421,021 pieces of small arms from its surplus arsenals, including 44,000 pieces in 2000–2001.³³

Comparing the data from these two sources we can see that the figures for 1994–2001 generally coincide. The main question concerns the disposal of surplus SALW in 2000–2001. Such differences in the data can be explained by the absence of unified statistics within the Government.

SALW storage

There is no accurate information about the amount of surplus SALW remaining at warehouses of the Armed Forces. It is known that of the one million surplus SALW assigned for disposal, 560,000 were to be destroyed in 2002. It is not known whether this has been done. If so, then 440,000 pieces remain in storage. Of course there may be other surplus stocks of SALW which have not been assigned for destruction.

The amount of surplus SALW belonging to the MoI is probably insignificant and stored for a shorter time because the ministry revises its stocks and disposes of surplus arms more often than the Armed Forces, ie once a year.

Confiscated or seized weapons

Surplus service arms belonging to the MoI and assigned for disposal, and surplus SALW of other Government agencies, are accumulated at city and district branches of the MoI. The MoI and local authorities also scrap SALW collected or confiscated from civilians. These are stored at police departments until the completion of formalities. Once it is established that they are not required as evidence in legal prosecutions, the arms are taken to city or district warehouses belonging to the MoI for future disposal³⁴. Confiscated weapons that constitute legal evidence are stored at police precincts until the closure of the respective criminal cases. The future of the arms is determined in the court ruling on each respective case. After that, confiscated weapons assigned for destruction are also sent to Interior Department warehouses.³⁵

Surplus arms at MoI warehouses, including collected and confiscated weapons, are destroyed on the order of the MoI once a year.³⁶ Unlike the Armed Forces, the MoI uses smelting furnaces to dispose of surplus arms. The identification numbers of the SALW are entered in the MoI database. The ministry does not get any separate funds from state coffers for surplus arms disposal and covers the expenses by selling recycled materials.

In 2000–2001, the Russian MoI recovered 2,482 pieces of SALW from illegal traffic, and of those 1,142 pieces were destroyed.³⁷

³² Interview with an official from the Russian MoD, 16 December 2002; Interview with an official from the Ministry of Economic Development and Trade of Russia, 24 December 2002.

³³ Statement by S A Ordzhonokidze, the Head of the Delegation of the Russian Federation, at the UN Conference on Illicit Trade in Small Arms and Light Weapons in All Its Aspects, New York, 9–20 July 2001, <www.un.org>

³⁴ Interview with an official from the MoI of Russia, 23 December 2002.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Statement by S A Ordzhonokidze, the Head of the Delegation of the Russian Federation, at the UN Conference on Illicit Trade in Small Arms and Light Weapons in All Its Aspects, New York, 9–20 July 2001, <www.un.org>

There are several other options for arms confiscated by the MoI:³⁸

- Return to the lawful owner (Government institutions or private individuals). According to the ministry, in 2001 the wanted list included 27,000 pieces of small arms from MoD stocks and units and 7,000 pieces stolen from MoI units.³⁹ If a confiscated or collected weapon is found to have belonged to a Government militarised agency, it is returned to the unit from which it was stolen or where it was lost.
- Transfer to MoI units for service use.
- Presentation to a museum, if the weapon is of any artistic or historic value (after expert examination).

Reviewing surplus holdings

In 1998 the Chief of the General Staff signed the latest plan on the disposal of surplus arms of the Armed Forces, including SALW. The plan did not have a strict timeframe, and the surplus will be reviewed next after the current plan is implemented.⁴⁰ The MoI checks its stocks of SALW annually and destroys any surpluses.

In the 1990s, the Russian Government tried to standardise the process of arms disposal by adopting five-year federal programmes for the industrial destruction of arms and military hardware. Under these programmes the MoD was supposed to act as the single Government agency ordering arms disposal. Disposal funds were supposed to be earmarked from the national budget, the operations of all interested agencies co-ordinated and legal acts regulating arms disposal operations worked out.

The first programme was devised in 1994 by the Ministry of Economic Affairs, the MoD and the State Committee for the Defence Industry, and covered the period 1995–2000. The next programme, running until 2005, was drafted in 1999–2000 and submitted to the Government, but never adopted. There are intentions now to work out a new federal arms disposal programme by 2010.⁴¹

International assistance

The Russian Federation currently receives foreign aid in arms disposal only for scrapping weapons of mass destruction and their delivery vehicles (the Nunn-Lugar programme). There are no foreign aid programmes for the disposal of conventional armaments, including SALW. The MFA has plans to attract foreign assistance for the disposal of surplus SALW, yet so far they have not taken any concrete shape.⁴²

Reforms

In keeping with its commitments made in the framework of the OSCE Document on SALW on 26 July 2001, the Russian Government has passed resolution no 556 on the procedure of reporting information in keeping with the OSCE Document. Under the resolution the Russian MFA should submit to the OSCE Secretariat information collected from:

- The MoD – on the national system of marking light weapons and small arms, on the national SALW disposal techniques and procedures, on the national procedure of managing stocks of light weapons and small arms and guaranteeing their safety as well as annual reports on quantities of light weapons and small arms disposed in Russian territory the previous year.

³⁸ Interview with an official from the MoI of Russia, 23 December 2002.

³⁹ ITAR-TASS, 4 September 2001.

⁴⁰ Interview with an official from the Russian MoD, 16 December 2002.

⁴¹ Interview with an official from the Ministry of Economic Development and Trade of Russia, 24 December 2002.

⁴² Interview with an official from the Russian MFA, 2 December 2002.

- The MoI – annual reports on quantities of SALW withdrawn from illegal turnover in Russian territory the previous year.
- The Russian Agency for Conventional Armaments and the CMTC on national control procedures for the manufacturing of SALW.
- Russian arms exporters (via CMTC) – annual reports on exports of light weapons and small arms to other OSCE countries and on SALW imports for the previous year.⁴³

The first report with information about national legislation and SALW trade regulation practices, as well as marking and disposal procedures, was submitted to the OSCE Secretariat in June 2001. In 2002 the Russian MFA was supposed to supply the Secretariat with information about Russian SALW exports to other OSCE countries and imports from them.

Resolution no 556 was an important step towards transparency in Russia's SALW exports. Unfortunately, however, this information will remain classified in Russia even after being reported to the OSCE. The Russian public can learn about SALW exports and turnover only from sporadic press reports on individual deliveries and contracts.

The Russian Government policy of managing and disposing SALW stocks and surplus has evidently been changing during the past few years, primarily under pressure from the international community. On the whole it is becoming more deliberate, more consistent and better organised. The following changes could be singled out as the most important:

- After the disintegration of the USSR and the division of the military property of the Soviet Armed Forces, the Russian MoD made an inventory of SALW stocks.⁴⁴ Through the Government, the MFA is trying to exert pressure on the MoD to declassify some figures on SALW stocks.⁴⁵
- For the first time, the disposal of surplus SALW from MoD stocks has become a regular, annual process marked by steadily growing volumes. In 2002, the Government for the first time assigned funds to the MoD for the destruction of surplus SALW. The related budget items were listed as a separate item in the Government defence order. Spending on destruction was also included in the Government defence order for 2003,⁴⁶ approved by the Government on 16 January 2002.
- The MoD has suggested developing a single system of managing and disposing of the surplus SALW of all militarised agencies, to be located at its own facilities, as was the case in Soviet times. However, the ministry's representatives say that so far this proposal has not found much understanding among the leaders of other Government agencies possessing SALW, who prefer to dispose of their surplus arms independently.⁴⁷
- In May 2002 the Defence Committee of the State Duma submitted a draft law 'On Decommissioned Military Property' to the State Duma Council.⁴⁸ Its architects regarded it as a fundamental legislative document prescribing standard rules for the decommissioning and further use of redundant military property, including SALW, and guaranteeing a standard approach to arms disposal matters. The draft law also implies civil, administrative and criminal responsibility for failing to observe or violating laws and other regulatory acts on decommissioned military property disposal. The draft law is meant to make Government spending on surplus arms disposal more efficient, regulate the distribution of sales returns and foreign aid assigned for arms disposal. The bill is still being considered by the State Duma.

⁴³ 'Polozheniye o predstavlenii Rossiiskoi Federatsiyei informatsii, predusmotrennoi ramochnym dokumentom OBSE O lyogkom i strelkovom oruzhii,' Russian government press centre report. 30 July 2001, <<http://government.gov.ru>>

⁴⁴ Interview with an official from the Ministry of Economic Development and Trade of Russia, 24 December 2002.

⁴⁵ Interview with an official from the Russian MFA, 2 December 2002.

⁴⁶ Interview with an official from the Russian MoD, 16 December 2002.

⁴⁷ Ibid.

⁴⁸ Egorov, I, Mikhailov, V, 'Prodaite patrony', Gazeta, 30 May 2002.

Concluding remarks

The study of the disposal of surplus SALW in Russia shows that in the last few years the state policy on this issue has become clearer, more highly structured, and more meaningful. The destruction of surplus SALW is turning into a regular and state-controlled process. Both the Russian political and military leadership and society as a whole understand the need for a planned and motivated destruction of weapons surplus, including SALW. As the state domestic defence order has consistently grown in the past few years, it will hopefully include the future financing of SALW surplus disposal on a regular basis.

