



2007-03-19

Recent arms deliveries from the successor States of the former Yugoslavia

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The group of experts would like to thank the following people and institutions to have made this study possible: Ajla Silajdzic for translation (BiH); Vladimir Bilandzic (OSCE, Serbia); and the port authorities in Ploce; and Amnesty International (International Secretariat) for providing additional information.

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Introduction

This report presents the findings of the group of international experts commissioned by IPIS vzw to examine the current controls on weapons exports from the countries of former Yugoslavia, especially the Republic of Bosnia-Herzegovina and the Republic of Serbia.

It represents an initiative by IPIS vzw to provide information which may assist the OSCE in fulfilling its' commitment to battle against both the proliferation of small arms and light weapons and also its' efforts to curb the abuse of such weapons both within the OSCE region and globally.

We have sought to compare relevant national legislation against the various international and regional agreements entered into by member States and we have concentrated especially on the arrangements for the secure transportation - whether by air or by sea - of small arms and light weapons, plus accompanying ammunition.

There is, of course, an inherent problem here, in that most international and regional agreements on the transfer - and therefore the transportation - of SALW are somewhat general in their wording: equally, documents such as the ICAO Annex 18 detail the arrangements for the transportation of hazardous goods in general - and is thus helpful when it comes to the safety of ammunition transportation - but are also silent on the finer points of weapons security. We have thus alluded in this report to "best practice" where there appears to be a reasonable international consensus on what that best practice should be.

Some effort has also been expended by the group on examining the quality and the rigour of the controls, including especially post-delivery verification, imposed by both the Bosnian and the Serbian authorities on exports which present the intrinsic possibility of diversion to other, possibly embargoed, States, or even non-State actors.

However the group wishes to observe that we have taken absolutely no position *vis-à-vis* the desirability or otherwise of individual weapons exports per se: that is a matter for political, rather than technical judgement.

This approach has, of course, been reflected in our methodology; broadly speaking, we have sought to obtain copies of original documents whenever possible and also to conduct recorded interviews with officials in state Ministries and in some key private enterprises. It is to be hoped that this combination of original documentation and interview transcripts will provide an undisputed basis for the group's research and conclusions. We have thus consciously circumscribed ourselves and endeavoured to remain within a narrow, technical remit.¹

¹ This has not always been easy. For example, when the group asked the relevant official in Bosnia for details of arms exports flights from Tuzla airport, we did not expect the rejoinder "Do you want the CIA flights

The report does, admittedly, make some criticisms; however, given the circumstances surrounding the nascence of Bosnia-Herzegovina and Serbia, it would be somewhat strange it did not find some problem areas. We have, however, also felt it appropriate not to name publicly the individuals with whom we have spoken, lest such naming should be held to imply an apportionment of blame for any perceived shortcomings within the system. We feel that this is both fair and just - although it would also be both fair and just to record that co-operation with the group has, perhaps naturally, varied enormously and we have found, in something of a bouleversement, that Defence Ministries, for example, have tended to be more open and frank than, also for example, Foreign Ministries and international organisations.

It should also be noted that, where we identify failures, they are often not failings of individuals in themselves but rather reflect a lack of capacity which, in our submission, the international community urgently needs to address. This lack of capacity manifests itself in many ways - from the need for better training for appropriate officials in both Bosnia and Serbia to the urgent need for X-Ray machines capable of verifying the content of sea containers shipped from the Montenegrin port of Bar (for Serbian exports) and from the Croatian port of Ploce (for Bosnian exports).

For, if this report is to have any value other than as a dry, technical document, it must be as a means of persuading OSCE member States that, in the global struggle against the proliferation and abuse of small arms and light weapons, there is much yet to do in the Balkans.

as well"? It is arguably to our collective credit that we were able to suppress our natural curiosities and return the discussion to the matter in hand....

Methodology

The independent group of experts had two weeks of field research at its disposal and 5 weeks to submit its preliminary findings on the 4 December 2006. An additional 3 weeks were needed to finish the report. In this period the experts met government officials of Bosnia-Herzegovina (BiH), and Serbia; visited the sea ports of Bar (Montenegro) and Ploce (Croatia); and held meetings with companies and representatives of international organizations (OSCE missions, SEESAC/UNDP, EUFOR).

Due to time constraints the experts were not able to investigate Croatia, Slovenia and Montenegro more thoroughly. Although the focus of our fact-finding mission was the airlift to Africa of small arms and light weapons (SALW) from the republics of the former Yugoslavia we decided to add the sea ports of Bar and Ploce as an afterthought, mainly also because of not obtaining access to Tuzla airport. Both ports are important transit points for defence equipment from respectively Serbia and Bosnia-Herzegovina.

Prior to the field research the group of experts had obtained primary documents relating to the export of defence equipment from Bosnia-Herzegovina and Serbia. Analysis of these primary documents revealed short-comings in the BiH and Serbian arms export control systems. The group of experts used these findings as a starting point to conduct interviews with the relevant parties in the fore-mentioned countries. The group received full co-operation and disclosure from the Serbian government and the port authority in Ploce. In Bosnia-Herzegovina only a few governmental agencies were willing to co-operate and disclose information. No co-operation was received from the Ministry of Foreign Trade and Economic Relations, the Ministry of Foreign Affairs, the BiH Directorate of Civil Aviation, and the European peace keeping force (EUFOR) in BiH.

Because of the time constraint the group of experts did decide at the last minute to retain Hugh Griffiths, a consultant knowledgeable on the BiH and Serbian institutional structures. While in BiH several leads pointed into the direction of a Croatian arms broker. To dig deeper into the Croatian angle the help of a Croatian consultant was sought – Berislav Jelinic. This investigation is still ongoing.

Legal obligations for transport by air

Air transport control of munitions of war or implements of war.

Under the *Convention on International Civil Aviation*, member States have the right to control the air transport of munitions of war or implements of war through their territory. Article 35 of the Convention states:

- “(a) No munitions of war or implements of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State. Each State shall determine by regulations what constitutes munitions of war or implements of war for the purposes of this Article, giving due consideration, for the purposes of uniformity, to such recommendations as the International Civil Aviation Organization may from time to time make.
- (b) Each contracting State reserves the right, for reasons of public order and safety, to regulate or prohibit the carriage in or above its territory of articles other than those enumerated in paragraph (a): provided that no distinction is made in this respect between its national aircraft engaged in international navigation and the aircraft of the other States so engaged; and provided further that no restriction shall be imposed which may interfere with the carriage and use on aircraft of apparatus necessary for the operation or navigation of the aircraft or the safety of the personnel or passengers.”

There are currently no internationally agreed standards defining “implements of war” and it has been left to each individual State to develop its own requirements.

There are 189 Contracting States to the Convention and munitions of war or implements of war can only be carried on aircraft with the approval of all the States concerned.² These may be the States of origin, transit, overflight and destination of the consignment and that of the operator.³

Annex 18 to the Convention on International Civil Aviation specifies the International Standards and Recommended Practices to be followed to enable dangerous goods to be carried safely. Annex 18 and the Technical Instructions became effective on 1 January 1983 and applicable on 1 January 1984 when all of the Contracting States of the International Civil Aviation Authority (ICAO) were expected to conform to the ICAO requirements. These requirements apply to everyone who may be involved in putting or taking dangerous goods on an aircraft i.e. shippers, freight agents, handling agents, operators, passengers etc.

² CAA UK, Transport by Air of Dangerous Goods, Munitions of War, Sporting Weapons and Animals, Guidance Material on the Operator's Responsibilities, September 2004.

³ Ibid.

Dangerous goods are divided into nine classes:

Table 1: Dangerous Goods Classification

Class 1	Explosives
Class 2	Gases
Class 3	Flammable liquids
Class 4	Flammable solids; Substances liable to spontaneous combustion; Substances which, in contact with water, emit flammable gases
Class 5	Oxidizing substances and Organic peroxides
Class 6	Toxic and infectious substances
Class 7	Radioactive material
Class 8	Corrosive substances
Class 9	Miscellaneous dangerous substances and articles

Class 1 (explosives) includes substances and articles which have a projection hazard but not a mass explosion hazard e.g. many types of ammunition, bombs and rockets.

The international Standards and Recommended Practices states that all dangerous goods must be properly classified, packed, marked, labelled and documented before they are offered for air transportation.

International Carriage

Table 2 provides an overview of the various international legal instruments Bosnia & Herzegovina, Serbia & Montenegro, Croatia and Slovenia signed on to.

Table 2: Overview of the relevant international air conventions (Status as at 1 June 2006)⁴

	Bosnia and Herzegovina	Serbia & Montenegro	Croatia	Slovenia
Warsaw Convention 1929	x	x	x	x
Hague Protocol 1955	x	x	x	x
Guadalajara Convention 1961	x	x	x	x
Montreal Add. Protocol No. 1 of 1975	x	x	x	x
Montreal Add. Protocol No. 2 of 1975	x	x	x	x
Montreal Add. Protocol No. 4 of 1975	x	x	x	x
Montreal Convention 1999				x

The trigger for the application of any one of the international air conventions is the concept of "*international carriage*".⁵ There is a single definition of "*international carriage*", which has not been changed in substance by the various amendments to the original Warsaw Convention 1929, or by the most recent Montreal Convention 1999.⁶

⁴ United Nations Conference on Trade and Development, Carriage of Goods by Air: A Guide to the International Legal Framework, Report by the UNCTAD secretariat. (UNCTAD/SDTE/TLB/2006/1), 27 June 2006.

⁵ Ibid.

⁶ Ibid.

To determine whether a specific contract of carriage is "*international carriage*" governed by one of the international air conventions, there is a two-stage inquiry.⁷

First, it is necessary to determine whether the carriage comes within the technical concept of "*international carriage*", defined by reference to the agreed places of departure and destination and any agreed stopping place. The contract is of international carriage when:

- The agreed place of departure and the place of destination are situated within the territories of *two Contracting States*, whether or not there is a break in the carriage or a transshipment; or
- The agreed place of departure and the place of destination are situated within the territory of a *single Contracting State*, if there is an *agreed stopping place within the territory of another State*, whether or not this is a Contracting State.

In all other cases, the contract is not one of "*international carriage*" and, therefore, not subject to any of the international air conventions.

Secondly, the State/s of departure and destination must be Contracting States to the *same* version of either one of the Warsaw-system conventions, or the Montreal Convention 1999. If this is not the case, then there is no international convention applicable.

In addition, it is important to note that national implementation of any of the international conventions will not achieve the intended result unless the respective convention has been ratified or acceded to.⁸

The air waybill is the most essential document issued in respect of the international carriage of cargo. It evidences the contract or agreement of international carriage between the parties (including legal liability of losses, delay etc) and plays a central role in the liability regime.⁹ The rights of the consignor and the right of the consignee to delivery of the cargo at destination are determined by each of the conventions. This includes the legal liability regimes applicable to claims arising out of international air transport e.g. losses, delay etc.

The airline members of IATA agreed to introduce a standard form air waybill for international carriage by air of cargo. The Warsaw-system conventions and the Montreal Convention 1999 (with minor changes indicated in brackets) provide that the air waybill or cargo receipt is *prima facie* evidence of the following:¹⁰

- the conclusion of the contract of carriage and conditions of carriage.
- the receipt of the goods (or acceptance of the cargo) by the carrier and the statements as to the weight, dimensions, packing of the cargo and number of packages.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

- the stated quantity, volume and condition of the cargo (as against the carrier); however, only if a) the carrier, in the presence of the consignor, has checked these and b) a statement to this effect is included on the face of the air waybill, or if the stated fact relates to the *apparent* condition of the cargo. This means that in the absence of any indication on the face of the air waybill, there is no presumption that the carrier received the cargo in good condition.

All the international air conventions contain similar provisions on the requirement as to delivery and description of air waybills, except that the two most recent of these, the Warsaw-Hague-MAP 4 Convention 1975 and Montreal Convention 1999, also authorise the use of an electronic record in place of a traditional paper air waybill.¹¹

¹¹ Ibid.

Bosnia & Herzegovina

Export & transportation legislation and regulations: Policy and Practice

The basic law governing all transfers of weaponry into and out of Bosnia & Herzegovina is the “*Law on the Export and Import of Arms and Military Equipment*”, first promulgated in 2003 and amended in 2005 to take account of a number of dual use items.

A number of other new laws and regulations were introduced in tandem with the basic law to govern arms brokers and provide further guidelines for the various government agencies and ministries dealing with the arms trade:

Table 3: Legal Framework

Date	Legal reference	Title
07 March 2003	No. 01-1-170/03	Instruction on Registration of Persons and Legal Entities in Trade of Armaments and Military Equipment
09 May 2003	No. 01-1-175/03	Decision on Conditions and Procedure for Registration of Contracts for Production Cooperation in the Field of Arms and Military Equipment
08 June 2004	No. 01-1-50-6522-1/04	Instruction on Method of Permanent Oversight and Reporting in Production of Arms and Military Equipment
05 July 2005	No. 01-1-02-8702/05	Instruction on the Obligations of Customs Authorities in the Implementation of the Law on Import and Export of Arms and Military Equipment and the Control of Import and Export of Dual-Use Items
05 July 2005	No. 01-1-02-8703/05	Instruction on Regulating Export, Import, Transit and Mediation in Trade of Armaments and Military Equipment
31 July 2005	No. 01-031544-13/04	Instruction on Definition and Obligation to Comply with Deadlines on the Prohibition of Trade of Small Arms and Light Weapons of Armed Forces of Bosnia and Herzegovina

The basic law and subsequent complementary regulations were drawn up with the assistance and support of UN, EU and NATO officials working in Bosnia & Herzegovina.¹²

The law and the surrounding new legislative and security architecture that now regulates arms exports in particular came in response to the 2002 “Orao affair”, a series of military equipment deals involving the Bosnian Serb and Federation entities and companies in what was then the Federal Republic of Yugoslavia (currently Serbia & Montenegro).

The “Orao affair” encompassed sales of jet aircraft parts to Iraq, explosives allegedly bound for Iraq and a lesser-reported incident involving the smuggling of

¹² Interviews with United Nations, NATO and MoFTER officials.

small arms and light weapons (SALW) from FRY to Liberia, also under UN sanctions.¹³

These smuggling scandals exposed an underlying trend of illegal arms exports from the successor states of Socialist Federal Republic of Yugoslavia (SFRY) to countries under UN sanctions. The revelations generated the impetus for wide-ranging reforms in both what is now called the Republics of Serbia and Bosnia & Herzegovina.¹⁴

Arms trade regulations.

All physical and legal persons participating in the import, export, transit or trade mediation¹⁵ regarding arms and military equipment shall be registered with the Ministry.¹⁶ The registration procedure is described in the “*Instruction On Registration Of Persons And Legal Entities In Trade Of Armaments And Military Equipment*” which is issued by the Ministry of Foreign Trade and Economic Relations (hereinafter: MoFTER). The procedure is as follows:

1. Persons shall submit the request to MoFTER. The following documents shall be submitted along with the request:
 - a) Excerpt from the Court Registry;
 - b) Authorised persons and function;
 - c) Proof of registration into the Customs Register;
 - d) Proof of registration into the Tax payers Register;
 - e) Permit by relevant body for trade of with armaments and military equipment;
 - f) List of products for which there is a permit for trade from the common list of arms and military equipment contained in the EU Code of Conduct for Arms Export Procedures (BiH Official Gazette, number 9/03);
 - g) Proof of tax paid in the amount of 5 KM for submission of the request and 15 KM for issuance of Registration.
2. Prior to issuance of registration, the Ministry of Foreign Trade and Economic Relations may, as necessary, request an opinion by the BiH Ministry of Security and Secretariat of the Standing Committee on Military Matters.

¹³ For detailed background on post-Milosevic Serbia's most publicized arms smuggling case see “Arming Saddam – The Yugoslav Connection” International Crisis Group report, December 3, 2002. For Liberia see Report of the Panel of Experts appointed pursuant to paragraph 25 of Security Council resolution 1478 (2003) concerning Liberia, October 28, 2003 S/2003/937

¹⁴ BBC International Monitoring Report, 9 May 2003; South Eastern Europe Small Arms and Light Weapons Monitor, Serbia & Montenegro, 2005

¹⁵ Mediation in trade of arms and military equipment shall be designated as an action wherewith a physical or legal person with a permanent or temporary abode within the borders of Bosnia and Herzegovina provides for or organizes the transport of arms and military equipment located outside Bosnia and Herzegovina to another country. Article 2 of the Law on Import and Export of Arms and Military Equipment and Control of Import and Export of Dual-Use Items.

¹⁶ Article 4 of the Law on Import and Export of Arms and Military Equipment and Control of Import and Export of Dual-Use Items.

3. Registration of companies for engagement in trade of armaments and military equipment may be issued for a long or short period, or temporarily.

According to the 2004 MoFTER report, 94 “legal entities and individuals have been registered for foreign trade of arms and ammunition, 74 being permanently and 21 temporarily licensed.”

MoFTER officials state that these licences are only issued to companies which have been rigorously checked by the Federation and RS ministries of the interior together with the state-level Ministry of Security.¹⁷ However, anecdotal evidence suggests that some of the companies registered to trade are owned or managed by individuals who have been engaged in arms smuggling in the past and enjoy the support of informal centres of power at entity level.¹⁸

Export control by the Government.

Import, export and transit of arms and military equipment does include the import and export trade of arms and military equipment across the borders of Bosnia and Herzegovina by terrestrial, maritime or aerial routes regardless of the final destination.¹⁹

Since October 2006 four State-level ministries are charged with the control of trade of arms and military equipment, but only three of these have veto-power:

1. MoFTER is responsible for issuing licences to import, export, transit or mediation in trade of arms and military equipment or the licences for services turnover related to the arms and military equipment²⁰;
2. The Ministry of Foreign Affairs of Bosnia and Herzegovina (hereinafter: MFA) and the Ministry of Security of Bosnia and Herzegovina (hereinafter: MoS) must give their consent before a licence can be issued²¹;
3. Finally the Ministry of Defence of Bosnia and Herzegovina (hereinafter: MoD) can voice an opinion.²²

Para 2 of Article 6 of the 2005 Law on the Export and Import of Arms and Military Equipment and Control of Import and Export of Dual-Use Items stipulates that the prior consent of the Ministry of Security shall confirm that the issue of licences shall not endanger public safety and security within Bosnia and Herzegovina. Once the MFA, the MoD and the MoS have approved an application, MoFTER officials make a final decision based on what they state is a “strict adherence to domestic and international legal norms”.²³

Bosnia’s political leaders agreed that the State should be more firmly bound to EU criteria when it came to arms exports as part of Bosnia & Herzegovina’s often proclaimed EU-accession goal. To meet this objective, Article 6§1 of the 2005

¹⁷ Assistant Minister Dragisa Mekic, Ministry of Foreign Trade and Economic Relations (MoFTER)

¹⁸ EUFOR officer interview; secondary report from Croatian counter-intelligence agency (POA).

¹⁹ Article 2 of the Law on Import and Export of Arms and Military Equipment and Control of Import and Export of Dual-Use Items.

²⁰ Ibid, Article 5§1.

²¹ Ibid, Article 5§3.

²² Ibid.

²³ Ibid.

“Law on the Export and Import of Arms and Military Equipment and Control of Import and Export of Dual-Use Items” stipulates that the prior consent of the MFA shall take care especially about:

- a) prohibitions and sanctions of the Security Council of the United Nations;
- b) international obligations taken by Bosnia and Herzegovina, interests of foreign policy and special interest of Bosnia and Herzegovina related to strategic foreign policy partners of Bosnia and Herzegovina;
- c) the issue of licences is in accord with the European Union Code of Conduct on Arms Export.
- d) principle of prevention of production and use of mass destruction weapons.

The Bosnian authorities claim to be “committed to all international agreements entered into by progressive EU member states.”²⁴ While Bosnia & Herzegovina is not a signatory of either the UN Firearms Protocol, the Wassenaar Arrangement nor the EU Joint Action on SALW, the authorities claim to adhere to those agreements in spirit and by the letter.²⁵ Bosnia & Herzegovina officials also state that all the agreements listed below, signed or otherwise, are adhered to in practice.

Table 4: BiH Political Commitments.

Agreement	Date of commitment
EU Code of Conduct	2003 ²⁶
Wassenaar Arrangement	-
UN Programme of Action	2001
UN Firearms Protocol	-
OSCE Document on Small Arms	2000
OSCE Document on Stockpiles of Conventional Ammunition	2003
EU Joint Action on SALW	-

Export Control by the International Community.

Under the Dayton Peace Agreement (14 December 1995) the international community received the mandate to control the movement of arms and ammunition within the boundaries of Bosnia and Herzegovina: “The IFOR Commander is authorized to promulgate appropriate rules for the control and regulation of surface military traffic throughout Bosnia and Herzegovina, including the movement of the Forces of the Parties. The Joint Military Commission referred to in Article VIII may assist in the development and promulgation of rules related to military movement.”²⁷ On the 22 November 2004 the United Nations Security Council adopted a resolution “*defining EUFOR’s mandate for an initial 12 months as the legal successor to the Multinational Stabilization Force (SFOR) led by the North Atlantic Treaty Organization (NATO)*.”²⁸

²⁴ Interview with assistant minister of Foreign Trade & Economic Relations, Dragisa Mekic, September 2005.

²⁵ Ibid.

²⁶ Incorporated into domestic legislation by BiH Council of Ministers in 2003.

²⁷ Annex 1A of the General Framework Agreement, Article VI: Deployment of the Implementation Force, 9c.

²⁸ UN Press release SC/8250, 22 November 2004. See also Security Council Resolution 1575 (2004) §10.

There is currently confusion in regard of EUFOR's role in the transfer licensing process. This all started after it was revealed that an export licence had been issued to Rwanda at the end of 2004. Finally, the release of the Amnesty International report "*Dead on Time*"²⁹ in mid-2005, highlighting severe shortcomings with end-use verification by the BiH authorities, caused much outrage within BiH. It seems that at that moment in time some within EUFOR and the BiH authorities began to think about damage control. Today EUFOR (as successor of SFOR) categorically denies having played a role in the BiH licensing process. During a meeting with and in a letter to the independent group of experts the Chief Political Advisor (POLAD) of EUFOR, stressed that:

"The BiH government (led by Ministry of Foreign Trade and Economic Relations- MOFTER) is solely responsible for the authorising imports and exports of weapons and ammunition to and from BiH, including issuing the necessary export licences and ensuring that BiH country adheres to the international commitments it has made, including the EU Code of Conduct on armaments exports."³⁰

On EUFOR's role he says in his letter:

"EUFOR requires the BiH Government to seek permission in advance from EUFOR to move weapons within BiH, for example, from a factory or military storage site to another site within the country, or to their point of departure from the country if the weapons are destined for export. EUFOR assesses whether the movement of such weapons within BiH poses a risk to the safe and secure environment in this country. EUFOR's permission is required for the movement of all arms and ammunition, above a defined quantity, in BiH (that is, not just for import and export reasons).

We therefore have a procedure in place under which the BiH authority concerned requests EUFOR permission to move weapons and ammunition from one place to another (the Form 5 and 6 procedure). By this means, EUFOR is aware weapons and ammunition proposed for movement, including those authorised by the BiH government for export and import."³¹

The procedure he is talking about is as follows³²

1. Form 5 must be submitted to EUFOR 15 days in advance with the appropriate signed and dated ministry authentication. Information must include details of the contents, proposed timings and final destination. EUFOR then circulates this information to other, civilian organizations

²⁹ During our conversations with officials in BiH everybody claims that the AI report misrepresents the situation, has faulty data, etc. This was particularly true for some EUFOR officials. The authors of this report have read the email exchanges between various EUFOR officials and the AI researcher. In the email the EUFOR officials are frank and open, are clearly aware with whom they are communicating, all the JMA officers were cc'ed in the communication exchange making it virtually impossible to claim that nobody within EUFOR knew that EUFOR was talking to an AI researcher, and finally, records show that a draft of the report was sent to the chief Polad within EUFOR to comment but did not respond.

³⁰ Email Nick Williams, Chief Polad, Eufor, 26 November 2006.

³¹ Email Nick Williams, Chief Polad, Eufor, 26 November 2006.

³² See Annex 1

mandated under the Dayton Agreement to monitor security issues. On HQ EUFOR/NAHQSa receipt of Form 5 SO Movement Control ascertains the existence of any weapons embargoes pertaining to the application. Once no restrictions are verified SO Movement Control forwards the notification to the following branches for approval:

HQ EUFOR	NHQSa
POLAD	POLAD
LEGAD	LEGAD
CJ2	NAT
CHIEF JMA	COM NHQSa

The time scale for the above branches approval is 3 days. If they raise no objections, JMA Chief current affairs and compliance confirms the Form 5.

Shipments to countries within the Balkans Joint Operations Area require additional approval from Joint Forces Command in Naples (JFCNP). Once approval is granted MoFTER are forwarded the approved form 5.

2. With the approved Form 5, MoFTER can issue an export/import licence and the applicant can then, prepare a transport request Form 6. This form also requires EUFOR approval. Again the form must be authenticated through the relevant ministry and submitted 5 days prior to shipment. It again must provide details of the contents, proposed timings and final destination. Once approved SO Movement Control submits Form 6 through the EUFOR point of contact to the applicant.

While staying in Sarajevo in October 2006 the group of experts was informed that the procedure for movement of arms had been changed late September 2006. The group has tried to obtain copies of all EUFOR guidelines, procedures and instructions in regard of export of arms and ammunition from BiH.

EUFOR's Role

According to all we heard and have read we can come to only one conclusion: SFOR and EUFOR used to play a significant role in the decision making process of the transfer of arms and ammunition from BiH. A role which, according to reliable sources in Sarajevo, SFOR – and therefore EUFOR - took upon themselves, and a role which the BiH authorities gladly bestowed upon SFOR/EUFOR. Although we received no co-operation from EUFOR the group of experts were able to obtain a data set of SFOR/EUFOR Forms 5 and 6 dating between 2001 and 2005. The notes attached to the forms tell a different story, as do most of our interviewees in Sarajevo during informal conversations. The SFOR/EUFOR data set includes Forms 5 and 6, in some cases contracts between the intermediary and the seller, sometimes end-use certificates, but also in some cases email exchange between SFOR/EUFOR officers.

- A) The EUFOR procedure (see Annex 1) itself includes an interesting clue: “*On HQ EUFOR/NAHQSa receipt of Form 5 SO Movement Control ascertains the existence of any weapons embargoes pertaining to the application. Once no*

restrictions are verified...". Ascertaining the existence of an arms embargo for arms and ammunition to be exported goes well beyond an assessment of "whether the movement of such weapons within BiH poses a risk to the safe and secure environment in this country".