Unfortunately, the process of SALW disposal is still not centralised in Russia: various militarised agencies of the state operate independently in this respect. However, only the MoD receives financing for SALW disposal from the state budget. Furthermore, there are no national statistics on quantities of SALW destroyed by different agencies, nor are there uniform rules in this domain.

10

Belarus

Note: This chapter is almost wholly comprised of information supplied by the Belarusian Government.

Introduction

BELARUS DOES NOT PRODUCE SMALL ARMS AND LIGHT WEAPONS (SALW).

While active in other areas of the arms trade, notably the management of Soviet-era military hardware, communication equipment and control devices, it has shown no intention to enter into production of SALW or the manufacture of ammunition. Its standards of conduct in the SALW trade have been responsible. As Bertsc and Grillot, observe, “Belarusian officials...] remain committed[...] to the continued development, implementation and enforcement of non-proliferation export control policies, practices and procedures[...] Belarus has developed from scratch an export control system that is nearly compatible with Western common standards”.¹ Certainly its refusal to engage in the potentially highly profitable marketing of its surplus landmines has been exemplary.

Despite this record, since January of 2002 accusations have been made without public evidence about Belarus’ SALW export policies. In response to these interests and pressures, the Belarusian Government has been forthcoming with information but, to a degree, indeterminate in the mode of its presentation or the extent of its disclosure. When approached to supply data for this research study, there was a pronounced willingness, but the shortage of available time for reply made it difficult to offer information on policy in certain areas. These specifically had to do with itemisation of surplus stocks and full delineation of administrative structures. At the same time great willingness has been shown to pursue this path and the Government specifically wished to emphasise that given more time and the opportunity to participate in future surveys more information would be available. Belarus’ participation in the SCAF/ Voluntas Regional Technical Workshops initiative suggests that this nation may be able to play an important part in creating a model of transparency in SALW for the Former Soviet Union.

Stocks and determination of surplus

Government agencies holding SALW

Weapon holding is divided into two categories: military and law enforcement, each falling under the provenance of the Ministry of Defence (MoD) and the Ministry of the Interior (MoI) respectively. MOI agencies, for example, are the Border Police, the Road Police, State Security Services, Prison Service, Presidential Police and elements

¹ Bertsch, G, Grillot, S (eds), *Arms on the Market: Reducing the Risk of Proliferation in the Former Soviet Union*, (New York, Routledge, 1998).

of the Department of Emergency Services. Each of these agencies has a separate charter, which incorporates the right to possess firearms and use them for designated purposes.

Quantities of SALW and ammunition held by Government agencies

400,000 items of SALW and 48,255 tons of ammunition, including SALW ammunition. When we pressed the MoD for further itemisation we were told that it was not presently available. It is probable that this response rests on a policy decision that has yet to be made. As this is the first time that such information has been requested in this form it is likely that the security implications of itemisation are still being evaluated.

Civilian possession of SALW

Civilians are only allowed to hold hunting rifles and air guns. For a period of four months in 1991, the restriction on civilian gun ownership was lifted. The ban was put back in place in 1992. There have been several amnesties allowing the surrender of illegal firearms dating from both the 1991 period and the Second World War. There appear to be no statistic or estimates of illegal firearm ownership but the number currently in circulation is believed to be small.

Identification and definition of SALW surplus stocks

The body responsible for identifying and determining surplus stocks of SALW is the MoD. Common sense, on the other hand, suggests that other agencies, such as municipal police forces and the Border Police, for example, must also have a hand in calculating and defining their requirements both in terms of attrition of weaponry and the need for new technology. At present we do not have any information on the mechanisms and procedures governing these evaluations.

Calculations of military needs for SALW and ammunition are made by a set ratio of weaponry to military personnel. The National Security Council has promised to make this ratio available shortly. Weaponry which exceeds the calculated need (based on this ratio plus anticipated requirements for replacement) are deemed surplus, as well as weapons which are classified as obsolete.

Quantities of SALW and ammunition categorised as surplus stocks

Information given to us has been in terms of gross weight rather than in itemised quantities. As mentioned above, it is not clear whether this response is a reflection of actual practice or the result of a policy decision based on security or other considerations.

Differentiation between weapons in active service, weapons in reserve, and surplus weapons

There is a distinction made. Active weapons are those held by soldiers on active duty; an enlisted man has a rifle, while an officer has a side arm as well. Reserve weapons are held for replacement of standard issue items which are lost or damaged; arsenals hold specialised weaponry for use in times of emergency and conflict. Surplus weapons are comprised of weapons that are obsolete or in excess of need for both standard issue and reserve.

Reasons for surplus

The Government reply is that surplus stocks of SALW arose due to the military reductions. This, however, must be placed in historical context. With the decline in relations

between the Baltic States and the Soviet Union in the late 1980s it was deemed prudent by Soviet military authorities to draw their arsenals back across the border into the more secure territory of Belarus. With the collapse of the Soviet Union in 1991 these stockpiles were essentially abandoned. Thus they should be understood to be a collection of items unrelated in type and quantity to the perceived defence needs of Belarus – essentially an aleatory inheritance. As time has passed, moreover, most ammunition has expired and become unstable. The arms themselves are hardly state of the art and on the basis of technology and market value have become uncompetitive in terms of the international arms trade. As a result, their storage now constitutes a financial drain on the MoD, bringing with it no perceived benefit. On the contrary, these stockpiles are a double liability: poor security makes their contents vulnerable to theft by criminal elements while their mere presence opens the country to unsubstantiated accusations of illicit surplus arms sales.

Policies

Export control regime

Under Belarusian law the following legislative acts regulate the export of conventional armaments and related technologies:

- The law of Republic of Belarus Regarding export control (*Об экспортном контроле*) of 6 January 1998.
- Presidential Decree of the Republic of Belarus, of 11 May 1999, no 265: Provisions on granting legal entities of the Republic of Belarus the right to engage in foreign trade in specific goods (work, services). (*Положение о порядке предоставления юридическим лицам Республики Беларусь права на осуществление внешнеэкономической деятельности в отношении специфических товаров [работ, услуг]*).
- The law of the Republic of Belarus Regarding arms (*Об оружии*) of 13 November 2001.
- Laws of the Republic of Belarus on Arms nos 61–3 (effective 13 December 2001). These laws impose strict regulations on circulation production, purchasing, use, stockpiling, transfer, export, import) of small arms in Belarus.²
- Decision of the Council of Ministers of the Republic of Belarus, of 24 April 2002, no 522: Provisions for the trans-shipment of military goods through the territory of the Republic of Belarus (*Об утверждении положения о транзите товаров военного назначения через территорию Республики Беларусь*).
- Provisions of the Council of Ministers of the Republic of Belarus of 4 February 2003, no 133: Measures regarding the implementation of the state control of the import (export) of specific goods (work, services) (*Об осуществлении мер государственного регулирования ввоза [вывоза] специфических товаров [работ, услуг]*). The Republic of Belarus also approved legislative acts regulating the mode of transfer of arms within the Republic with a view to increasing the effectiveness of control of trans-shipment of military goods through its territory.
- Presidential Decree of the Republic of Belarus, 11 March 2003, no 94: Measures regarding the state regulation of military & technical co-operation and export control (*О некоторых мерах по регулированию военно-технического сотрудничества и экспортного контроля*).

² For the text of this law (and most of the other laws and decrees cited) in Russian see: <<http://www.ncpi.gov.be>>

Rules and laws applicable to the destruction of SALW and ammunition

The procedure for SALW destruction in the Republic of Belarus consists of disassembling the weapons, crushing their separate units and parts, and then melting them.

A special procedure has been developed for decommissioning and destroying each type of arms. They are disassembled in special state enterprises. Fifth Category SALW are disassembled in central military bases and arsenals with facilities for the destruction of these weapons. The disassembled muzzles and receivers from these weapons are melted in blast furnaces at the facilities of the Ministry of Industry of the Republic of Belarus, under the control of special commissions and with the participation of the representatives of military agencies. It is not specified which agencies these are. Transfer of SALW designated for destruction is strictly documented. The information required in these records includes factory serial numbers and year of issue of models. All units and details are included in the destruction report, which is signed and certified by the appropriate officials. Additionally, representatives of higher authorities verify the destruction of all parts of the weapons and the accuracy of the accounts. We do not have the positions or agency affiliations of these officials. The procedure for destruction of both surplus SALW and weapons confiscated from the public is the same.

Storage of SALW and ammunition

There is a strict system in the Republic of Belarus for the management of SALW stockpiles, ensuring adequate and reliable monitoring of their existence and safe storage when they are being transported or otherwise processed.

SALW are stored in installations and buildings protected by a double barbed wire fence. The system for protecting SALW stockpiles provides for the use of technical devices and an armed sub-unit for the physical protection of the territory, borders and depots and for the assignment of separate armed posts in places where SALW are stored with troops.

Documentary accounting for SALW is organised in managerial bodies and on site. The timing of checks on account keeping and SALW inventory is determined by the officials' work schedule, specified in orders given to military units. Account keeping and checking of accounting data on SALW by military units and managerial bodies are prescribed in routine report schedules.