- B) In one such file, named "BNT to Uganda – 905" (May 2003), an email exchange between SFOR Main Legal Advisor and SFOR Main JMA Current Operations is to be found. JMA Current Operations asked the Main Legal Advisor, in an email dated 30 April 2003, if there were any "objections or concerns, ...otherwise these requests will be approved by Chief Current Operations, JMA." The reply arrived on 2 May 2003: "No legal objection;... the OSCE mission in BiH should be informed (to ensure that they are content that the shipments do not contravene regional arms control protocols or breach regional balance of power regimes) and AFSOUTH must be involved in the decision making process." (See Annex 8.) Moreover a reliable source within the OSCE confirmed to the group that on occasions SFOR or EUFOR do consult other international organisations, operating within BiH, on licensing decisions. If SFOR (or EUFOR) only needed to assess "*whether the movement of such weapons within BiH poses a risk to the safe and secure environment in this country* (BiH) then SFOR did not need to ask for a legal opinion, nor did they need to be concerned with destabilizing a regional power balance in Central Africa. This falls well beyond the intention of the Form 5 and Form 6 procedure.
- C) Other notes deal with end-use verification of arms and ammunition. We acknowledge that SFOR/EUFOR needs proof of the legitimacy of an intended arms export (e.g. end use certificate, import certificate, etc.) before issuing a Form 5 or Form 6. There is no need for end-use verification by SFOR/EUFOR. This is the sole responsibility of the authority who authorizes the export of arms and ammunition from BiH, currently MoFTER, and in the past the Ministries of Defence of the two Entities. The EUFOR POLAD said it like this: "what happens with those weapons outside the country is not something which is within our responsibility"³³.
- i) Example 1: Case file "RS MoD to Swiss – 577":
- "According to SFOR-TAOS agreement dated 28 July 04 (reconfirmed by HQ EUFOR on the 02 Dec 04) applies to all shipments to recognized countries of final destination. Relating to shipments to Switzerland, submission of official delivery confirmation, stamped and signed by an authorized officer of the SWISS export control department of the State Secretariat for Economic Affairs, to be send to HQ EUFOR within 14 days after actual shipment."
- ii) Example 2: Case file "Promex to Rwanda – 1600-1":
- "HQ SFOR approves Form 5 ref. 10-03-39-1600-1/04 under following conditions:
- Federal Ministry of Defence Decision ref.10-03-39-1061-25/04 dated 11 Nov 2004 stipulating the deployment of FMoD authorized officers to the Republic of Rwanda to establish official relationship, to ensure control of the take over of

³³ Email Nick Williams, Chief Polad, Eufor, 26 November 2006.

small arms and light weapons and ammunition by the end user as reported in the official documents received.

- Authorized individuals will establish in person if all the items as per the deliveries and issued licenses are delivered to the Republic of Rwanda and will ensure that the documents confirming that is obtained from an authorized body (e.g. Ministry of Defence) of the Republic of Rwanda.

- In co-operation with the government of the Republic of Rwanda, SCOUT company in Zagreb, which is the contractor of BiH FMoD, will create conditions for the inspection of the take over of all items and acquisition of credible documentation on that.

- Upon their return, BiH FMoD authorized persons will compile a report on official travel, which they will provide to HQ SFOR and/or its legal successor and to other relevant international organisations as OHR, OSCE and UNDP in BiH. To ensure compliance with the UN Security Council Resolution No. 1011 (1995) BiH Ministry of Defence or other legal BiH State Level Body will inform the Committee, formed by the Resolution No. 918 (1994), on all received arms by the Government of Rwanda.

In accordance with FMoD decision ref. 10-03-39-1061-25/04 dated 11 November 2004, and FMoD decision ref. 10-03-39-223-134/04, and realization of supporting conditions by BiH MoFA ref. FMoD request 10-03-39-223-135/04, HQ EUFOR will receive the required confirmations within 14 days upon termination of the relating transports.”³⁴

The question now becomes, what role did SFOR and EUFOR have within the licensing decision process? Because of non-cooperation by EUFOR and MoFTER we can not answer this question definitively. We can say that all the above point to the fact that, at least, SFOR/EUFOR had an advisory role, but it also seems to indicate that consent from SFOR/EUFOR was needed. According to the South Eastern & Eastern European Clearing House for the Control of Small Arms & Light Weapons (SEESAC):

“[I]nternational actors were of the opinion that EUFOR could veto licensing decisions, while BiH officials suggested that EUFOR wielded only an effective veto, i.e. that the BiH Government would never act against EUFOR’s advice.”³⁵

One source leads us to believe the former, but this remains inconclusive because we were not able to corroborate his statement, when he told the group of experts:

“I think it was cancelled by the EUFOR. [The Rwanda shipments] Several years ago we had licences for some exportation to Angola, we prepared the ship, the transportation was notified to proceed tomorrow (for example) and after that EUFOR [Most likely he means SFOR.] send a... I don’t know, So General Clark forbid the exportation. 12 hours before transportation.”³⁶

In the instance of Rwanda the Bosnian Ministry of Foreign Affairs takes officially credit for the decisions to block transfers of stockpiled weaponry to Rwanda (and

³⁴ 2004 09 01 SU E Form 5 - 1600-1.

³⁵ Analysis of National Legislation on Arms Exports and Transfers in the Western Balkans, SEESAC, 2006: p. 25.

³⁶ Name withheld. Interview to be found in evidence folder.

Chad) in 2004³⁷, but the MFA had in fact approved the early export request³⁸. European Union diplomats and peace-keeping officials and Bosnian Ministry of Foreign Affairs officials state that EU diplomatic intervention was responsible for the order to halt shipments to Rwanda and Chad.³⁹

Some within the BiH authorities see EUFOR's role as a safeguard:

"The EUFOR presence was actually making things easier for us. There was a guarantee for us. Once the export is announced by form 5, that is just the intention of exporting to a certain destination and then we begin different checkups and you also have to have the original end user certificate. And in one way, there was a guarantee for us that things would be done in a proper way."⁴⁰

"[A]lso EUFOR gives his approval on such end users certificates and .. I just can't believe that EUFOR gives approval on an end user certificate that is not valid."⁴¹

"EUFOR plays a very important role when it comes to import and export of arms - and of course when it comes to final destination and final end user. No shipping can come in and go out without EUFOR knowing about it and giving some sort of approval of their own. Not only we have control of end user, EUFOR does have the control of the end user as well."⁴²

Why all the denial and obstruction? We will demonstrate that several poor decisions were made and that nobody is willing to take responsibility. The poor decision making has to be blamed on the BiH authorities and on SFOR/EUFOR. We do not claim that this happened intentionally. From what we heard and read its most likely due to a lack of personnel, training, knowledge, etc. The South Eastern & Eastern European Clearing House for the Control of Small Arms & Light Weapons (SEESAC) formulated it as such:

"This system creates an environment ripe for the avoidance of responsibility in the event of poor decisions. BiH can always claim that any decision was based on the advice of EUFOR, even though there are questions about EUFOR's expertise in this area. EUFOR can legitimately point to the fact that it has only an advisory role, and that therefore all decisions remain the responsibility of BiH. This confusion of responsibilities is likely to operate as an impediment to both effective decision-making and to the national bureaucracy building its own capacity and expertise to the point where it is capable of rigorously applying EU transfer control standards: where resources are limited, it is rational to make savings on functions that are in any event performed by someone else. EUFOR and the rest of the international community

³⁷ The MFA is credited with this decision by the Bosnia & Herzegovina arms import & export report (2004). prepared by MoFTER; Svetozar Miletic also described the export refusal as "an MFA decision".

³⁸ Svetozar Miletic also stated that prior to international intervention, the export to Rwanda had been approved and an export license issued. This was confirmed by EUFOR officers in 2005.

³⁹ Former EUFOR JMA chief Colonel Iacono; United Nations official.

⁴⁰ Name withheld. Interview to be found in evidence folder.

⁴¹ Name withheld. Interview to be found in evidence folder.

⁴² MoFTER, 18 October 2006.

would therefore be better placed seeking to develop the capacity of the national authorities to make truly independent and rigorous licensing assessments.”⁴³

Examples of poor decision making

Due to the lack of cooperation on the part of EUFOR and MoFTER, the group of experts were unable to verify grounded hypotheses – therefore a number of questions remain unanswered.

A considerable number of these examples include shipments to Iraq.⁴⁴ Inclusion does not imply an ethical or moral judgement on whether or not to send arms and ammunition to Iraq. These examples are solely used to illustrate that decisions were made based upon incomplete data and contradictory statements within the documentation submitted in order to obtain form 5 and 6 approval from EUFOR, as well as export licenses from the Bosnian authorities.

Example 1: Reference 10-03-39-223-80/04 “Unis Promex to Swiss” (see Table 5 and Table 6).

There are three forms 5, the first of which dates back to 21 September 2004, and the last one is dated 10 March 2005. Final destination on all is Switzerland, more specifically Marius Joray Waffen AG. Switzerland was also the final destination stated in the export license. The first Form 6 is dated 8 December 2004 with final destination the Coalition Provisional Authority in Baghdad, Iraq. The next two Forms 6 dated 13 December 2004 state Marius Joray Waffen in Switzerland as final destination. After that the Group of Experts identified 18 Forms 6 that point in the direction of Iraq. Finally the last three are once again Switzerland. The quantities and types of SALW found on these latter three seem to indicate that these SALW were destined for the collectors market in continental Europe.

Good practice dictates that the end user on the export licence needs to match the final destination found on the Form 5, furthermore the final destination of Form 5 must match the final destination on Form 6. According to a note on several Forms 6, EUFOR reconfirmed on the 2 December 2004 that the final destination was Iraq and not Switzerland.⁴⁵

- (1) Why still issue a Form 5 on 10 March 2005 with Switzerland as final destination?
- (2) How can it be that arms were sent to Iraq using a Swiss EUC or import licence?

⁴³ Analysis of National Legislation on Arms Exports and Transfers in the Western Balkans, SEESAC, 2006: p. 25.

⁴⁴ For a detailed analysis of the Iraqi shipments see “Dead on Time: arms transportation, brokering and the threat to human rights”, Amnesty International & TransArms, May 2006.

⁴⁵ Form 6 2005 03 15 (80-1-2): “According to SFOR-TAOS agreement dated 28 July 2004 (reconfirmed by HQ EUFOR on the 02 Dec 04), submission of US DD FORM 1907, Feb 2003, stamped and signed by an authorized officer of the Coalition Forces or by an Iraqi Government official, to be send to HQ EUFOR within 14 days after actual shipment”.

- (3) If an Iraqi EUC or import licence was used why send the last three shipments to Switzerland? (The quantity and type of SALW do indicate that these might have been shipped to Switzerland.)

Example 2: Ref. 577/04 (Table 7 & Table 8)

Between 15 October 2004 and 22 February 2005 two Forms 5 are issued with final destination Marius Joray Waffen, Switzerland. It seems that meanwhile 16 corresponding Forms 6 were given for Switzerland. On 13 June 2005 EUFOR becomes aware that final destination was not Switzerland but Iraq. The Group of Experts judged it to be irregular to continue issuing Form 6 using the original Form 5 and the original export licence/import licence, since by 2 December 2004 they had become aware that the Marius Joray Waffen shipments were destined for Iraq (see example 1.) See also the peculiar note on Form 6 (2005 05 10):

"According to SFOR-TAOS agreement dated 28 July 04 (reconfirmed by HQ EUFOR on the 02 Dec 04) applies to all shipments to recognized countries of final destination. Relating to shipments to Switzerland, submission of official delivery confirmation, stamped and signed by an authorized officer of the SWISS export control department of the State Secretariat for Economic Affairs, to be send to HQ EUFOR within 14 days after actual shipment."

Example 3: 10-03-39-223-112-1/04 (See Table 9).

The first of these forms 6 is approved on 23 June 2005 with final destination Marius Joray Waffen in Switzerland. Taking into account that previous shipments with Switzerland as alleged final destination actually went somewhere else (see for instance ex. 1 & 2), nobody seems to have noticed that more than 2 million rounds of 14.5mm ammunition were apparently shipped to land-locked Switzerland through the sea port of Ploce in Croatia.

Example 4: Shipment of Rifle Grenades on the m.v. Puma via Ploce⁴⁶ (See Annex 2 and Annex 3).

On 3 June 2005 the m.v. Puma bound for Chittagong, sailed from Ploce, with 40,000 rifle grenades from BiH destined for the Central Ammunition Depot of the Bangladesh Army. Regrettably, there are several occasions where a Bangladesh End Use Certificate for weapons and ammunition has been put to fraudulent use. The best known of these is probably the Summer of 1995 where weapons obtained in Bulgaria under a Bangladesh EUC - also for the Central Ammunition Depot - were discovered after an air drop to the Anand Marg terrorist group in West Bengal⁴⁷. It seemed appropriate therefore to verify that the delivery of these rifle grenades - 20,000 Rifle Grenade HE M60-P1 and 20,000 Rifle Grenade

⁴⁶ Since Ploce in the Republic of Croatia functions as the seaport for the Republic of Bosnia and Herzegovina a series of visits have been made there to examine the procedures in force for weapons exports from Bosnia and Herzegovina.

⁴⁷ Various Press reports, documents in the possession of the researchers show that the consignment was brokered by a British company, Border Technology and Innovations, that the weapons were supplied by the Bulgarian company Arsenal Bulgaria and that the notional destination, according to the EUC, was the Commandant, Central Ammunition Depot, Gazipur, Bangladesh. Interestingly, the final quotation from BTI for these weapons contains the notation "parachutes not available" a delivery method unique in the authors' experience !

HEAT M-60 - had actually been accomplished. Regrettably, however, it has not been possible for the authorities at either the Bangladesh Defence Ministry in Dhaka or the Central Ammunition Depot in Gazipur to respond formally recording the receipt of this ordnance which is apparently in some form of limbo, best described by the Defence Attache of Bangladesh in London as " I am not saying it is missing, I am saying that we are not finding"⁴⁸. For the purposes of this case study it is suggested that the loss of this consignment en route should be accepted and it is appropriate therefore to allude to the potentially serious humanitarian consequences should this cargo have been diverted to, for example, Port Sudan or Mogadishu.

Example 5: The shipment of Military Equipment on the m.v. Sloman Provider (See Annex 6 and Annex 7).