The Presidential Decree of the Republic of Belarus Regarding arms (*Закон об оружии*), 13 November 2001, regulates modes of transfer of arms in the Republic of Belarus and is aimed at strengthening international co-operation in the control of crime and illicit spread and circulation of small arms. The rules of safe storage of SALW stockpiles are determined by manuals of management and established under the orders of the Defence Minister of the Republic of Belarus.

Questions of the centralisation of the places of storage are evaluated and determined on the basis of the priorities and interests of national security.

The system controlling SALW security is overseen by officials of a different level. It includes checking: the keys to the doors of the warehouse; the functioning of the alarm, which blocks doors, gates and ventilation hatchways; the functioning of communication systems; the maintenance of the metallic lattices protecting window apertures and ventilation hatchways; the functioning of perimeter and indoor lighting; the teams of sentry dogs; the condition of perimeter enclosures; and the equipment of doors with reliable bolts.

SALW are stored separately from ammunition. Weapons stored are not disassembled, working parts are not stored separately.

In each case of theft or loss the commander is obliged to report to his superior officer and control agencies, and to conduct a search for stolen or lost SALW. Each incident of theft or loss of SALW is examined by the officer in charge. A criminal investigation is

conducted which can result in prosecution. In 2001 there were no incidents of theft or loss of SALW.

Calculations of reserves, use and expense of SALW and ammunition are conducted under strict accounting procedures.

Stocktaking records are checked by inspection commissions on troop bases not less than once a year, and three to five times a year in major storage centres. Checking explosive and fire safety of SALW and ammunition is conducted annually by commissions of the MoD.

Structures and practices

The MoD is in charge of the disposal of surplus weapons held by various Government agencies as well as the disposal of collected and confiscated SALW and ammunition. The destruction of surplus is executed by state-owned agencies.

How many SALW and how many rounds of ammunition from surplus stocks have been stored?

All of the surplus items listed above are presently in storage.

How many SALW and how many rounds of ammunition from surplus stocks have been destroyed?

The table below was supplied to us through the Ministry of Foreign Affairs (MFA) and is based on figures from the MoD. Conspicuous by its absence is a figure for ammunition destroyed. We are, however, aware anecdotally of an intermittent programme to destroy expired stocks of ammunition.

Table 1: SALW Destroyed in 2001

Category and/or model	Decommissioned Arms (Units)
Small arms	
1. revolvers and semiautomatic pistols	453
2. rifles and carbines	232
3. automatic pistols	1131
4. automatic rifles	—
5. light machine-guns	71
Light weapons	
1. heavy machine-guns	—
2. light undermuzzle and heavy grenade launchers	—
3. portable anti-aircraft machine-guns	5
4. anti-tank rifles	—
5. recoilless guns	—
6. portable anti-tank missile systems	—
7. portable anti-aircraft missile systems	—
8. mortars under 100 mm calibre	—

How many SALW and how many rounds of ammunition from surplus stocks have been transferred (exported or sold to commercial dealers within the country)?

According to the most recent report to the OSCE there have been no exports of SALW or ammunition being transferred during 2001. There is no reason to believe that the situation has subsequently altered. There are no commercial SALW dealers in Belarus.

How are revenues from such sales distributed?

Since there are no sales there is no income. It is worth noting, however, that the use of revenue from other types of arms sales has been a politically contentious issue, often utilised by opposition political configurations who have made undocumented allegations of speculation. Given the current political culture in the country it is unlikely that these allegations will provoke and increase transparency, regarding the distribution of revenues. The Government's official position is that such funds are used for social programmes and capital renovations for social institutions such as hospitals and sports facilities.

How many SALW and rounds of ammunition have been retrieved from the civilian population?

This information, for unspecified reasons, was not made available to us. The figure, though, is likely to be small. Belarus does not have a gun-culture and most SALW in private hands were confiscated by the mid-1990s. In the Republic of Belarus, weapons are collected on a regular basis from the civilian population and are subsequently destroyed.

How many of these have been stored, destroyed and transferred?

We have been told informally that it is Government policy to destroy all weapons and ammunition confiscated from civilians.

Does the Government regularly review the surplus holdings?

Surplus holdings are reviewed annually under the auspices of the MoD and the National Security Council in compliance with, and exceeding the requirements of, OSCE reporting procedures.

International assistance

Unfortunately no assistance has been provided Belarus for the decommissioning of surplus weapons or the securing of stockpiles. However, both the MoD and the MFA welcome and seek such co-operation. This was explicitly stated at the November 2002 Technical Workshop in Minsk.

The Belarusian Government is eager to participate in any international initiative promoting transparency in SALW transfers and decommissioning. It is an active participant in the SCAF/Voluntas initiative of regional technical workshops on these issues. It is felt that this is a strong issue for Belarus and one that will help to promote its leadership in a wider Europe, while integrating it into the ongoing discourse already established in the West.

Reforms to implement the OSCE Document on SALW

On 15 July 2002, Presidential Decree of the Republic of Belarus no 383 was signed. The Decree concerns the Republic of Belarus' fulfilment of its international obligations under the OSCE Document on SALW. In accordance with what is laid out in the decree, the MFA, the MoD, the Ministry of Internal Affairs, the Ministry for Emergency Situations, the State Committee of Border Forces and State Customs Committee are determined as the agencies responsible for guaranteeing the fulfilment of the OSCE Document on SALW. The decree also regulates the obligation to prepare information on SALW questions to participating OSCE States, and the form this information should take. The adoption of the edict will make it possible for the Republic of Belarus fully to accomplish its obligations under the OSCE Document.

Remarks

The information provided by the Belarusian Government contains some internal contradictions. On the one hand, the Government claims that no export production takes place and no stockpiled weapons are sold. On the other hand, it states that any revenues from such sales are used to construct hospitals and sports facilities. It also states that alarms, multiple locks, inventories, perimeter lights, walls, guard dogs, back up generators and other measures are used to secure storage facilities, and that there are no incidents of theft or loss from these facilities. It seems odd to make the claim that an existent, sophisticated system functions well whilst also signalling an urgent need for international help to manage stockpile security. Poor security is not directly detailed in the report, but only suggested by the stated wish of the Government to receive international support for stockpile management. Assistance programmes could be better advocated by an increase in transparency about the difficulties with stockpile management hitherto elided by the Government.

Conclusion

Sami Faltas and **Vera Chrobok**

Note: While the authors of this chapter have built on the work of all Study participants, the chapter and its concluding section do not necessarily reflect the views of all participants.

Surveying the case studies¹

THE 10 CASE STUDIES provide a wealth of detail that cannot be reproduced in the following review. This concluding chapter will draw out points of general interest and comment on them. The key issue will be the extent to which the policies and practices of the 10 countries reviewed reflect the provisions of the OSCE Document (2000) concerning surplus small arms. As in the case studies, small arms ammunition is discussed here, as well as the weapons themselves, although as stated earlier, the former is not covered by the OSCE definition of small arms.

Stocks and determination of surplus

Agencies in charge of SALW stocks

In most countries, SALW and ammunition holdings are regulated by the Ministry of Defence (MoD) and the Ministry of the Interior (MoI). These two ministries generally account for military holdings as well as weapons held by federal and local police forces, and in the majority of cases they also regulate weapons held by customs service, border police, intelligence and security services.

Some exceptions stand out. In the UK, only the military and the police are authorised to hold SALW. All other agencies rely on the police to provide armed support for operations where necessary. By contrast, the Russian Federal Law on Arms allows about 15 federal agencies to arm their officials and some others to borrow combat small arms from MoI bodies for security operations. And in the USA, there are over 30 federal agencies, apart from the military, that may authorise their employees to carry firearms. For some of these US federal agencies this right can also be extended to contractors and subcontractors. In addition, there are over 17,000 state and local enforcement agencies authorised to carry firearms in the USA.

Size of stocks

The Armed Forces undoubtedly hold the largest share of SALW and ammunition, but only three of the ten countries actually provided numbers of military arms holdings. In most cases, the data is confidential and was not made available. The same usually

¹ All information on the ten countries provided in this chapter is taken from the individual case studies. Sources can be found in the relevant case studies.

holds for SALW and ammunition held by federal and local police forces. The countries that did report numbers were Norway, Switzerland and the USA. Norway was the only country reporting the amount of ammunition held by police forces, although information on military ammunition was not disclosed.

In some case studies, estimates were used, depending on the ratio of arms to soldiers. This ratio is usually classified. The Small Arms Survey 2002 assumes that on average, Armed Forces have 2.25 firearms per member. However, the Small Arms Survey also notes that “(w)hile this appears to lead to a reliable, conservative estimate of global military small arms, it can lead to a distorted impression of the stockpiles of individual countries”.² In practice, estimates on the arms-to soldier ratio differ widely.

In the USA, this ratio has been falling. In the early 1990’s, the US Army had 2.3 arms per uniformed member, as opposed to 1.3 today.³ The ratio for the entire American military is even lower. In 2001, the US military had 2,688,000 military firearms, a total of 2.5 million active and reserve personnel and 1.05 firearms per uniformed member.