On 11 July 2005 the m.v. Sloman Provider sailed from Ploce, allegedly returning equipment from the Bundeswehr contingent of EUFOR, to Cuxhaven in Germany⁴⁹. Arguably the most important characteristic of a system for controlling the movement of any military equipment, including weapons and ammunition, is that it should be transparent, simple to understand and easily verifiable.

Although the loading of the Sloman Provider was, in essence, a simple movement of equipment by a NATO force back to their own country, it has still not been possible to reconcile the records provided by EUFOR with the records of the Bosnian and Croatian railway administrations and with the record of equipment loaded aboard the Sloman Provider at the port of Ploce. The available paperwork shows that about 50 metric tonnes of cargo, unaccounted for by EUFOR records, was loaded aboard this ship.⁵⁰ Given that some private exports, to a German arms dealing company, had been authorised by EUFOR Form 6's for those dates⁵¹, the stevedoring company at Ploce conceded that it is possible that some cargo originally destined for the Sloman Traveller may have been loaded instead on the Sloman Provider⁵². However, this is denied by a UK consortium of arms dealers of which the German dealer forms a part. The lead UK dealer states that arms exported from Bosnia on the basis of German Import Licenses and home-made EUCs stating the final destination as Germany, were actually imported into the United Kingdom using UK import licenses.⁵³

In the case of both these vessels, the Croatian authorities state that these ships were loaded under EUFOR "supervision"⁵⁴, whilst the Chief Political Adviser to

⁴⁸ Telephone conversation with Brigadier General Belal Mahmood, Defence Attache at the Bangladesh High Commission, London, 9 November 2006.

⁴⁹ Interview harbour master Ploce, October 2006.

⁵⁰ Discrepancy between the railway records of tonnage moved and the port records of tonnage loaded.

⁵¹ Information in evidence folder. For details see "Open to abuse - arms import licensing loopholes threaten human rights" (working title), Amnesty International, to be published.

⁵² Conversation with Tomo Krilic, Commercial Director of Luka Ploce d.d. on 16 November 2006.

⁵³ Interview with Gary Hyde, a UK arms dealer who organized the shipment of 78,000 AK-47s into the UK through a company called Procurement Management Services.

⁵⁴ Statement by Captain Ivan Maric, Port Security Officer for Luka Upravna Ploce on 17 October 2006, by Captain Pavlovic, Managing Director, and Tomo Krilic, Commercial Director of Luka Ploce d.d. on 16 November 2006.

EUFOR denies this saying, in effect, that EUFOR's supervision of Bosnian weapons exports is solely a paper-based exercise⁵⁵.

Example 6: The Shipment of Surplus Weapons on the m.v. Sloman Traveller. (See Annex 4 and Annex 5)

On 12 July 2005 the m.v Sloman Traveller sailed from Ploce, containing around 78,000 AK47 assault rifles and some light machine guns, destined for British and German arms dealers, plus 955 tonnes of obsolete and obsolescent armoured vehicles, all to be unloaded at the port of Immingham in the U.K.⁵⁶. Because the Croatian authorities were under the impression that EUFOR was "supervising" the loading of the Sloman Traveller⁵⁷, it is only possible to say that something in excess of 70,000 AK47 assault rifles and some light machine guns were sent by sea to Immingham for receipt by three U.K. arms dealing companies. Some of the weapons may have been transferred to Germany at a later stage. This situation is, frankly, quite unacceptable. And it gets worse. During the second period of research at Ploce a 'Zapisnik', a discrepancy note, was discovered which records that, on 1 July 2005, truck registration 734J640/266M476 was unloaded at the quayside alongside the m.v. Sloman Traveller, when it was discovered that 6 pallets of boxes of AK47 assault rifles were missing. 18 pallets were recorded as being loaded at Tuzla and, according to the driver's records, were on the truck; yet only 12 pallets were found when the truck was unloaded. Six pallets equates to 720 assault rifles: Ak-47's in Western Europe have a black market value of some 2,000 Euros per gun, whilst in Central Africa the black market price is a more modest \$200 U.S. per gun⁵⁸. Either way, no action was taken by either EUFOR, the Croatian or Bosnian authorities regarding identifying the location of the missing weaponry. The Croatian authorities say that they understood the cargo to be under the physical, as well as the notional, control of EUFOR - and the presence of EUFOR troops on the quayside will have tended to reinforce that impression: EUFOR headquarters, however, despite several requests, have failed thus far to explain why, even with their paper-based system, they failed to notice a discrepancy of 720 weapons when the appropriate receipts were received for the UK authorities.

There is also a question over the appropriateness of the documentation which authorised about 70,000 assault rifles to be sent from Bosnia to both the UK and to Germany. In both cases one would tend to assume that those weapons were destined for re-export somewhere, yet EUFOR requested only Import Licenses and home-made End User Certificates written by the arms dealers themselves - a procedure which, in itself, vitiates the safeguards contained in the standard OSCE guidelines for the international transfer of SALW.

The physical security of this consignment is also an issue which raises serious questions regarding both competence and accountability as the following quote from the Shipper's Note which accompanied the consignment graphically

⁵⁵ Email from EUFOR Chief Political Advisor Nick Williams 28 November 2006.

⁵⁶ See Shipper's Notes.

⁵⁷ see 54.

⁵⁸ Personal observation by BJT, Mwanza, Tanzania, April 2006.

illustrates:- "693 pallets said to contain 7,389 cases of surplus weapons. Pallets control:- steel stripe bands loosened. Used Cases. cases are not sealed. carrier shall not be liable for the number and content of cases".

Yet those cases contained both assault rifles and machine guns, a cargo which one would expect to be controlled with the utmost rigour. Furthermore, neither EUFOR nor the Bosnian authorities required the recording of the serial numbers of this shipment or any other, making it impossible to trace the origin of such weapons, should any fall into the hands of terrorist or insurgent groups.

Example 7: Uganda (see Table 10)

In 2002 BiH has shipped well over 5 million 7.62x39mm rounds, 10,000 60mm mortar rounds and 8,000 82mm mortar rounds to Uganda. If one follows the EU Code of Conduct strictly these exports should never have been allowed.

- Criterion 3: The internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts;
- Criterion 4: Preservation of regional peace, security and stability;
- Criterion 7: The existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions.

Custom procedures.

When submitting an application for import, export, transit or re-export of the items from the Military List or the Dual List, with the customs office in charge of receiving the applications, the exporter and/or importer shall present the licenses required for import, export for import, export, transit or re-export.⁵⁹ A licence for import, export, transit or mediation in trade of arms and military equipment shall contain, in particular, the requirements in relation to the means of transport, transport itinerary, places of border crossing, safety and security of transport.⁶⁰

The customs authorities to which the application was submitted may request from exporter and/or importer the translation in one of the official languages in BiH of any document which is presented as evidence.

The Indirect Taxation Authority, which has given authorization to the customs offices according to paragraph 1 of this Article, shall inform thereof the BiH Ministry of Foreign Trade and Economic Relations.

Additional transport procedures.

In the interest of public security, the MoFTER may request from the authorized state or entity authorities to conduct a special supervision over the transport of arms and military equipment.⁶¹

In case of en-route (transit) flights of airplanes landing on the territory of Bosnia and Herzegovina, the responsible customs authority is authorized to review the

⁵⁹ Article 3 of the Instruction on the obligations of customs authorities in the implementation of the Law on Import and Export of Arms and Military Equipment and the Control of Export and Import of Dual Use Items.

⁶⁰ Article 9§1c of the Law on the Export and Import of Arms and Military Equipment.

⁶¹ Ibid, Article 10§2.

complete list of arms and military equipment and run a check on the arms and military equipment.⁶²

In the interest of public security, MoFTER may also request from the authorized state or entity authorities to conduct a special supervision over the transport of arms and military equipment.⁶³

Transparency/Accountability

The state submits information to UN Comtrade using the pre-determined UN Comtrade code and publishes a annual report which provides some information on exports. However the law requires a semi-annual report⁶⁴ and the information contained within the report lacks the specific data required for a detailed study. Export information contained within MoFTER's annual report is submitted to the Council of Ministers and the state parliament for ratification. The report cites the total approximate value of all arms sales licensed during the year in question. The report also includes a list of all countries to which military equipment and arms were exported however the report provides no information as to what type and quantity of goods were exported to a particular country. Moreover, the report does not provide the specific number of weapons exported from Bosnia & Herzegovina.

It should be noted that a large number of arms traders in Bosnia & Herzegovina, have, according to US diplomats and EUFOR officials "close ties" with their respective ministries of Defence at entity level.⁶⁵ The MFA official in question admitted in a recorded interview that Bosnia & Herzegovina's arms export practices were not transparent.⁶⁶ The MoFTER official defended Bosnia & Herzegovina's general lack of transparency regarding quantities of weapons sold, the identities of arms brokers and the mechanics of specific deals with the explanation that "Bosnia & Herzegovina provides as much information to the public as the British government, when it comes to arms exports."⁶⁷

Surplus

SALW	
Sold	331,900 pcs
Destroyed	85,000 pcs
Ammunition	
Sold	64,620,447 rounds
Destroyed	< 3 million rounds
Surplus	> 200 million rounds

Source: BiH MoD

The moratorium on the export of surplus small arms and light weapons (SALW), that was issued on 22 July 2004, was delayed several times, and finally

came into force on 31 July 2005. The moratorium was

⁶² Ibid, Article 13.

⁶³ Article 10§2 of the Law on the Export and Import of Arms and Military Equipment.

⁶⁴ Ibid, Article 11§1.

⁶⁵ The entity level ministries of defence are currently being merged into a unified ministry of Defence which at the time of writing remains largely on paper.

⁶⁶ See recorded interview with Svetozvar Miletic.

⁶⁷ Interview with Dragaisa Mekic.

repeatedly delayed because the Croatian arms dealer, Scout d.o.o was unable to transfer all the AK-47 derivatives and ammunition within the government and internationally-mandated time frame. Scout, together with a number of Swiss, UK and US arms brokers succeeded in their request for delaying the moratorium on at least three occasions in order to assist in the process of transferring the weaponry out of Bosnia & Herzegovina.

Tables

Table 5: Eufor ref. 80/2004 - Form 5

From	Final Destination	SFOR /EUFOR Received	SFOR /EUFOR Approved	Description	Buying Company	Serial N°	Form 5 ref.
Unis Promex	Switzerland, Marius Joray Waffen AG	21/09/2004	07/09/2004	- Automatic rifle - AK74 5.45mm83pcs - M70 (A, B, AB) 7.62mm15,652pcs TOTAL: 15,735pcs - 7.9mm M53 light machine guns.... 2,470pcs TOTAL: 2,470pcs - 12.7mm machine gun - NSV 60pcs - DSK53pcs TOTAL: 113pcs - Ammunition - 7.62x39..... 25,000.000pcs - 7.92x57.....3,000.000pcs - 12.7x108 (DSK).....1,005.412pcs TOTAL: 29,005.412pcs	Marius Joray Waffen, Ivan Peranec	50627/04 10-03-39-223-80/04	2004 09 21 (80) invalid
Idem	Idem	31/12/2004	31/12/2004	Idem	Idem	50627/04 10-03-39-223-80/04	2004 12 31 (80) invalid
Idem	Idem	10/03/2005	14/03/2005	Idem	Idem	50627/04 10-03-39-223-80/04	2005 03 10 (80-1)

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Table 6: Eufor ref. 80/2004 - Form 6

Date of Transport	From	Final Destination	EUFOR Received	EUFOR Approved	Point of Departure	Description	Buying Company	Serial N°	Form 6 ref.
11/12/2004 ^M	Unis Promex	Coalition Provisional Authority, Baghdad	07/12/2004	08/12/2004	Tuzla Airport	7.62x39mm ammunition....2,205,000pcs	Marius Joray Waffen, Ivan Peranec	50627/04 10-03-39-223-80/04	2004 12 08 (80-1) postponed
11/12/2004	Idem	Idem	07/12/2004	??/12/2004	Idem	Idem	Idem	50627/04 10-03-39-223-80/04	2004 12 08 (80-2) postponed
11/12/2004	Idem	Idem	09/12/2004	09/12/2004	Idem	7.62x39mm ammunition....3,528,180pcs	Idem	50627/04 10-03-39-223-80/04	2004 12 08 (80-3) postponed
14/12/2004	Idem	Switzerland, Marius Joray Waffen AG	13/12/2004	13/12/2004	Idem	7.62x39mm ammunition....1,804,800pcs	Idem	50627/04 10-03-39-223-80/04	2004 12 13 (80-4)
15/12/2004	Idem	Idem	13/12/2004	13/12/2004	Idem	7.62x39mm ammunition....1,689,360pcs	idem	50627/04 10-03-39-223-80/04	2004 12 13 (80-5)
28/12/2004 ^M	Idem	Marius Joray Waffen Coalition Provisional Authority, Iraq	22/12/2004	23/12/2004	Idem	7.62x39mm.....1,874,880pcs 12.7x108 (DSK).....170pcs	Marius Joray Waffen Coalition Provisional Authority, Iraq	50627/04 10-03-39-223-80/04	2004 12 13 (80-6) postponed
13/01/2005	Idem	Idem	07/01/2005	10/01/2005	Idem	7.62x39mm ammunition....1,995,840pcs	Idem	50627/04 10-03-39-223-80/04	2005 01 07 (80-7) postponed
12/01/2005	Idem	Idem	07/01/2005	10/01/2005	Idem	7.62x39mm ammunition....1,995,840pcs	Idem	50627/04 10-03-39-223-80/04	2005 01 07 (80-8)
16/01/2005	Idem	Idem	12/01/2005	12/01/2005	Idem	7.62x39mm ammunition.....835,380pcs	Idem	50627/04 10-03-39-223-80/04	2005 01 12 (80-11)
24/01/2005	Idem	Idem	19/01/2005	21/01/2005	Idem	7.62x39mm ammunition....2,024,820pcs	Idem	50627/04 10-03-39-223-80/04	2005 01 19 (80-12)
31/01/2005	Idem	Idem	25/01/2005	26/01/2005	Idem	7.62x39mm ammunition....4,233,600pcs	Idem	50627/04 10-03-39-223-80/04	2005 01 25 (80-13) postponed
01/02/2005	Idem	Idem	01/02/2005	01/02/2005	Idem	7.62x39mm	Idem	50627/04	2005 02 01

^M "According to SFOR-TAOS agreement dated 28 July 04, submission of US DD FORM1907, Feb 2003, stamped and signed to HQ SFOR within 14 days after actual shipment."