In Germany, the amount of SALW held by the *Bundeswehr* (ie the military) probably lies somewhere between 570,000 and 1,220,000. The lower figure is based on the US ratio, and the higher one is based on the ratio used by the Small Arms Survey. Whatever the exact figure, it is almost certainly declining as force levels are being reduced.

Force reductions are currently taking place in Bulgaria, Germany and Romania, amongst other countries. Bulgarian wartime strength (including all reservists) will have fallen from 250,000 in 1999 to 100,000 by 2004. The Romanian Government is implementing similar reductions. Large stocks of SALW and ammunition stocks will become redundant as a result of these reductions.

Private possession of SALW

With two exceptions, the private possession of all SALW as defined by the OSCE Document is prohibited in all countries examined in this study. However, regulations on the civilian possession of non-military firearms vary widely, with some governments being stricter than others. The UK has introduced severe limits on the legal private possession of firearms since 1996. Further changes were confirmed in 2003 in response to a sharp increase in the criminal use of guns. The weapons held by radical groups in Northern Ireland represent a separate problem. The IRA in particular is believed to have a significant stock of SALW. In Germany, police officers are allowed to privately hold their weapons. There is evidence that police guns are sometimes sold back to arms manufacturers, who can then sell them in the private market, provided that the purchaser is in the possession of a gun licence.

Compared with the other eight countries, laws on the private possession of guns are less strict in Switzerland and the USA. In Switzerland, civilians may hold certain types of firearms, some of which fall under the OSCE definition, if they have previously obtained a licence. These are not recorded by the state. Retiring soldiers are allowed to keep their service weapons if these have been modified to fire single shots only. These holdings are recorded. Swiss Army reservists are required to store their service weapons and a certain amount of ammunition securely at home. The military also lend weapons to recognised shooting clubs.

In the USA, state and local rules on the private possession of firearms vary greatly. There are restrictions (but no general prohibition) on the private possession of military SALW. Under a 1994 presidential decree, new automatic rifles (as opposed to used ones) may not be sold to private citizens. Under the National Firearms Act, some military-type SALW may be privately held, but they must be registered. Private citizens and organisations possess something between 200 and 250 million firearms of all

² *Small Arms Survey 2002*. Geneva, 2002, p 75.

³ *Ibid.*

types, including 65 to 80 million handguns. There are over 80,000 federally licensed arms dealers, more than three times the number of McDonald's franchises, and 238 active federally licensed SALW manufacturers, which produced over 1.2 million handguns in 1998.

Identification of surplus

The responsibility of defining and identifying SALW surplus stocks generally lies with the national agencies that hold SALW. There usually is no central body for this purpose. Special planning directorates of the ministries, the military and police forces individually deal with their own equipment. In most cases, countries define SALW surplus as what remains after requirements for weapons in active and reserve service have been fulfilled. The needs of agencies are reviewed and compared with the available stocks. Anything not required for active service or as a reserve is deemed surplus. Some countries follow the indicators provided by the OSCE Document. Switzerland was the only country – among those reporting on the issue – to indicate that no precise formulas are used when determining small arms and ammunition requirements and the resulting amount of surplus. For some countries the formulas used to calculate the military need for SALW and ammunition is classified information, whereas others did not specifically discuss this issue. Although the formulas are said to be unclassified in Germany and Belarus, they were not made available. All ten countries reported that they review their surplus holdings regularly, most of them annually to this survey.

Conclusions

Reviewing these results, we get the impression that the identification of surplus in the countries reviewed mostly conforms to the practices required by the OSCE Document.

All ten governments reported that they distinguish between weapons in active service, weapons in reserve and surplus weapons, although in some cases this distinction was not entirely clear. Often weapons that are no longer in service remain in reserve for years before they are declared surplus and disposed of. In Russia, weapons in active service are occasionally transferred to foreign governments and non-state actors without being declared surplus. This is not consistent with the OSCE guidelines for the determination of surplus.

The causes of surplus are very similar across the ten countries: technologies and requirements change, forces are reorganised and reduced. In addition to the usual factors, the German Armed Forces in the early 1990s had to deal with the stocks of the East German Army. Belarus inherited arms stockpiles from the Soviet military that were, it states, unrelated in type and quantity to its perceived defence needs and not competitive in terms of the international arms trade. In Poland, the quest for interoperability with NATO forces led to arms being declared redundant.

In most cases, responsibility for the possession, storage, maintenance and use of service weapons is clearly assigned to a government agency. However in our opinion, practices like the lending of weapons to other state agencies (Russia), the sale of used military weapons to civilians (USA) and the private possession of service weapons by retired soldiers (Switzerland) and police officers (Germany) could potentially compromise effective weapons control.

Chapter Six of The Best Practice Handbook on SALW recommends assigning a weapon to individual members of military and security agencies that are required to be armed. There are clear advantages if this were to become standard practice. Weapons control will be enhanced if each soldier and police officer must account for

Policies on exports, stockpile management and destruction

his or her own weapon and ammunition. It is said that in the British Army, one of the quickest ways to end your military career is to lose your personal weapon.⁴

Export controls

During the last decade, arms export controls have become more strict and detailed, taking into account a variety of international and regional agreements. Several countries like Bulgaria and Romania, which have been accused of improper arms sales in the past, have sought to exercise greater control over their SALW trade by reforming their export control regimes. Consultation with EU member states and other countries in the region, as well as the prospect of joining the EU and NATO were clearly major factors in this process. The OSCE Document may also have contributed.

Since the late 1990s, reports of controversial arms sales involving Bulgaria and Romania have become rare. On the basis of the few reports available, it is hard to tell when the deliveries were made, and whether government officials were aware of them. In 2002, the Romanian National Agency for Export Control issued the country's first report on its arms exports. Although the level of information provided does not allow for a judgement on how Romania is applying its commitment at the national and international level the report represents a positive move towards increased public transparency.

Some causes for concerns remain. Even if states within or outside the OSCE are clearly determined to exercise tight control over their stocks of SALW and the disposal of surpluses, and have the institutions, laws and policies they need to turn this determination into action, they often lack the necessary personnel and the money they need for the implementation and execution of their policies. This is one of the areas in which international assistance is most needed (see below).

In most countries, the rules governing the export of surplus weapons are the same as for new arms. Germany has two different systems of arms export rules, one for 'war weapons' and one for other kinds of arms. Most SALW as defined by the OSCE are considered war weapons in Germany, but some of the smaller types are not. The restrictive political principles for arms exports proclaimed by the Berlin Government in 2000 are the same for war weapons and other weapons, but in the case of war weapons the Government is free to grant or refuse an export licence as it sees fit. Whereas in the case of other weapons, the Government must be able to make a case for withholding such a licence.

In Russia, only state-controlled designers and manufacturers of military-purpose goods as well as Government brokers have the right to export SALW. The Government brokers are in fact specialized federal companies owned by the state and established by presidential decree. Since November 2000, there is only one Government agent for arms exports, *Rosoboronexport*. Russia's current system of arms export control gives the President almost unlimited power to determine arms export policy. Various ministries and departments are consulted on applications for arms export licences. Neither the companies nor the Government agencies are required to report to Parliament and the public. A reliable source in the Russian Government confirms that while in Soviet days, arms exports were 90 percent politics and 10 percent commerce, this ratio has been reversed since the end of communist rule. In Russia, it is our impression that the diversity of controlling agencies and the vagueness of criteria for decision-making stand in the way of transparency and accountability.

The Arms Export Control Act in the USA authorises the US President to control the export and import of controlled munitions, including SALW. In 1996, the Defense Authorization Act was amended to prevent the Army from destroying "collectable"

⁴ Personal Communication to Sami Faltas by a retired officer, 10 July 2001.

guns. This amendment has been passed every year since, creating a growing stockpile of surplus weapons that gun advocates hoped would be made available for sale. A 1994 presidential decree prohibits the sale of new automatic rifles to the American public, but not second-hand weapons. In 1995, the Army began transferring its surplus stocks to foreign governments under the Excess Defense Articles Program. The main beneficiaries were the Baltic States, Israel (which got the arms for free) and the Philippines. There is a blanket prohibition on retransfer without US Government permission of military equipment supplied by the US, and there is no evidence to suggest that the above-mentioned recipients did retransfer such equipment.

Stockpile management

Strict and detailed rules seem to be in place in all ten countries in our survey to ensure the safety and security of SALW storage and transportation. That is not to say that the rules are always fully implemented and enforced. In most cases, every agency holding SALW has its own rules and instructions, and stores arms and ammunition in special facilities, such as military depots or police storage facilities. Losses or thefts of SALW from the storage sites are reported and investigated immediately. Figures on thefts or losses are not available in most cases, but statistics published in Germany for instance suggest they are rare occurrences. Belarus reported no incidents of theft or loss in 2001, but the Government admits that it needs international assistance to address challenges related to the stockpile of surplus SALW inherited from the Soviet Army.

Advanced record-keeping procedures have been established in Germany, Norway and the USA. Reportedly, a national weapons registry of private firearms will soon be established in Norway. The US military has a comprehensive inventory control system that tracks every firearm from its initial receipt to its final disposal and records them in the Department of Defense's (DoD) Central Registry. The Bulgarian system has been improved by the introduction of the 'Tracker' system, donated by the USA, to provide centralized access to information on weaponry for stockpile management and export control.

Destruction

Both military and police authorities have special regulations for the destruction of surplus weapons. In Germany for example, the War Weapons Control Act provides rules for demilitarisation, including rules for the destruction of small arms. For weapons held by the US military, rules for destruction are laid down by the DoD's Defense Demilitarization Manual.

The most commonly used destruction techniques for military and police weapons are cutting, crushing and melting.

Surplus weapons for destruction are sent to specific locations. The US Government has a large destruction facility at the Rock Island Arsenal in Illinois. In Bulgaria, destruction is carried out by the state-owned company *Terem*, which is located next to a large military depot that serves as a collection point and temporary storage facility.

Destruction of surplus SALW is mostly carried out by both state-owned agencies and private contractors, often working together. In Germany for instance, the Army hires a hydraulic press with shears from a private contractor for a small fee, uses the press to reduce weapons to scrap and leaves the scrap for use by the contractor.

Disposal practices

Disposal of surplus stocks

Once surplus is identified, the disposal of surplus SALW and ammunition stocks is generally carried out by the MoD or the military for military weapons, and by the MoI

for police weapons. Special departments or agencies within the military are responsible for this process. However, in Bulgaria, the MoD disposes of surplus SALW stocks from both the military and the police.

There is considerable diversity in the disposal policies and practices of the ten countries studied. Usually, countries do not follow one specific policy. Disposal is mostly carried out by a combination of destruction, storage and export.

Our case studies suggest that Germany and Norway appear to follow the OSCE Document closely in terms of surplus SALW destruction. Over the last five to six years, Norway has not exported any SALW or ammunition from military or police stocks. However, old models of rifles were sold on the domestic market to licensed persons for hunting and marksmanship. Ammunition was not sold on the domestic market.

During the 1990s, Germany had to deal with large SALW stockpiles inherited from the East German National People's Army (NVA). At the same time, it reduced the stocks of the *Bundeswehr*. Now the Armed Forces of united Germany, the *Bundeswehr* were originally the West German Armed Forces. Although much of the weaponry (some 1.5 million arms from NVA and *Bundeswehr* stocks) was destroyed, large quantities were exported. The number of surplus SALW exported by unified Germany is not known, but the country is believed to have sold or given away at least 50,000 tons of ammunition from NVA stocks alone. In recent years, the *Bundeswehr* has made a habit of destroying its surplus SALW, but not the associated ammunition. This can be exported, though military sources say most of it will be expended in training.

In the United Kingdom, surplus SALW from military stocks are disposed of by the Disposal Services Agency (DSA) within the MoD. The DSA enjoys considerable autonomy over its finances and planning, and one of its major aims is to generate revenue from the sale of surplus equipment and to open markets for further agreements. The objectives of the DSA are therefore in conflict with the OSCE principles governing the disposal of surplus SALW. In 2000, the UK Government announced that surplus small arms (excluding automatic weapons) would be made available for export. The UK Government routinely destroys all automatic firearms that are declared surplus. The same holds for all surplus police weapons.

The Romanian Government plans to destroy surplus SALW with the support of external funding. In 2001, 195,510 SALW were deemed surplus. The Romanian Government is currently working with Norway and the USA on a project for destroying its surplus stocks. At present, due to a lack of finances, surplus weapons are mostly kept in military or police storage facilities.

The same holds for Belarus. Surplus weapons are presently in storage, which constitutes a financial drain on the MoD. The Government states that there were no exports during 2001, and has made no indication that the situation has subsequently changed.

Yet another practice is followed by the USA. The current practice in the USA is to find alternative uses for SALW surpluses. Any weapons identified as surplus are screened through the DoD Inventory Control Point to decide their destination. The first consideration is whether the items can still be used by a Government agency. Although the Defense Demilitarization Manual forbids the sale of weapons to commercial firms for resale to foreign governments, it is not uncommon to sell such weapons to the American public. Vintage weapons are sold "for marksmanship". Finally, surplus military weapons are transferred to federal and state law enforcement agencies. The remaining items are earmarked for destruction. Between 1995 and early 1998, the US Government exported some 320,000 redundant SALW to friendly governments. In 2001, exports of some 65,000 surplus guns were authorised. This accounts for most, but by no means all, of the SALW stocks that became redundant after the end of the Cold War. In 2002, a large part of the approximately 18,000 surplus military rifles discarded were transferred to civilian ownership through the marksmanship programme. In the same year,

12,000 surplus military weapons were destroyed, plus an unspecified number of weapons taken from the population.

Poland also exchanges weapons between agencies, thus the number of surplus weapons that are destroyed is very small. In 2001, less than 15 items of surplus SALW were destroyed. According to the general rules for arms exports, surplus SALW can be exported. The same is true for Switzerland.

In Russia, surplus SALW are either exported through *Rosoboronexport*, sold domestically after modification for service or civilian use, or destroyed. Arms currently declared surplus are nearly always antiques dating back to the Second or First World War, though many of them are in good working order and could be put to legitimate or illegitimate use if transferred. Disposal as a separate process began in 1994, but no funds were allocated for this purpose. Apparently, it was believed that the expenses of SALW disposal would be covered by the sale of recycled materials. Between 2002 and 2005, the Armed Forces are planning to decommission one million SALW, as well as 140 million rounds of ammunition for foreign-made small arms in Army stocks. An MoD official says that since the beginning of the planned disposal, there has not been a single case of surplus SALW sales to a foreign buyer. However, *Rosoboronexport* does export SALW from Russian Army stocks that have not been declared surplus, such as anti-tank missile systems for the Northern Alliance in Afghanistan in 2001 and MANPADS equipment for Malaysia in 2002. In 1999, the MoD transferred 4,000 SKS combat carbines from its operational stocks to militia units in Dagestan.

Confiscated SALW

Seized or confiscated weapons usually fall under the responsibility of the MoI and the police forces. Again, Bulgaria follows a different practice, with the MoD disposing of confiscated weapons. Most countries destroy weapons that are confiscated from civilians, unless they are required for evidence in legal proceedings. A certain amount may also be kept for training, forensic analysis or display in museums, or stored for future disposal.

In some US states, weapons confiscated by the police are sold on the open market. Although numbers vary widely, each year police forces collect large numbers of illicit weapons from civilians. In Poland, the police confiscate around 2,500 firearms and around 100,000 rounds of ammunition annually.

International assistance

Most of the countries we examined are involved in international assistance with regard to the elimination of surplus weapons. Bulgaria and Romania are recipients of international financial and technical support. Both countries co-operate closely with Norway and the USA on the destruction of large quantities of surplus weapons. In addition, Bulgaria received a 'Tracker' system from the USA for record keeping. Bulgaria has large destruction facilities and is interested in destroying equipment from other countries.

Neither Belarus nor Russia currently receives any foreign assistance for the disposal or management of SALW, but they are seeking co-operation and financial aid.

Germany, Norway, the UK and the USA are major providers of international assistance related to curbing proliferation and misuse of SALW.

Norway is currently involved in almost 20 programmes of this type, mostly in Africa and the Balkans. The Norwegian Government spends about US\$2 million per year on these, with a focus on SALW destruction. It also funded this study on the disposal of surplus SALW stocks in OSCE countries.

Summing up

Disposal practices vary considerably, both from country to country and from agency to agency. In the USA the emphasis is on finding alternative users for redundant SALW within the Government, in the population, or abroad. Initially, at least, this is a thrifty approach, but when it leads to military weapons, even automatic arms, being made available to civilians, and arms being exported to governments and non-state actors involved in violent conflict, we would in most instances consider it problematic. Even though there is no evidence of US surplus stocks being exported to conflict zones, the policy of exporting surplus is not consistent with the OSCE Document, which recommends the destruction of small arms surplus.

We also doubt whether the UK policy of seeking to export surplus military stocks of SALW is consistent with the OSCE Document. This also contrasts sharply with the policy of destroying all redundant British police weapons.

In most cases, exports or sales of SALW generate revenue for the exporting (selling) state. While there may be countervailing costs as a result of the misuse of the SALW in question, these are normally borne by the importing state or population. It could therefore be argued that it is rational and cost-effective for a particular state to export or sell SALW, even to questionable recipients or regions of conflict. However, from a multilateral perspective, such sales are almost always irresponsible and may create net costs for all states taken together. This includes the costs incurred by a government to counter the adverse effects of its own transfers. In many cases, destruction would have been cheaper. Initially, therefore, the destruction of surplus SALW stocks may seem a costly option, but taking a longer (and broader) view, it is often the most cost-effective method.

Russia's policy of selling surplus SALW through its arms export agency is a cause for concern in our opinion, especially as huge stocks of weapons and ammunition are being released for disposal between 2002 and 2005. This concern is heightened by the Russian practice of taking arms out of active service and exporting them, which in our view is in conflict with the letter and spirit of the OSCE Document.