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						ammunition....4,233,600pcs		10-03-39-223-80/04	(80-15)
03/02/2005	Idem	Idem	03/02/2005	03/02/2005	Idem	7.62x39mm ammunition....4,233,600pcs	Idem	50627/04 10-03-39-223-80/04	2005 02 01 (80-16)
05/02/2005	Idem	Idem	01/02/2005	03/02/2005	Idem	7.62x39mm ammunition....1,507,680pcs	Idem	50627/04 10-03-39-223-80/04	2005 02 01 (80-17)
21/03/2005 ^N	Idem	Idem	15/03/2005	15/03/2005	Idem	7.62x39mm ammunition....1,306,620pcs	Idem	50627/04 10-03-39-223-80/04	2005 03 15 (80-1-1)
21/03/2005 ^N	Idem	Idem	15/03/2005	15/03/2005	Idem	7.62x39mm ammunition.....893,480pcs	Idem	50627/04 10-03-39-223-80/04	2005 03 15 (80-1-2)
11/04/2005	Idem	Marius Joray Waffan, Republic of Iraq, c/o General Saad Saleh Khafagi	06/04/2005	07/04/2005	Idem	7.62x39mm AK-47 rifle.....3,500pcs	Marius Joray Waffan, Republic of Iraq, c/o General Saad Saleh Khafagi	50627/04 10-03-39-223-80/04	2005 04 06 (80-1-3)
12/04/2005	Idem	Idem	06/04/2005	07/04/2005	Idem	7.62x39mm AK-47 rifle.....3,400pcs	Idem	50627/04 10-03-39-223-80/04	2005 04 06 (80-1-4)
11/04/2005	Idem	Marius Joray Waffan for Republic of Iraq, c/o General Saad Saleh Khafagi	06/04/2005	07/04/2005	Idem	7.62x39mm AK-47 rifle.....2,520pcs	Marius Joray Waffan for Republic of Iraq, c/o General Saad Saleh Khafagi	50627/04 10-03-39-223-80/04	2005 04 06 (80-1-5)
09/05/2005 ^T	Idem	Marius Joray Waffan, Republic of Iraq, c/o General Saad Saleh Khafagi	04/05/2005	04/05/2005	Idem	12.7mm (DSK) ammo.....254,592pcs	Marius Joray Waffan, Republic of Iraq, c/o General Saad Saleh Khafagi	50627/04 10-03-39-223-80/04	2005 05 04 (80-1-6 RV)
10/05/2005 ^T	Idem	Idem	04/05/2005	04/05/2005	Idem	12.7mm (DSK) ammo.....260,784pcs	Idem	50627/04 10-03-39-223-80/04	2005 05 04 (80-1-7 RV)
11/05/2005 ^T	Idem	Marius Jorau	05/05/2005	05/05/2005	Idem	12.7mm (DSK) ammo.....240,000pcs	Marius Jorau	50627/04	2005 05 05

^N "According to SFOR-TAOS agreement dated 28 July 04 (reconfirmed by HQ EUFOR on the 02 Dec 04), submission of US DD FORM1907, Feb 2003, stamped and signed by an authorized officer of the Coalition Forces or by an Iraqi Government official, to be send to HQ EUFOR within 14 days after actual shipment."

^T "According to SFOR-TAOS agreement dated 28 July 04 (reconfirmed by HQ EUFOR on the 02 Dec 04) applies to all shipments to the Republic of Iraq, submission of US DD FORM1907, Feb 2003, stamped and signed by an authorized officer of the Coalition Forces or by an Iraqi Government official, to be send to HQ EUFOR within 14 days after actual shipment !"

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		Waffen, Iraqi MoD					Waffen, Iraqi MoD	10-03-39-223-80/04	(80-1-8)
12/05/2005 ^T	Idem	Idem	05/05/2005	05/05/2005	Idem	12.7mm (DSK) ammo.....244,616pcs	Idem	50627/04 10-03-39-223-80/04	2005 05 05 (80-1-9)
25/06/2005	Idem	Marius Joray Waffen, Switzerland	23/06/2005	23/06/2005	Idem	- 12.7mm rifles - MACS.....19 pcs - 12.7mm Barret.....4 pcs - 7.62mm EMM 92 1 pc - AK-47250 pcs - 7.62mm SSG.....28 pcs - Corresponding equipment....3 pallets	Marius Joray Switzerland	50627/04 10-03-39-223-80-1-18/04 10-03-39-223-49-4/04	2005 06 23 (80-1-18)
25/06/2005	Idem	Idem	23/06/2005	23/06/2005	Idem	- L1A1 rifle114pcs - 5.45mm AK-7483pcs - 7.62mm AK-47120pcs - Corresponding equipment – (5 pallets)	Idem	50619/04 10-03-39-1638-2-2/04 10-03-39-80-1-19/04	2005 06 23 (80-1-19)
25/06/2005	Idem	Idem	23/06/2005	23/06/2005	Idem	- 7.62x51mm G3 rifle ...259 pcs - PM 53 light machine gun... 46 pieces	Idem	50619/04 10-03-39-1638-2-3/04 10-03-39-80-1-20/04	2005 06 23 (80-1-20)

Table 7: Eufor ref. 577/2004, Form 5

Date	From	Final Destination	EUFOR Received	EUFOR Approved	Description	Buying Company	Serial N°	Form 5 ref.
13/10/2004	RS, Directorate for Manufacture and Trade of WME	Switzerland	15/10/2004	19/10/2004	- Cartridge 7.9mm.....14,000,000pcs - Cartridge 12.7mm.....3,600,000pcs - Cartridge 12.7mm, DSK.....2,000,000pcs	Scout doo (Ivan Peranec)	577-1/04	2004 10 15 (577-1/04)
	idem	Switzerland	22/02/2005	22/02/2005	Idem	Idem	577-1/04	2005 02 22 (577-1/04)
	idem	Iraq, Ministry of Defence ^E	13/06/2005	13/06/2005	Idem	Idem	577-1-1/04	2005 06 14 (577-1-1/04)
	idem	Republic of Iraq,	18/07/2005	18/07/2005	12.7mm DSK	Idem	577-1-1-	2005 07 18

^E Following note included in revised form 5 for shipments 577-1/04 to 577-1/26 : “Due to the involvement of new traders and due to the change of the country of destination, the former HQ EUFOR Form 5, dated 22 Feb 05, and the related BiH MoFTER export license, country of final destination SWISS, cannot be used for the actual shipment to the present country of final destination Iraq. This came up to HQ EUFOR knowledge on June 13, 2005. HQ EUFOR received one contract BS 202 and an EUC issued by the Iraqi Ministry of Defence on January 15, 2005, in which the contractor and importer is stated as Gulf Spa Trading C. (L.L.C.), U.A.E. contract No. T007/2004 and T008/2004 issued October 19, 2004. Since the relating transports by aircraft from Tuzla airport to Baghdad are scheduled for this week, HQ EUFOR is CONDITIONALLY approving the revised Form 5. After receipt of the revised BiH MoFTER license the actual export can be performed !”

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		Ministry of Defence			rounds.....1,000,000pcs		1/05 (388-1-1/05)	(577-1-1-1/05)
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Table 8: Eufor ref. 577/2004, Form 6

Date of Transport	From	Final Destination	EUFOR Received	EUFOR Approved	Point of Departure	Description	Buying Company	Serial N°	Form 6 ref.
14/05/2005	idem	Switzerland, Marius Joray Waffen ^K	10/05/2005	10/05/2005	Tuzla Airport	12.7x108 DSK rounds.....127,296pcs	Ivan Peranec	200-1/05	2005 05 10 (577-1-1/04)
14/05/2005	idem	idem	10/05/2005	10/05/2005	idem	12.7x108 DSK rounds.....127,296pcs	Idem	200-2/05	2005 05 10 (577-1-2/04)
13/05/2005	idem	idem	10/05/2005	10/05/2005	idem	12.7x108 DSK rounds.....127,296pcs	Idem	200-3/05	2005 05 10 (577-1-3/04)
13/05/2005	idem	idem	10/05/2005	10/05/2005	idem	12.7x108 DSK rounds.....127,296pcs	Idem	200-4/05	2005 05 10 (577-1-4/04)
16/05/2005	idem	idem	10/05/2005	10/05/2005	idem	12.7x108 DSK rounds.....127,296pcs	Idem	200-5/05	2005 05 10 (577-1-5/04)
16/05/2005	idem	idem	10/05/2005	10/05/2005	idem	12.7x108 DSK rounds.....127,296pcs	Idem	200-6/05	2005 05 10 (577-1-6/04)
15/06/2006	idem	idem	08/06/2005	09/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	Ministry of the Interior, Republic of Iraq (Ivan Peranec)	269-1/05	2005 06 08 (577-1-9/04)
15/06/2005	idem	idem	08/06/2005	09/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	idem	269-2/05	2005 06 08 (577-1-10/04)
14/06/2005	idem	idem	10/06/2005	10/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	idem	287-1/05	2005 06 10 (577-1-11/04)
14/06/2005	idem	idem	10/06/2005	10/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	idem	287-2/05	2005 06 10 (577-1-12/04)
16/06/2005	idem	idem	10/06/2005	10/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	idem	284-1/05	2005 06 10 (577-1-13/04)
16/06/2005	idem	idem	10/06/2005	10/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	idem	284-2/05	2005 06 10 (577-1-14/04)
17/06/2005	idem	idem	10/06/2005	10/06/2005	idem	12.7x108 DSK	idem	285-1/05	2005 06 10

^K Following note included in form 6: "According to SFOR-TAOS agreement dated 28 July 04 (reconfirmed by HQ EUFOR on the 02 Dec 04) applies to all shipments to recognized countries of final destination. Relating to shipments to Switzerland, submission of official delivery confirmation, stamped and signed by an authorized officer of the SWISS export control department of the State Secretariat for Economic Affairs, to be send to HQ EUFOR within 14 days after actual shipment."

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						rounds.....124,800pcs			(577-1-15/04)
17/06/2005	idem	idem	10/06/2005	10/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	idem	285-2/05	2005 06 10 (577-1-16/04)
18/06/2005	idem	idem	10/06/2005	10/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	idem	286-1/05	2005 06 10 (577-1-17/04)
18/06/2005	idem	idem	10/06/2005	10/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	idem	286-2/05	2005 06 10 (577-1-18/04)
29/06/2005	idem	Republic of Iraq, Ministry of Defence	28/06/2005	28/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	Scout doo (Ivan Peranec)	331-1/05	2005 06 27 (577-1-19/04)
29/06/2005	idem	idem	28/06/2005	28/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	Idem	331-2/05	2005 06 27 (577-1-20/04)
29/06/2005	idem	idem	28/06/2005	28/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	Idem	331-3/05	2005 06 27 (577-1-21/04)
29/06/2005	idem	idem	28/06/2005	28/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	Idem	331-4/05	2005 06 27 (577-1-22/04)
28/06/2005	idem	idem	27/06/2005	27/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	Idem	331-5/05	2005 06 27 (577-1-23/04)
28/06/2005	idem	idem	27/06/2005	27/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	Idem	331-6/05	2005 06 27 (577-1-24/04)
28/06/2005	idem	idem	27/06/2005	27/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	Idem	331-7/05	2005 06 27 (577-1-25/04)
28/06/2005	idem	idem	27/06/2005	27/06/2005	idem	12.7x108 DSK rounds.....124,800pcs	Idem	331-8/05	2005 06 27 (577-1-26/04)
30/07/2005	idem	idem	28/07/2005	29/07/2005	idem	12.7x108 DSK rounds.....124,800pcs	Idem	411-2/05	2005 07 28 (577-1-1-1/05)
30/07/2005	idem	idem	28/07/2005	29/07/2005	idem	12.7x108 DSK rounds.....124,800pcs	Idem	411-3/05	2005 07 28 (577-1-1-2/05)
31/07/2005	idem	idem	28/07/2005	29/07/2005	idem	12.7x108 DSK rounds.....124,800pcs	Idem	412-2/05	2005 07 28 (577-1-1-3/05)
31/07/2005	idem	idem	28/07/2005	29/07/2005	idem	12.7x108 DSK rounds.....124,800pcs	Idem	412-3/05	2005 07 28 (577-1-1-

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Table 9: Forms 6 - 10-03-39-223-112-1/04

Date of Transport	From	Final Destination	EUFOR Received	EUFOR Approved	Point of Departure	Description	Buying Company	Serial Number	Reference
30/06/2005	Unis Promex	Switzerland (Marius Joray)	23/06/2005	23/06/2005	Ploce (Croatia)	14.5mm ammunition30,302pcs	Ivan Peranec	50636/04 10-03-39-223-112-1/04	2005 06 23 (112-1)
idem	idem	idem	23/06/2005	23/06/2005	Idem	14.5mm ammunition68,356pcs	Idem	50636/04 10-03-39-223-112-2/04	2005 06 23 (112-2)
idem	idem	idem	23/06/2005	23/06/2005	Idem	14.5mm ammunition1,697,716pcs	Idem	50636/04 10-03-39-223-112-3/04	2005 06 23 (112-3)
idem	idem	idem	23/06/2005	23/06/2005	idem	14.5mm ammunition275,806pcs	Idem	50636/04 10-03-39-223-112-4/04	2005 06 23 (112-4)

Table 10: Request for Transport (Form 6) - Africa

Date of Transport	From	Final Destination	SFOR Received	SFOR Approved	Point of Departure	Description	Buying Company	Serial Number	Reference
12/04/2005	Unis Promex	Pretoria Metal Pressings Div. of Denel			Budapest Airport	- 7.62mm – APM61 ball1,300,000pcs	M&E Tools Pty Ltd, RSA	29-03-37-(912/04)-1/05	2005 04 06 (912)
15/03/2005	Unis Promex	Pretoria Metal Pressings Div. of Denel			Budapest Airport	- 5.56mm Tracer M856 ball1,000,000pcs	M&E Tools Pty Ltd, RSA	50637/04 29-03-37-857-2/05	2005 03 10 (857-2)
12/04/2005	Unis Promex	Pretoria Metal Pressings Div. of Denel			Budapest Airport	- 5.56mm Tracer M856 ball1,600,000pcs	M&E Tools Pty Ltd, RSA	50637/04 29-03-37-857-3/05	2005 03 10 (857-3)
21/09/2004	Unis Promex	Pretoria Metal Pressings Div. of Denel	15/09/2004	15/09/2004	Sarajevo Airport	- 7.62mm AP ball samples500pcs	M&E Tools Pty Ltd, RSA	50608/04 27-03-37-619/04	2004 09 15 (619)
04/11/2002	BNT	Presidence de la République Guinee	29/10/2002	???	Vardiste	- 60 mm M70 Mortar "COMMANDO"100pcs - 82 mm M69 "A" Mortar50pcs - 120 mm M75 Mortar20pcs	???	11-03-37-1879/02	2002 10 28 (1879-2) postponed
03/12/2002	BNT	Presidence de la République	27/11/2002	???	Vardiste	- 60 mm M70 Mortar "COMMANDO"100pcs	???	11-03-37-1879/02	2002 11 27 (1879-4)

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		Guinee				- 82 mm M69 "A" Mortar.....50pcs - 120 mm M75 Mortar 20pcs			postponed
21/09/2002	RS MoD	Uganda MoD	16/09/2002	16/09/2002	Aleksandro vac airport	7.62x39mm ammo.....2,100,000pcs	???	???	2002 09 16 (294)
01/07/2002	RS MoD	Uganda MoD	25/06/2002	25/06/2002	Idem	7.62x39mm ammo.....1,500,000pcs	???	1-07-267/2002	2002 07 01 (267)
01/07/2002	RS MoD	Uganda MoD	25/06/2002	25/06/2002	Idem	7.62x39mm ammo.....500,000pcs	???	1-07-267/2002	2002 07 01 (267)
01/07/2002	RS MoD	Uganda MoD	28/06/2002	28/06/2002	Idem	7.62x39mm ammo.....700,400pcs	???	1-07-267/2002	2002 07 01 (267)
01/07/2002	RS MoD	Uganda MoD	28/06/2002	28/06/2002	Idem	7.62x39mm ammo.....500,000pcs	???	1-07-267/2002	2002 07 01 (267)
04/04/2002	BNT	Burundi MoD	28/03/2002	29/03/2002	Raca	82mm M69A mortar.....20pcs	???	11-03-37- 562/02	2002 03 27 (562)
03/04/2002	BNT	Burundi MoD	29/03/2002	29/03/2002	Raca	82mm M69A mortar.....20pcs	???	11-03-37- 562/02	2002 03 29 (562)
04/03/2002 ⁶⁸	RS MoD	Uganda MoD	???	???	Aleksandro vac	60mm mortar shells.....3,000pcs	???	1-07-54a	2002 03 01 (54a)
04/03/2002 ⁶⁹	RS MoD	Uganda MoD	???	???	Aleksandro vac	60mm mortar shells.....6,000pcs 120mm mortar shells.....1,200pcs	???	1-07-54b	2002 03 01 (54b)
07/05/2002	RS MoD	Uganda MoD	30/04/2002	30/04/2002	Gradiska	60mm mortar shells.....1,800pcs	???	1-07-54	2002 04 30 (54)
07/05/2002	Unis Promex	Uganda MoD	26/04/2002	??/04/2002	Gradiska	82mm MGP1 mortar rounds.....2,256pcs	???	50500/02 11-03-37-57- 4/02	2002 04 26 (57-4)
08/03/2002	Unis Promex	Uganda MoD	04/03/2002	05/03/2002	Banja Luka	82mm MGP1 mortar rounds.....6,000pcs	???	50500/02 11-03-37-57- 1/02	2002 03 04 (57-3)

⁶⁸ "Export approved by SFOR as of 25 February 2002"

⁶⁹ "Export approved by SFOR as of 25 February 2002"

Serbia

Export legislation and regulations: Policy and Practice

The basic arms export control law in Serbia is the *Law on Foreign Trade in Weapons, Military Equipment and Dual-Use Goods* which was passed by Serbia's predecessor, the State Union of Serbia & Montenegro in March 2005. Slight changes to this law still need to be ratified by Serbia's parliament to take into account the new constitutional status of Serbia following the dissolution of the State Union of Serbia & Montenegro in July 2006. These alterations effect neither the framework nor the implementation of Serbia's current arms export regime.

The current law replaced the Milosevic-era '*Law on Production and Circulation of Armaments and Military Hardware*' which had supposedly governed arms exports since 1996. The 2005 legislation is a significant improvement on the 1996 law, formally shifting responsibility for export control from the Ministry of Defence to the civilian Ministry of International Economic Relations (MIER).

Under the 2005 law, all goods considered weapons and military equipment under the EU Code of Conduct are listed as such by the Serbian MIER, as are all dual use goods noted in the EU's list of dual use goods.⁷⁰ The 2005 law is harmonized in places with European, OCSE and international provisions. Article 20 of the 2005 law stipulates that in a decision-making process of giving consent for foreign trade in controlled goods, the Ministry of Foreign Affairs should evaluate the following:

- 1) Sanctions of the United Nations Security Council and recommendations of the Organization for Security and Co-operation in Europe (OSCE);
- 2) Accepted international obligations and foreign political interests of Serbia and Montenegro;
- 3) The European Union Code of Conduct for Arms Exports;
- 4) Level of violation and/or respecting of human rights and freedoms in the country of final destination.

The new law also provides for a more thorough background check on those companies wishing to import and export weapons, stipulating that any company wishing to acquire a licence to trade in "controlled goods" must submit a number of documents⁷¹ followed by enquiries by the Ministry of the

⁷⁰ Law on Foreign Trade in Weapons, Military Equipment and Dual-Use Goods, Article 3 : "1. weapons, military equipment and related technologies harmonized with "Common List of Military Equipment covered by the EU Code of Conduct on Arms Exports". 2. dual-use goods, including software and technologies that may be used for both civilian and military purposes, harmonized with "List of Dual-Use Goods and Technologies" of European Union. "

⁷¹ Ibid, Article 12: Registration for practice of foreign trade in controlled goods is done based on a person's written application, which must contain: 1) a notarized copy of the decision of the competent authority of the registered activity, 2) parent number and tax identification number, 3) certificate of the competent authority that the applicant has not been under criminal charges and that he is not under investigation, 4) name of the depositors bank and documents certified by the depositors bank (copies of the latest annual balance sheet and current account balance, certificate that the transfer account has not been blocked in the last 6 months, copy of the deposited signatures), 5) a statement of the applicant that he is not facing bankruptcy, 6) certificate that the applicant does not have any unpaid debts in terms of tax and custom duties, which are collected by means of a court decision, 7) number and structure of employees, 8)

Interior (MUP). Once the company has successfully registered as an arms trading entity, it must then apply for an individual licence for each commercial arms transaction it wishes to undertake.⁷²

In addition to the documents required for an individual trading licence, the company is required to submit an End User Certificate (hereinafter: EUC). An original end user certificate may not be older than 6 (six) months and shall be obtained from the official authority of the country of final destinations. The applicant also need to provide a notarized translation of the EUC into Serbian language and other required documents needed for decision-making process.⁷³ Article 15 stipulates the data that an original end user certificate should contain.⁷⁴

Once these documents have been submitted, the licensing request becomes subject to a decision-making process involving the MIER, the Ministry of Foreign Affairs (hereinafter: MFA) and the Ministry of Defence (MoD).⁷⁵ The MFA is tasked with assessing the export application in terms of international sanctions regimes, Serbia's geo-political interests, regional stability, human rights issues and adherence to the EU code of conduct.⁷⁶ The MoD considers the export application in terms of Serbia & Montenegro's national security, transfer of technology, stockpiles and whether the equipment can be considered part of a separate export list maintained by the Defence establishment.⁷⁷ Thus licences are assessed on a case-by-case basis in consultation with other government ministries. The licensing procedure appears restrictive, rather than permissive, with arms manufacturers and

obligatory statement by which the applicant declares to be under obligation to provide full cooperation and assistance to the competent authority in the process of control and supervision of activities related to foreign trade of controlled goods, as well as control of storage facilities and transport vehicles, 9) other documents needed for making the decision upon the request of the competent ministry.

⁷² Ibid, Article 14: Licence application for practice of foreign trade in controlled goods must contain: 1) name, address and parent number of importer or exporter, 2) name, description, tariff number, category and identification number from the List of controlled goods and quantity of controlled goods, 3) purpose of use of controlled goods, 4) total value of controlled goods, 5) information on other participants in trade: manufacturer, salesman, owner, buyer, shipping agent, transporter, traffic brokers and agents, 6) name and address of end user, 7) manner of payment, charging 8) suggestion for licence validity, 9) other required data and documents needed for making decision.

⁷³ Ibid, Article 15.

⁷⁴ Ibid. An original End User Certificate should contain the following data: 1) Name and address of exporter, 2) Name and address of final user of controlled goods, 3) Country of final destination, 4) Description, quantity and purpose of controlled goods, 5) Statement that controlled goods are not going to be used for different purposes, re-exported or otherwise transferred or traded without written approval of the Competent Ministry from the country of origin, 6) Signature, name and position of authorizing officer, 7) Number and issuing date.

⁷⁵ Ibid, Article 19. Before deciding upon an application for issuing licence for practicing of foreign trade of controlled goods in the sense of regulations of this Law, the Competent Ministry will obtain consent from ministries of Serbia and Montenegro in charge of foreign affairs and defence. The ministries in charge of foreign affairs and defence of Serbia and Montenegro have the right of veto on licence issuing in a decision-making process regarding trade in weapons and military equipment. In the case of veto from both ministries from paragraph 2 of this article, the Competent Ministry cannot issue a licence, but in the case of veto from one ministry the final decision provides the Council of Ministers; Interview with MIER 26 October 2006.

⁷⁶ Ibid, Article 20.

⁷⁷ Ibid, Article 21.

brokers complaining that the maximum licensing process of 30 days⁷⁸ is too long and damages their business.⁷⁹

Direct commercial export, surplus/gifts and brokering are all subject to this law. Government to government transactions, especially those involving the United States and the Serbian government are dealt with in the same manner, but the decision-making process is faster.⁸⁰ By December 31, 2005, the MIER had received 345 applications for arms export licences. Out of these, 80 applications were withdrawn while 36 remain "in procedure". 10 applications were denied because of "incorrect submission of End User Certificate documentation."⁸¹

Very rarely does MIER ask for a delivery verification certificate. In a recent export to South Africa they did ask for one "to be sure that the good were delivered there. South Africa is a very tumultuous... Whatever the export is we want to make sure that it is delivered there".⁸²

The new law has been widely praised by UN and OSCE officials working in Serbia and Montenegro.⁸³ Both the MIER and the MFA have to date been extremely transparent and cooperative in their dealings with the independent group of experts and other international interlocutors.

Transport legislation and regulations

In addition to the arms export laws, arms exporters must also apply for, and be granted an arms export transportation licence which is valid for 24 hours.⁸⁴

The continental and waterway transport of weapons and military equipment need to be approved by MUP and is based on the previously issued export licence from MIER and with consent of MFA and MoD.⁸⁵ Air transport of weapons and military equipment need to be approved by the Serbian Civil Aviation Authority and is also based on the previously issued licence from MIER and with consent of MFA and MoD.⁸⁶ One notable case where an arms export licence has been granted, but a transport licence refused concerns arms shipments intended for the Republic of Georgia.⁸⁷ The necessary security measures are to be taken during the transport and transit of weapons and military equipment. Continental and waterway transport and transit of weapons and military equipment on the territory of Serbia is to be conducted with an armed escort.⁸⁸

⁷⁸ Ibid, Article 22. The Competent Ministry will decide on a licence application within 30 days of the receipt thereof.

⁷⁹ Interview with YugolImport Mont executive, March 2006. YugolImport Mont was the Montenegrin sister company of SDPR, the state arms and military equipment company.

⁸⁰ According to the MIER, the US government were involved in a direct country to government transaction for a small quantity of weapons intended for Afghanistan. The US embassy in Belgrade was able to accelerate the decision by guaranteeing the weapons' intended destination.

⁸¹ Interview with MIER, April 2006

⁸² Interview with MIER, 26 October 2006.

⁸³ OSCE and UN officials.

⁸⁴ Interview with MIER, 26 October 2006.

⁸⁵ Article 27, Law on Foreign Trade in Weapons, Military Equipment and Dual-Use Goods.

⁸⁶ Ibid.; Interview with MIER, 26 October 2006.