In many other OSCE countries, there is a welcome trend for governments to destroy their surplus SALW, the method of disposal recommended by the OSCE Document. Yet, although their stated policy is to destroy surplus stocks, actual practice does not always reflect this policy. Germany has virtually stopped exporting surplus military small arms and light weapons and is destroying them instead, in a process that we would consider effective, cheap and fairly transparent. However, this policy does not apply to surplus military stocks of SALW ammunition and auxiliary equipment. Besides, the police forces of the autonomous German provinces in some cases sell off their redundant weapons instead of destroying them.

Some states of Central and Eastern Europe have other problems disposing of their surplus SALW by destruction, because they claim they lack the necessary resources. While the destruction of most small arms and light weapons – per unit – is cheap, and easy as far as the technical process is concerned, costs can be considerable if large numbers of weapons need to be destroyed. In such cases, countries benefit considerably from international financial and technical assistance.

When it comes to confiscated weapons, most OSCE states seem to destroy them. It is regrettable in our opinion that some police forces in the USA sell such weapons on the open market, thereby going against the recommendation of the OSCE Document.

Reforms

We found little direct evidence of reforms being undertaken or new measures introduced by the ten countries to implement the OSCE Document. Germany and Norway considered their policies consistent with the Document when it was adopted in 2000,

though Germany says that its definition of surplus is guided by OSCE criteria. The German Government acknowledges the need for more consistent and transparent reporting on SALW, bringing federal and provincial data together in a coherent form.

Unfortunately, we were not able to obtain a clear and general picture of recent and planned reforms, much less determine to what extent these were triggered by the OSCE Document.

Recommendations

Definition and scope

- Participating States should strive to agree on the scope of the measures agreed in the OSCE Document. Legally, politically and logically, it seems best to take the view that with the exception of the sharing of information, the OSCE Document could be applied universally.
- Participating States should consider adding ammunition and explosives to their definition of SALW, as in the 1997 definition of the UN Panel of Experts, which the OSCE took as a model, but did not fully apply.
- Participating States should consider applying the provisions of the OSCE Document to all categories of items that fall under the OSCE definition of SALW, irrespective of the military, police or other context in which they are used.

Transparency and accountability

- We encourage participating States to make their submissions to the OSCE Information Exchange on SALW public.
- The Best Practice Handbook should be a living document, regularly amended, improved and updated to provide the best possible guidance. Chapter Six on surplus stocks needs to be expanded to cover the disposal of surplus stocks.
- Participating States should consider exchanging information on the appropriate levels of weapons and ammunition stocks for military, police and other armed government units and publish appropriate standards in the Best Practice Handbook.
- Participating States should consider regularly reporting to each other on their use of the Best Practice Handbook.
- Military and security agencies should hold their members personally accountable for service weapons issued for their use.

Control mechanisms

- Many governments within and outside the OSCE need assistance in developing, staffing and running the institutions for the effective control of arms exports.
- Many governments within and outside the OSCE need assistance in stockpile management. While most governments have rules for safety, security, record-keeping, and so forth, many are unable to implement and enforce them effectively and consistently.
- The OSCE member states should consider setting up an assistance fund for arms export control and stockpile management.
- It is not advisable in our opinion for governments to permit the private possession of SALW as defined by the OSCE, much less for them to transfer or to lend surplus military SALW to private users.

Disposal practices

Destruction is the only way in which surplus and collected weapons are permanently removed and cannot re-enter the supply chain. Most OSCE states seem capable of destroying surplus stocks of SALW without international assistance, and many are doing so.

- When government stocks of SALW become redundant, and there is no alternative official use for them, it is better to destroy them rather than to store them indefinitely, transfer them to private users, or export them.
- Participating States should, where appropriate, develop national policies for the disposal of surplus SALW stocks and report them in the OSCE Information Exchange.
- The growing practice of destroying all confiscated SALW is welcome and should be encouraged as standard practice throughout the OSCE.
- We welcome the trend toward mutual assistance between OSCE countries in dealing with surplus SALW and encourage governments to focus these efforts on the areas where help is most urgently required.

Questionnaire: Disposal of surplus small arms in the OSCE countries

The following questions serve as a basis for our international study on the management and disposal of surplus stocks of small arms and light weapons (SALW). The study attempts to analyse past, present and future policies and practices.

1. Past and present policies and practices

Please try to answer each question with respect to two different time periods:

- Before the adoption of the OSCE SALW Document: 1996–2000
- Around the time of the adoption/Current Practices: End of 2000–2002

Stocks and determination of surplus

- Which government agencies in your country hold SALW?
- How many SALW and how many rounds of SALW ammunition are held by government agencies?
- Is it possible in your country for private people and organizations to legally hold SALW as defined by the OSCE? If so, how many weapons are held legally?
- Which government agency is authorized to define and identify surplus stocks of SALW?
- How are surplus stocks of SALW defined? For instance, does your government use formulas by which to calculate the military need for SALW and ammunition and hold stocks to meet that need?
- How many SALW and how many rounds of ammunition have been categorized as surplus stocks?
- Does the government distinguish between weapons in active service, weapons in reserve, and surplus weapons?
- How does/did surplus in SALW and ammunition arise (eg technological change, changing missions, military reductions)?

Structures and practices

- Who is in charge of the disposal of surplus weapons held by various government agencies?
- Who is in charge of the disposal of collected and confiscated SALW and ammunition?
- Is the destruction of surplus executed by state-owned agencies or private contractors?
- How many SALW and how many rounds of ammunition from surplus stocks have been stored?
- How many SALW and how many rounds of ammunition from surplus stocks have been destroyed?
- How many SALW and how many rounds of ammunition from surplus stocks have been transferred (exported or sold to commercial dealers within the country)?
- How are revenues from such sales distributed?
- How many SALW and rounds of ammunition have been retrieved from the civilian population?
- How many of these have been stored, destroyed and transferred?
- Does the government regularly review the surplus holdings?
- Is the government involved in international assistance with regard to the elimination of surplus weapons (as a donor or a recipient)?

Policies

- Which rules and laws apply to the export of SALW and ammunition?
- Which rules and laws apply to the destruction of SALW and ammunition?
- Which rules apply to the storing, registration, transport and management of government stockpiles of SALW and ammunition?

2. Reforms and future policies

These questions explicitly refer to the further adoption of the OSCE Document on SALW. Please indicate what measures have been and will be taken to implement the principles (with regard to the disposal of surplus stocks) outlined in the document.

- Has the government undertaken any reforms to implement the OSCE Document on SALW? If so, which?
- Which changes in policy, if any, are underway in the management and disposal of surplus stocks of SALW?
- Will the government in the future be engaged in international co-operation and assistance programmes with regard to the elimination of SALW?

OSCE Document on Small Arms and Light Weapons, 24 November 2000 (extracts)

Section IV: management of stockpiles, reduction of surpluses and destruction

Introduction

1. Effective action to reduce the global surplus of small arms, coupled with proper management and security of national stockpiles, is central to the reduction of destabilizing accumulations and uncontrolled spread of small arms and the prevention of illicit trafficking. This section sets out the norms, principles and measures through which participating States will effect reductions where applicable and promote “best practice” in managing national inventories and securing stockpiles of small arms.

(A) Indicators of a surplus

1. It is for each participating State to assess in accordance with its legitimate security needs whether its holdings of small arms include a surplus.
2. When assessing whether it has a surplus of small arms, each participating State could take into account the following indicators:
 - (i) The size, structure and operational concept of the military and security forces;
 - (ii) The geopolitical and geostrategic context including the size of the State’s territory and population;
 - (iii) The internal or external security situation;
 - (iv) International commitments including international peacekeeping operations;
 - (v) Small arms no longer used for military purposes in accordance with national regulations and practices.
3. The participating States should carry out regular reviews and in particular in connection with:
 - (i) Changes of national defence policies;
 - (ii) The reduction or re-structuring of military and security forces;
 - (iii) The modernization of small arms stocks or the acquisition of additional small arms.

(B) Improving national stockpile management and security

1. The participating States recognize that proper national control over their stockpiles of small arms (including any stockpiles of decommissioned or deactivated weapons) is essential in order to prevent loss through theft, corruption and neglect. To that end, they agree to ensure that their own stockpiles are subject to proper national inventory accounting and control procedures and measures. These procedures and measures, the selection of which is at the discretion of each participating State, could include:
 - (i) The appropriate characteristics for stockpile locations;
 - (ii) Access control measures;
 - (iii) The measures needed to provide adequate protection in emergency situations;
 - (iv) Lock-and-key and other physical security measures;
 - (v) Inventory management and accounting control procedures;
 - (vi) The sanctions to be applied in the event of loss or theft;
 - (vii) The procedures for the immediate reporting of any loss;
 - (viii) The procedures to maximize the security of small arms transport;
 - (ix) The security training of stockpile staff.

(C) Destruction and deactivation

1. The participating States agree that the preferred method for the disposal of small arms is destruction. Destruction should render the weapon both permanently disabled and physically damaged. Any small arms identified as surplus to a national requirement should, by preference, be destroyed. However, if their disposal is to be effected by export from the territory of a participating State, such an export will only take place in accordance with the export criteria set out in Section IIIA, paragraphs 1 and 2 of this document.
2. Destruction will generally be used to dispose of illicitly trafficked weapons seized by national authorities, once the legal due process is complete.
3. The participating States agree that the deactivation of small arms will be carried out only in such a way as to render all essential parts of the weapon permanently inoperable and therefore incapable of being removed, replaced or modified in a way that might permit the weapon to be reactivated.