⁸⁷ Interview with MIER, 26 October 2006.

⁸⁸ Ibid, Article 29.

Transparency

Serbia has to date never produced publicly an annual report detailing its arms exports. The 2005 law doesn't require reporting to the parliament. The first annual export report is to be produced by the Ministry of International Economic Relations (MIER). However, the report's publication has been repeatedly delayed due to issues relating to the dissolution of the State Union of Serbia & Montenegro, and the still un-resolved status of key arms licensing staff at the Serbian MIER.⁸⁹

Under the new security architecture introduced in 2005, two parliamentary committees oversee the work of the Ministry of International Economic Relations and related arms trade. These are parliamentary committee for defence and security and the parliamentary committee for international economic relations. Due to the tensions between Serbia and Montenegro and the dysfunctional nature of the State Union, the federal parliament of the State Union met infrequently, however, the MIER claims to have reported to these committees on a bi-annual basis. These reports are currently not publicly available.

The MIER and the MFA, to date the most transparent of all government ministries involved in the arms trade have provided information on arms exports to the independent group of experts and have provided useful background information on cases of concern as well as expressing the wish for greater information-exchange and cooperation to limit future possible cases of diversion and export licences granted to countries which run counter to the EU Code of Conduct.

The Serbian authorities do submit data to UN Arms Register and Comtrade on an annual basis and the data includes export and import amounts (weight) under the UN's categorization numbers for various weapons systems/classifications.⁹⁰

Serbian arms industry

Serbia can be classified as a small to medium-sized arms exporting state with a strong small arms and light weapons manufacturing base producing Yugoslav models of various AK-47 derivatives, rocket launchers and side arms.⁹¹ All small arms and light weapons manufacturing capability is located in a series of factories concentrated in central and western Serbia. No exact figures are available on the number of weapons produced by these factories annually, nor the quantity of weapons exported abroad. Financial data regarding these factories is not publicly available. All production facilities are heavily subsidized by the state and analysts believe that most, if not all, currently run at a loss.⁹² Anecdotal evidence suggests that none of the factories, with maybe the exception of Zastava Oruzje, is currently geared to produce more than 100,000 small arms pieces annually.

⁸⁹ Interview with MIER, April 2006; interview with MIER, October 2006

⁹⁰ See Serbia & Montenegro's report to the United Nations Comtrade database, 2004

⁹¹ See reports and brochures from Zastava arms factory, Kragujevac, Krusik factory, Valjevo, Sloboda factory, Cacak, SDPR-YugoImport Belgrade.

⁹² H. Masson: "Industries de défense et contrôle du commerce des armes en Serbie-et-Monténégro", Fondation pour la Recherche Stratégiques, 6 février 2006.

However, the global significance of Serbia's arms production and export capability regarding issues of concern to the independent group of experts far outweighs the scale of actual production. This is because of the Yugoslav arms industry's historical presence in the countries of the non-aligned movement, many of which are now sites of, or border some of the world's most serious conflicts or are states with a proven record of re-transferring weaponry to other conflict zones. These countries include Iraq, Myanmar, Libya and a large number of sub-Saharan states.⁹³ Moreover, Serbia is estimated to have between 600,000 and 800,000 of stockpiled SALW, much of it in a condition for re-sale or transfer.

The Serbian arms industry is currently estimated to employ 12,200 people directly and a further 20,000 engaged in defence-related activities. In a republic with a population of less than 7.5 million and an unemployment rate currently estimated at 30%, the numbers employed are significant. Moreover, the defence industries remain largely state-controlled businesses and are closely tied to the political, military and state security elite.⁹⁴ The defence industry is considered to be an important national security asset and technological knowledge pool. As a consequence of this, political and strategic interests may be considered more important to elements within the establishment than clauses contained within the 2005 law.

In addition to these factors, well-publicised scandals involving former defence ministers and senior ministry officials indicate that personal financial gain in the form of bribery has led to the subversion and circumvention of various laws regarding arms import and export.⁹⁵

In addition to its manufacturing, production and state export capabilities, Serbia has a burgeoning arms trading and brokering sector. There are currently 82 companies registered with the MIER as licensed to trade in military equipment and weapons.⁹⁶ In addition to these 82 companies which are described as being "Serbian or Montenegrin", brokers with connections to the Israeli, Libyan militaries are active in Serbia and Montenegro.⁹⁷

Arms exports control pre-2005

During the regime of Slobodan Milosevic, large quantities of Yugoslav small arms and light weapons continued to be smuggled to other countries under UN sanctions and conflict zones.⁹⁸ For example, the main state arms company, SDPR, which has a controlling interest in a number of manufacturing facilities actively colluded with the Yugoslav Defence ministry and Serbian state security to smuggle such military equipment and weapons during the 1990s.⁹⁹

⁹³ Interviews with Serbian government officials, copies of End User Certification.

⁹⁴ Interviews with military analysts. Stevan Nikcevic, current chief executive of Serbia's largest arms producing company, SDPR, is a former police minister.

⁹⁵ See various reports on the "Satellite affair", the "army helmet and equipment affair", the selling of military facilities and premises.

⁹⁶ List of domestic arms brokers obtained from Serbian government officials.

⁹⁷ Interview with Serbian government officials.

⁹⁸ Masson, op. cit.

⁹⁹ As reported in various Serb media.

As Serbia & Montenegro emerged from international isolation following the fall of Slobodan Milosevic in October 2000, these sanction-busting operations continued into 2002. Actual smuggling operations to Liberia and Iraq were made public in 2002 via the UN and US embassy, while the UN noted a planned shipment to the Democratic Republic of Congo.¹⁰⁰ The revelations prompted a shake-up within the Defence establishment, the eventual enactment of the 2005 law described in this report together with a transfer of export control to civilian ministerial oversight.

Arms export control post-2005

Despite this progress, Serbia's legitimate trade in small arms and light weapons continues to countries where such weapons may be used for gross violations of human rights. Anecdotal evidence suggests that Serbia & Montenegro is transferring significant amounts of military equipment and technology to Myanmar¹⁰¹, currently subject to an EU embargo, and Syria, if not Iran.¹⁰² Moreover Serbia has exported large quantities of weapons to Iraq and Afghanistan, and continues to supply weapons to Sub-Sahara states either bordering conflict zones (Tanzania, Burkina Faso, Equatorial Guinea,...)¹⁰³ or in conflict (Sudan, Somalia, Chad)¹⁰⁴. Table 11 gives an overview of recent exports granted by MIER and MFA to African countries.

We see several reasons why Serbia's arms export control regime is weak.

- (1) Historical reasons: Serbia's strong ties with other countries within the non-aligned movement (Iraq, Iran, Sudan, Chad,...).
- (2) Structural problems: Serbia has a severe lack of financial resources. MIER arms licensing officers do not have firm contracts following dissolution of the State Union of Serbia & Montenegro. A key department which would benefit from a more secure situation regarding long-term employment. Moreover MIER has an insufficient number of trained staff to deal with the large volumes of arms licensing applications.
- (3) Information resources: Government arms licensing officials lack information resources and training to identify questionable intermediaries and ultimate end destinations.
- (4) Because of the strategic and political importance of SDPR, both in terms of an employer and its connections to the military, state security services and political elite, major arms deals involving countries such as Myanmar appear to be proceeding without the complete knowledge of the MIER.¹⁰⁵

¹⁰⁰ Report of the Panel of Experts pursuant to paragraph 25 of Security Council resolution 4178 (2003) concerning Liberia. S/2003/937

¹⁰¹ There is credible evidence of a significant research, development and production agreement with the Burmese (Myanmar) military junta over the sale of hundreds of heavy artillery pieces (source close to the Serbian MoD).

¹⁰² Information supplied by a source close to the Ministry of Defence and a US diplomat.

¹⁰³ Export licences granted for Tanzania, Chad, Burkina Faso,... Interview with MIER, 26 October 2006.

¹⁰⁴ Information supplied by a source close to the Ministry of Defence and a US diplomat.

¹⁰⁵ Interview with MIER (April 2006) who stated that SDPR had been "repairing" Myanmar artillery, but that "the deal was organized before the Ministry [MIER] was formed."

The Serbian Ministry of International Economic Relations and the Ministry of Foreign Affairs were very cooperative. They expressed desire for training and support in terms of arms broker and transporter recognition.

Table 11: Exports to Africa

Country	Year licenc e grante d	Type	QTY	EUC	Broker
Chad	2006	- 5.56mm ammo M193	2,000,000	04/07/2006	IMI
Tanzania	2006	- Assault rifle 7.62mm AKM-47 M70	1,000	29/12/2005	- LR Group (on EUC) - Talon Security (on export licence)
		- Semi-automatic 7.62mm SKS Type 59	500		
		- 7.62mm LMG Type 72	100		
		- 9mm Makarov pistol	100		
		- Assault rifle 5.56mm AK-74	10		
Equatorial Guinea	2006	- 9mm Pistol ammunition	1,000,000	13/12/2005	BMJ Ltd.
		- 9mm Uzi ammo	1,000,000		
		- 7.62mm Galil ammo	30,000		
		- 5.56mm Galil ammo	1,000,000		
		- 9mm 'selenciador' ammo	50,000		
		- 5.56mm Neguev ammo	300,000		
		- para escopeta	100,000		
Burkina Faso	2005	- CZ-99 pistol	350	02/08/2005	A.D. Consultants
		- 9x19mm ammo	300,000		
Burkina Faso	2005	- CZ-99 pistol	400	06/06/2005	A.D. Consultants
		- 9x19mm ammo	50,000		
Rwanda	2005	- 5.56x45mm M193 ammo	200,000	09/08/2005	Verona Commodities
		- Rifle grenade M60	10,000		
		- Rifle grenade M60 fragmentation	10,000		
Rwanda	2004	- 9mm ammo	900,000	21/04/2004 05/10/2004	Verona Commodities

Source: MIER

Table 12: Brokers

Final Destination	Export Licence	Broker	Country Broker
Chad	2006	IMI	Israel
Tanzania	2006	Talon Security	Israel
Equatorial Guinea	2006	BMJ Ltd	Nevis
Nigeria	2006	Kent Marine Ltd.	
Cameroon	?	Stopson TFM	France
Niger	2006	AEY Inc.	USA
Burkina Faso	2005	A.D. Consultants	Israel
Burkina Faso	2005	A.D. Consultants	Israel
Rwanda	2004	Verona Commodities	Israel
Rwanda	2004	Verona Commodities	Israel

Source: MIER

Air Cargo Transportation

1. Kosmas Air

Kosmas Air invited the group of independent experts to its offices in Belgrade to discuss the allegation made in the report of the UN Group of Experts on the DR Congo (S/2006/525, §73 b) on illicit transport of arms to Liberia. There is no evidence to support this statement. Moreover the authors of this report have been told that the UN Sanctions Committee on Liberia is investigating a completely different company.

Kosmas Air was created in 2003, and began operating YU-AMI in May 2004. The only arms flights to Africa Kosmas Air has done with YU-AMI were transfers to Rwanda in 2004 and 2005. (See Table 13) We have requested the Bulgarian Ministry of Economy and Energy to provide us with information on the nature of the 'technical equipment' sent to the Rwandan MoD on the 9 November 2004.¹⁰⁶ According to the documentation we have we can not account for the 1,000 40mm rounds. But there might be another EUC and export licence. We have requested MIER for this information. During this time the Serbian MoD was responsible for export licences. This might mean that MIER will be unable to help us.

Table 13: Arms flights to Rwanda

Flight number	Aircraft registration	Flight Date	Route	Cargo
KMG-525	YU-AMI	05/09/2005	Nis-Benghazi-Kigali	200,000 rounds 5.56x45mm M193 ammo 10,000 rounds M60 rifle grenade 10,000 rounds M60 rifle grenade fragmentation
KMG-151	YU-AMI	09/11/2004	Belgrade-Burgas-Cairo	900,000 rounds 9mm ammunition (Belgrade)
		11/11/2004	Cairo-Nairobi	1,000 rounds 40mm HE ammunition (Belgrade)
		12/11/2004	Nairobi-Kigali	31,509kg 'technical equipment' (Burgas)

Kosmas' first flight to Liberia happened in October 2006 with supplies for the UN troops. (see Table 14.)

Table 14: Flight to Liberia 2006

	Flight Date	Route	Cargo
YU-AMI	02/10/2006	Munster/Osnabruck-Sebha-Monrovia	Frozen meat, yoghurt, perishables
YU-AMI	05/10/2006	Monrovia-Sebha-Cairo	Ferry

2. Air Tomisko

The Group of Experts note that individuals engaged in arms trafficking often use different companies or a variety of commercial entities to transfer weaponry to embargoed destinations.

One such individual whose profile indicates involvement in a succession of such companies is Tomislav Damnjanovic, who currently is engaged in arms transfers via a recently licensed Serbian air cargo company, Air Tomisko.

Documented cases of Damnjanovic's involvement in illicit transfers are cited in this report, although the Group of Experts believe that these shipments represent only a small fraction of Damnjanovic's smuggling activities which

¹⁰⁶ Email and telephone exchange with Ivelina Bahchevanova, Internationally Controlled Trade and Security Directorate, 29 & 30 October 2006.

have come to light only as a result of accidents, arrests or enquiries by the United Nations.