(D) Financial and technical assistance

1. The participating States agree to consider, on a voluntary basis and in co-operation with other international organizations and institutions, technical, financial and consultative assistance with the control or the elimination of surplus small arms to other participating States that request it.
2. The participating States agree to support, in co-operation with other international efforts and in response to a request from a participating State, stockpile management and security programs, training and on-site confidential assessments.

(E) Transparency measures

1. The participating States agree to share available information on an annual basis not later than 30 June, beginning in 2002 on the category, sub-category and quantity of small arms that have been identified as surplus and/or seized and destroyed on their territory during the previous calendar year.
2. The participating States will, by 30 June 2002, exchange information of a general nature about their national stockpile management and security procedures. They will also submit updated information when necessary. The Forum for Security Co-operation will consider developing a “best practice” guide, designed to promote effective stockpile management and security and to guarantee a multi-level safety system for the storage of small arms taking into account the work of other international organizations and institutions.
3. The participating States also agree to exchange information by 30 June 2001 on their techniques and procedures for the destruction of small arms. They will also submit updated information when necessary. The Forum for Security Co-operation will consider developing a “best practice” guide, of techniques and procedures for the destruction of small arms taking into account the work of other international organizations and institutions.
4. As a confidence-building measure participating States agree to consider on a voluntary basis invitations to each other, particularly in a regional or subregional context, to observe the destruction of small arms on their territory.

Section III: common export criteria (paragraphs 1–2)**(A) Common export criteria**

1. The participating States agree to the following criteria to govern exports of small arms and technology related to their design, production, testing and upgrading, which are based on the OSCE document on “Principles Governing Conventional Arms Transfers”.
- 2.(a) Each participating State will, in considering proposed exports of small arms, take into account:
 - (i) The respect for human rights and fundamental freedoms in the recipient country;
 - (ii) The internal and regional situation in and around the recipient country, in the light of existing tensions or armed conflicts;
 - (iii) The record of compliance of the recipient country with regard to international obligations and commitments, in particular on the non-use of force, and in the field of non-proliferation, or in other areas of arms control and disarmament, and the record of respect for international law governing the conduct of armed conflict;
 - (iv) The nature and cost of the arms to be transferred in relation to the circumstances of the recipient country, including its legitimate security and defence needs and to the objective of the least diversion of human and economic resources to armaments;
 - (v) The requirements of the recipient country to enable it to exercise its right to individual or collective self-defence in accordance with Article 51 of the Charter of the United Nations;
 - (vi) The question of whether the transfers would contribute to an appropriate and proportionate response by the recipient country to the military and security threats confronting it;
 - (vii) The legitimate domestic security needs of the recipient country;
 - (viii) The requirements of the recipient country to enable it to participate in peacekeeping or other measures in accordance with decisions of the United Nations or the OSCE.
- (b) Each participating State will avoid issuing licences for exports where it deems that there is a clear risk that the small arms in question might:
 - (i) Be used for the violation or suppression of human rights and fundamental freedoms;
 - (ii) Threaten the national security of other States;
 - (iii) Be diverted to territories whose external relations are the internationally acknowledged responsibility of another State;
 - (iv) Contravene its international commitments, in particular in relation to sanctions adopted by the Security Council of the United Nations, decisions taken by the OSCE, agreements on non-proliferation, small arms, or other arms control and disarmament agreements;

- (v) Prolong or aggravate an existing armed conflict, taking into account the legitimate requirement for self-defence, or threaten compliance with international law governing the conduct of armed conflict;
- (vi) Endanger peace, create an excessive and destabilizing accumulation of small arms, or otherwise contribute to regional instability;
- (vii) Be either re-sold (or otherwise diverted) within the recipient country or re-exported for purposes contrary to the aims of this document;
- (viii) Be used for the purpose of repression;
- (ix) Support or encourage terrorism;
- (x) Facilitate organized crime;
- (xi) Be used other than for the legitimate defence and security needs of the recipient country.

(c) In addition to these criteria, participating States will take into account the stockpile management and security procedures of a potential recipient country.

3. Participating States will make every effort within their competence to ensure that licensing agreements for small arms production concluded with manufacturers located outside their territory will contain, where appropriate, a clause applying the above criteria to any exports of small arms manufactured under licence in that agreement.

4. Further, each participating State will:

- (i) Ensure that these principles are reflected, as necessary, in its national legislation and/or in its national policy documents governing the export of conventional arms and related technology;
- (ii) Consider assisting other participating States in the establishment of effective national mechanisms for controlling the export of small arms.

OSCE Handbook of Best Practices on Small Arms and Light Weapons

Chapter 6: definition and indicators of a surplus of small arms and light weapons

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I. Methods for identification of surpluses

A. Aim

1. It is for each participating State to assess its own security situation in accordance with its legitimate security needs and to decide on the size and structure of *military and security forces*¹ in order to achieve its constitutional tasks, and how these forces should be equipped.
2. Given that the assessment of the national security situation remains a national responsibility, secondary sources concerning the definition of a surplus are not openly available. Although the concept of surplus is mentioned in various documents (see paragraphs II:2 and II:3 below), the point at which weapons stocks exceed the threshold of necessity and become surplus is not always easy to recognize. Indicators of surplus, criteria for military and security forces planning and parameters for equipping these forces are, therefore, described in this chapter with the aim of filling this gap.

B. Scope

3. The term military and security forces used throughout this chapter comprises the entire range of forces, at all levels, that are serving under the control of each participating State. These forces provide the means for exercising the State's monopoly of force in accordance with the State's constitutional requirements.
4. This chapter applies to the categories of small arms and light weapons (SALW) agreed by participating States in the OSCE Document on Small Arms and Light Weapons;² it does not apply to non-military grade weapons and ammunition not covered by the OSCE Document. Certain recommendations contained in the present chapter can, however, be applied to non-military grade weapons and ammunition by States, on their own initiative, with a view to integrating them in the assessment and planning process.
5. For the purposes of this guide, it is assumed that governments are the only surplus-defining authorities.³

C. Methodology

6. Throughout this chapter, recent processes and programs to restructure the Armed Forces of participating States have been examined. The introduction of new organizational principles certainly necessitates the identification of surplus SALW, but at the same time, it renders the quantification of surplus SALW more complex. Such an undertaking entails that the planning of security forces must also be taken into account as part of participating State's determination of the quantity of SALW needed.
7. Data provided by participating States for the information exchange mandated by the OSCE Document on SALW have been duly evaluated.

D. Terminology

8. (a) Depending on their state of readiness, categories of military forces are hereinafter referred to as *active units* and *reserve units*. Both types of units are fully equipped with SALW needed for wartime. Reserve units may only have very limited personnel strength, and in some cases they have no standing personnel at all.
- (b) The term reserve stock describes the quantity of SALW stockpiled to cover additional replacement or repair needs, including weapons which are in transit to or from manufacturers or are under civilian maintenance, but not comprising those weapons which are stored awaiting issue to reserve unit personnel.⁴ In peacetime, the reserve stock is only used in order to replace SALW of

1 Terms first referred to in italics are further defined in the Glossary.

2 See the footnote to preambulatory paragraph 3 of the OSCE Document on Small Arms and Light Weapons, adopted on November 24, 2000, at the 308th Plenary Meeting of the OSCE forum for Security Co-operation and numbered FSC.DOC/1/00.

3 Kopte, S, Wilke, P, 'Coping with Surplus Weapons,' (Bonn International Center for Conversion Brief 3) <<http://www.bicc.de/weapons/brief3/chap2>>

4 The reserve stock can include on the basis of an initial analysis a number of weapons to cover the results of a later operational re-evaluation avoiding future acquisitions.

active units or reserve units that are in need of repair are confirmed to have been lost, or have been taken out of service due to an irreparable damage. If a weapon not stockpiled in temporary surplus stocks becomes permanently unavailable, a replacement weapon must be procured, in order to ensure that the reserve stock remains constant at the level required by the military or security forces. In wartime or during a period of crisis, the reserve stock serves to replace SALW destroyed or lost in combat.

(c) For the purposes of this chapter, these three quantities of SALW – those belonging to active units, those belonging to reserve units and the reserve stock – are known combined as the *defence stockpile*. This *defence stockpile* is therefore the sum of all SALW assessed as needed for all defence and security needs of the state's military and security forces following a national risk assessment and planning process.

9. Throughout this chapter, *surplus* is defined as the quantity of SALW exceeding the defence stockpile, ie the total number of (a) SALW assessed nationally as needed by active and reserve units of all military and security forces, and of (b) SALW in the reserve stock.

10. The *defence stockpile* and the *surplus* combined form the state-owned SALW armament.

11. This surplus or excess quantity should:

- (a) Officially be declared surplus to defined requirements;
- (b) Taken out of service;
- (c) Stored separately; and
- (d) Preferably be destroyed.

II. International commitments and references

1. A number of international commitments and references are relevant for some, if not all, OSCE participating States.

2. In the OSCE Document on SALW agreed in November 2000, OSCE participating States recognized that the excessive and destabilizing accumulation and uncontrolled spread of small arms are problems that have contributed to the intensity and duration of the majority of recent armed conflicts. In this context, participating States committed themselves to a set of specific norms, principles and measures, including those on surplus listed in Section IV of the Document. The indicators of the existence of a surplus enumerated in this section representative the most comprehensive criteria agreed so far in any international document.

3. In section II, paragraph 18 of the United Nations Program of Action on SALW,⁵ agreed upon at the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects in July 2001, States undertook the following:

“[t]o regularly review, as appropriate, subject to the respective constitutional and legal systems of States, the stocks of small arms and light weapons held by Armed Forces, police and other authorized bodies and to ensure that such stocks declared by competent national authorities to be surplus to requirements are clearly identified, that programs for the responsible disposal, preferably through destruction, of such stocks are established and implemented and that such stocks are adequately safeguarded until disposal.”

The UN Program of Action does not, however, include a definition of, or indicators to identify a surplus of SALW.

4. Efforts undertaken within the European Union have also been aimed at combating and eradicating the destabilizing accumulation and spread of SALW, in particular by reducing existing accumulations of these weapons and their ammunition to levels consistent with countries' legitimate security needs. Article 4 of Council Joint Action 2002/589/CFSP,⁶ commits EU member states to building consensus in relevant international fora, and in a regional context as appropriate, on the following surplus-related principles and measures:

- (a) Assistance as appropriate to countries requesting support for controlling or eliminating surplus small arms and their ammunition on their territory, in particular where this may help to prevent armed conflict or in post-conflict situations;
- (b) The promotion of confidence-building measures and incentives to encourage the voluntary surrender of surplus or illegally-held small arms and their ammunition, such measures to include compliance with peace and arms control agreements under combined or third party supervision;
- (c) The effective removal of surplus small arms encompassing safe storage as well as quick and effective destruction of these weapons and their ammunition, preferably under international supervision.

However, definitions or indicators to identify surplus are lacking in the European Council Joint Action.

⁵ UN Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UN Document A/CONF.192/15).

⁶ Council Joint Action 2002/589/CFSP of July 12, 2002 on the European Union's contribution to combating the destabilizing accumulation and spread of small arms and light weapons and repealing Joint Action 1999/34/CFSP; OJ 2002 L 191/1.

5. Recent G8 Summits have recognized the seriousness of problems resulting from uncontrolled SALW and integrated this issue in its concept to fight international terrorism.

III. Legislation

1. International law does not offer a definition of surplus. In municipal arms procurement law⁷, indirect regulation of surplus may be found in stipulations requiring arms procurement authorities to balance their orders against existing stocks.

2. In this respect, Parliaments play an important role in defining size, structure and equipment of military and security forces and, thus, in dealing with the issue of surplus. One effective tool is budgetary control of decisions concerning the procurement of new equipment of military and security forces. If necessary, this control function can be utilized by all parliamentary bodies that take decisions concerning the equipment of military and security forces.

3. Countries could empower specifically established or existing national bodies in order to annually review the state-owned SALW armament to ascertain possible surpluses

IV. Surplus indicators and procedures

A. Criteria for military and security forces planning

1. Regularly updated national security and defence policy documents are a prerequisite at the beginning of the planning process. These documents should provide basic assessments on the current and future external and internal security situation based on each State's strategic and geopolitical context. They should also contain all relevant rules of national and international law, all international commitments of military and security forces and integrate all international obligations.

2. In post-conflict situations, a significantly updated assessment of the current and future external and internal security situation may be required.

3. Planning processes should provide enough time to execute the planning and implementation phases of any possible adjustments of the military and security forces to new situations. Rapidly changing situations could also result in new planning processes as well as in adjustments of this process in any time.

4. Once the planning process for military and security forces has been completed, the operational concept of military and security forces should determine the size, structure and equipment of these forces in order to achieve their constitutional goals.

B. Parameters for equipping military and security forces

1. Personnel and financial resources may have an important impact on the necessary quantity of all kinds of SALW.

2. The capability status of the military and security forces should be used to determine whether a weapon or a weapon system ought to be integrated in or taken out of service.

3. A comprehensive approach towards the modernization of SALW, or the acquisition of additional types of SALW, should foresee the final disposal of the weapons that are no longer needed. Significant reductions of surplus can be achieved more expeditiously if obsolete weapons are removed from military or security service as quickly as possible.

4. SALW that are replaced by more modern weaponry for use by forces in a high state of readiness may be transferred by way of "cascading" to active units of lower readiness or to reserve units. In this way, these weapons can be used to replace SALW in service in these latter units. Properly administered, cascading is an effective means of reducing surplus.

5. Changes in the prevalent security analysis may affect other parameters, including personnel or financial resources, capability status or modernization processes. Such alterations to the security analysis may be undertaken in response to new threats, changes in national defence policies, reductions or restructuring of military and security forces, innovations in the art of war, new types of missions or technological progress.⁸

C. Elements of calculation requirements

1. Each individual national service, branch or element of military and security forces should define what constitutes adequate equipment from the level of command down to the individual level.

⁷ The term "municipal arms procurement law" designates the body of legal norms applicable in participating States' processes of procuring arms. In a number of participating States, this is equivalent to national arms procurement law. Other participating States, however, might in the framework of their procurement decision-making be obliged to abide by both national and supranational provisions or court practice as to procedural or material aspects.

⁸ In this respect the impact of modernization of portable anti-aircraft guns may serve as an example: A modernized anti-aircraft gun with a hit probability of 100 percent may lead to a corresponding reduction of anti-aircraft guns, if the replaced guns had a hit probability of 50 percent only.

2. As a basic rule, every member of military and security forces should be issued a specific personal weapon, related to his or her duties.
3. When serving in a crew operating a light weapon, it may be necessary to assign an additional personal weapon to each crew member for the purposes of self-defence or other crew-related tasks. This applies equally to active as well as reserve personnel.
4. In addition to assigned personal weapons, reserve stocks will most probably be needed within both active units and reserve units. The number of weapons needed may be calculated by combining an assessment of the specific security situation with the State's concept of how to meet its legitimate security needs. The data gained should allow for additional needs due to maintenance, repair, loss in combat or other eventualities.
5. The timely build-up of necessary industrial capacities in case of a crisis could contribute to low reserve stocks. Time for early warning and preparation – although less apt to calculatory models – has a recognizable bearing on reserve stocks.
6. Reserve units would require the same quantity of SALW as their corresponding active units, if both were organized in a comparable manner. Reserve units fulfilling missions that are not in all aspects reflected in active units may, however, have specific SALW equipment in order to meet their specific tasks.
7. Specialized units might, in order to meet their specific tasks such as evacuation operations or peace support operations, require add-ons. These may be needed at the level of both the unit and the individual. The quantity of weapons within these units will thus be in line with these special requirements and should deal with as requirement adjustment data.

V. Generic example

1. A generic example is provided in order to set the calculations and considerations outlined above within the context of a practical and realistic setting. This example takes into account SALW requirements of military and security forces in an area of prolonged stability. Further, it is assumed that these forces are mandated by the constitution and parliamentary decision-making process to:
 - (a) defend national territory as well as to participate in collective self-defence;
 - (b) assist in national civil emergency tasks, as for instance in national disasters or rescue operations;
 - (c) participate in conflict prevention and crisis management operations;
 - (d) participate in trans-boundary partnership and co-operation exercises;
 - (e) extend humanitarian aid.
2. The strength of the Armed Forces is composed of active personnel during peacetime and reserve personnel.
3. The requirement for a specific number of SALW is determined by the structure of the Armed Forces. Every soldier is issued his or her individual weapon for the performance of duties. On the basis of this minimum requirement for all different types of units, the consolidated requirements of the entire Armed Forces can be calculated. This is known as the *armament requirement*. In addition to this data, a reserve supply (depending on the organizational structure of the Armed Forces and the type of weapon) will be held as reserve stock, to cover all additional needs due to replacement and repair. The sum of the armament requirement and the reserve stock equals the defence stockpile, ie the total number of SALW required.
4. Due to the changing nature of, and different requirements for, the defence stockpile as well as to the ongoing modernization of SALW in use by the Armed Forces, the level of surplus SALW is never a constant. Instead, it has a value that fluctuates in relation to these processes.

VI. Annex

A. Bibliography

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The Bonn International Center for Conversion (BICC) is an independent non-profit organisation dedicated to promoting the transfer of former military resources and assets to alternative civilian purposes

The British American Security Information Council (BASIC) is a progressive and independent analysis and advocacy organisation which researches and provides a critical examination of global security issues, including nuclear policies, military strategies, armaments and disarmament.

Saferworld is an independent foreign affairs think tank based in London, UK, working to identify, develop and publicise more effective approaches to tackling and preventing armed conflicts.

The Small Arms Survey is an independent research project located at the Graduate Institute of International Studies in Geneva, Switzerland. It is also linked to the Graduate Institute's Programme for Strategic and International Security Studies.

COVER PHOTO: Surplus assault rifles are destroyed in Germany.

CHRISTIAN SCHNEIDER / UNICEF GERMANY (2002).



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