The first such incident occurred in September 1996, when an Ilyushin 76T cargo jet crashed at Belgrade airport, carrying military equipment and jet aircraft parts which were bound for Libya, which was under a UN arms embargo at the time.¹⁰⁷

The aircraft was operated by Spair Air, a now defunct Russian company. Two of Spair Air Ilyushin's were subsequently transferred to Air Cess and Santa Cruz Imperial, air cargo companies blacklisted by the United States Department of the Treasury¹⁰⁸ and the European Council¹⁰⁹ after being identified by United Nations Sanctions Committees as belonging to the world's most notorious arms trafficker, Victor Bout.¹¹⁰

According to eye-witnesses and sources close to the Serbian Ministry of Defence, the military equipment being transported to Libya by Spair Air involved the FRY Ministry of Defence, SDPR and its freight-forwarding arm, Interjug.¹¹¹

However, Mensus Trade, a Cyprus-based company with links to the United Arab Emirates (UAE) owned by Serbian businessmen Tomislav Damnjanovic and Misko Djordjevic had organized the logistics of the transfer itself, and had contracted Spair Air to collect and deliver the military equipment.¹¹²

The military equipment including spare parts of Galeb G4 jet aircraft which had been sold to the Libyan regime in the 1980s. Similar spare parts and technical assistance appears to have been also transferred to Myanmar for its ageing fleet of Galebs. In the Libyan case, Yugoslav airforce technicians had visited Libya two months before the transfers took place to inspect the aircraft and offer an inventory of spare parts.¹¹³

The aircraft circled Belgrade before crashing due to electrical failure, public awareness and media reports led to the exposure of the shipments and Mensus Trade's role in the consignment.

While his partner, Djordjevic was killed in the plane crash, Mensus Trade's Tomislav Damnjanovic continued to utilize the growing number of Russian and Ukrainian air cargo companies operating from hubs such as Ostend and

¹⁰⁷ "Serbs said to ship arms to Libya to avoid UN sanctions" Chris Bird, New York Times, 7 November 1996; interviews with Serbian pilot and crash witness.

¹⁰⁸ Office of Foreign Assets Control (OFAC), 26 April, 2005.

¹⁰⁹ Freezing of assets and funds: (b) Air Cess (alias (a) Air Cess Equatorial Guinea, (b) Air Cess Holdings, Ltd., (c) Air Cess Liberia, (d) Air Cess Rwanda, (e) Air Cess Swaziland (Pty.) Ltd., (f) Air Cess, Inc. 360-C, (g) Air Pas, (h) Air Pass, (i) Chess Air Group, (j) Pietersburg Aviation Services & Systems, (k) Cessavia). Address: (a) Malabo, Equatorial Guinea; (b) P.O. Box 7837, Sharjah, United Arab Emirates; (c) P.O. Box 3962, Sharjah, United Arab Emirates; (d) Islamabad, Pakistan; (e) Entebbe, Uganda. European Commission Regulation (EC) No. 2024/2005, 12 December, 2005.

¹¹⁰ United Nations Security Council report, S/2000/1195, 20 December 2000.

¹¹¹ Interview with eye-witness, notes from source close to MoD.

¹¹² "The plane crash : Last flight over Belgrade" Jovan Dulovic, Milos Vasic, Ilija Vukelic, Branko Stosic, Sergei Kuznetsov, Vreme, 26 September 1996; interviews with former Yugoslav airforce officials, witnesses.

¹¹³ Yugoslav air force pilot.

Sharjah airport in UAE for large-scale arms and tobacco smuggling activities.¹¹⁴

Air transportation documents indicate that Damjanovic and Mensus Trade formed a part of a transnational cigarette-smuggling network that operated in the Balkans during the 1990s¹¹⁵ which according to the European Commission documentation¹¹⁶ also involved arms traffickers.

Damjanovic's role in the cigarette smuggling operation appears similar to that of the arms transfers documented in this report. He ostensibly acted on behalf of a freight-forwarding company, Interjug, liaising with a consignor linked to a transnational organized crime syndicate.

The next documented case of Damjanovic's involvement in arms smuggling occurred in July 2002, when Aerocom, a Moldavian airline and Ducor International, based in Ostend flew thousands of assault rifles, grenades, rocket launchers and millions of rounds of ammunition manufactured by SDPR to Liberia using falsified End User Certificates.¹¹⁷

Details on the Liberia shipments were published in the UN Security Council report researched by the UN Sanctions committee on Liberia. The report noted the involvement of SDPR in the arms shipment and the favoured freight-forwarding company, Interjug.

While the UN stated that the Serbian authorities had co-operated in the main with the UN investigators, the report high-lighted the lack of cooperation and transparency of Interjug which had refused to provide information to the United Nations sanctions committee experts.

Those involved in the smuggling operation whom the UN Security Council stated should be blacklisted included arms dealers Slobodan Terzic, Orhan Dragas and Ljuba Milenkovic of Interjug against whom the Security Council "recommended that financial sanctions be imposed."¹¹⁸

¹¹⁴ The movement by Russian cargo jet of both cigarettes and arms into conflict zones is a favoured method of transportation given the relative weight, volume and value of both commodities during war, combined with the serious dangers long-distance, overland transportation methods can present. As a result, the transportation by Ilyushin cargo jets of both cigarettes and arms has occurred in both the wars of the former Yugoslavia and in present-day Iraq, where air cargo freight-forwarding companies such as Speedex, based in Bulgaria, involved in US Department of Defense-sponsored contracts, solicit bids from Ilyushin 76 operators for cigarette runs into Kurdish areas of Iraq, as well as arms shipments on behalf of Pentagon contractors utilizing companies such as Aerocom, a company documented by the UN as smuggling arms to Liberia. Tomislav Damjanovic's business activities mirrored such a pattern, attempting to transport arms in violation of UN embargos and involved in the illicit movement of cigarettes into the European Union See "Smoking guns: European cigarette smuggling during the 1990's" Hugh Griffiths, Global Crime Volume 6, Number 2, May 2004, pp. 185-200, Routledge, Taylor & Francis group.

¹¹⁵ A cargo declaration paper shows that Damjanovic organized a number of transfers of cigarettes in which the shipper is stated as Cimarron Holdings SA. Cimarron Holdings SA was a Swiss-based company named by the European Commission as part of a massive conspiracy involving multi-national tobacco companies, transnational organized crime networks and groups engaged in arms trafficking. See "Smoking guns: European cigarette smuggling during the 1990's" Hugh Griffiths, Global Crime Volume 6, Number 2, May 2004, pp. 185-200, Routledge, Taylor & Francis group

¹¹⁶ See United States District Court, Eastern District of New York, complaint, the European Community acting on its own behalf and on behalf of member states against the plaintiffs RJR Nabisco, Inc, RJ Reynolds Tobacco Company et al. pages 28, 29, 31, 40, 71, 86

¹¹⁷ See Report of the Panel of Experts appointed pursuant to paragraph 25 of Security Council resolution 1478 (2003) concerning Liberia, October 28, 2003 S/2003/937

¹¹⁸ "Security Council extends sanctions against Liberia unit 7 May 2004. Unanimously adopting resolution 1478 (2003)" United Nations Security Council Press Release SC/7752, 6 May 2003.

However, while the representatives from the Serbian Ministry of International Economic Relations state that Dragas has been banned from involvement in arms brokering and sale, Ljuba Milenkovic remains employed at Interjug and continues together with Damnjanovic to organise arms shipments to African states bordering the Democratic Republic of Congo (DRC) and elsewhere.¹¹⁹

While Damnjanovic's involvement in the Liberia arms smuggling operation was not cited in the United Nations Security Council report, documents obtained by Amnesty International illustrate the key role he played in arranging both the Aerocom and Ducor flights from Belgrade to Liberia.

Aerocom and Ducor's aircraft landing, loading and take-off fees at Belgrade airport were paid in cash by Damnjanovic and his company Mensus Trade on at least eight flights to Liberia.¹²⁰

During the same period in 2002, Damnjanovic, through Mensus Trade organized the flights of other aircraft belonging to Aerolift, a Sierra Leone-based company documented by Amnesty International in earlier reports as flying to the Democratic Republic of Congo¹²¹ and now blacklisted by the European Union. The documentation states that the Aerolift flights were to Bujumbura, Burundi.¹²²

According to other sources close to Serbian civil aviation, the relationships outlined in the Liberia smuggling operation between SDPR, Ljuba Milenkovic of Interjug and Tomislav Damnjanovic follow a similar pattern that may be found in other instances of arms trafficking which have not been documented in open-source publications.

One source stated in a recorded interview:

Make a fake job and you will see that at the end of the day you will receive Damnjanovic[s] phone number in order to get, to get that flight....Believe or not, if you call... SDPR ..., if you request that they [individual working for SDPR]...will pass you to him [Ljuba Milenkovic] and he will give contact to Tomislav and then you will talk to Tomislav."

Tomislav Damnjanovic was not censured for his role in the Liberia arms smuggling operation. He continued brokering and organising air cargo flights from Serbia and the surrounding area until appointed as manager of Kosmas Air in May 2004.

Kosmas Air are a Serbian-registered air cargo company which has cooperated fully with UN and other investigators examining arms flows from Serbia and elsewhere to the middle east and Africa.

During the period Damnjanovic held partial or full executive authority at the company, Kosmas Air was responsible for more than 55 arms and

¹¹⁹ Ljuba Milenkovic's name and signature appears on Interjug cargo airway bills for Rwandan arms deliveries.

¹²⁰ Interview with Belgrade airport official, Aircraft landing fee and handling charge receipts.

¹²¹ See "Democratic Republic of Congo : Arming the East" Amnesty International, 5 July 2005

¹²² Documentation in evidence folder.

ammunition flights to Iraq made on behalf of Pentagon contractors, NATO and NATO member states.¹²³

During the period Tomislav Damnjanovic held executive authority at Kosmas Air, both SDPR and Interjug were listed as company partners, and Interjug organized the export of large quantities of arms and ammunition to African states such as Rwanda which has reportedly supplied weaponry to groups with an appalling human rights record in the Democratic Republic of Congo. (See *supra* Table 13: Arms flights to Rwanda.)

On 9 November, 2004 Damnjanovic on behalf of the carrier listed as Interjug with Milenkovic's signature, shipped 900,000 rounds of 9x19mm ammunition and 1,000 rounds of high explosive 40 mm ammunition manufactured by SDPR to Kigali.

While the 40 mm ammunition was listed on the airway cargo bill, this amount is not cited in the Rwandan end user certificate and the documentation submitted by Interjug made no mention of the 1000 rounds of 40 mm to Kigali, Rwanda.

Damnjanovic's aircraft then flew to Burgas, Bulgaria to load 32 tonnes of "technical equipment" from a Bulgarian arms company, Emco, ostensibly also for delivery to the Rwanda Ministry of Defence.¹²⁴

On 5 September 2005, Damnjanovic on behalf of Milenkovic shipped 10,000 M60 rifle grenades, 10,000 rifle fragmentation grenades and 200,000 rounds of 5.56 ammunition to Kigali, ostensibly on behalf of the Rwandan Ministry of Defence.¹²⁵

Documentation shows that both deals were brokered by Verona Commodities, also known as Virona Commodities, an entity registered in the British Virgin Islands but physically based in Tel Aviv, Israel.¹²⁶

According to Serbian government documentation, the representative responsible for the deal in Serbia was Moshe Levy.¹²⁷

Tomislav Damnjanovic also began leasing Ilyushin 76s from a Kazakhstan-based company, GST Aero,¹²⁸ later blacklisted by the European Commission and banned from European Union member state airspace.

Utilising these aircraft, Damnjanovic delivered military equipment to Georgia on behalf of US military contractor Kellogg, Brown & Root as part of a US-funded train & equip program.¹²⁹

In 2006, Damnjanovic was removed from his position by the management team at Kosmas Air. He subsequently established a new Serbian cargo airline, Air Tomisko which was granted an Airworthiness Operating Certificate (AoC) by the Serbian Civil Aviation Authorities (CAA) in May 2006.

¹²³ Testimony from KA.

¹²⁴ Air waybill 9 November 2004; EUC 5 October 2004; Cargo Manifest 9 November 2004.

¹²⁵ Air waybill 5 September 2005.

¹²⁶ Info supplied by Amnesty International.

¹²⁷ Interview with MIER, sight of documentation, subsequent phone call to number provided by MIER was answered by man who confirmed his identity as Moshe Levy.

¹²⁸ Old Kosmas Air website, interviews Kosmas Air.

¹²⁹ Flight planning documentation.

The US-funded arms supply contracts appear to have moved with Damnjanovic to Air Tomisko, as the plane began transporting arms to Iraq and other destinations shortly afterwards. According to European aviation records, on July 30, 2006 the Air Tomisko Ilyushin 76 TD, registration YU-AMJ flew from Plodiv, Bulgaria to Baghdad, Iraq under a Bright Aviation callsign BRW 275. Bright aviation is frequently used to transport arms and ammunition to Iraq by Pentagon contractors.

According to the United Nations Sanctions Committee for Somalia, the Air Tomisko plane then departed Baghdad for Sharjah, United Arab Emirates. On August 1 it flew to Oman. On August 2, it was observed by United Nations personnel at Mogadishu airport in Somalia.

Statements given by Air Tomisko and the Omani authorities as to the reason behind the Oman stop-over are contradictory and the UN Sanctions Committee for Somalia are continuing their investigations.¹³⁰

The UN report noted that the Islamic Courts Union which “control Mogadishu airport are currently in the process of being re-supplied with arms and military material following its takeover of Mogadishu and its environs.”

In addition to the Somalia case study, European air traffic records show that the Air Tomisko plane continues to file flight plans for African states, including another flight from Burgas, Bulgaria under Bright Aviation call-sign BRW295 to Kigali, Rwanda on August 12, 2006.¹³¹

¹³⁰ See page 31, “The Case of Air Tomisko” Report of the Monitoring Group on Somalia pursuant to Security Council Resolution 1676 (2006) 22 November, 2006, S/2006/913

¹³¹ European air traffic records.

The Republic of Croatia

Export & transportation legislation and regulations: Policy and Practice

The import and export of arms and military equipment is regulated by the *Decree on Goods Subject to Import and Export Licensing*. The Decree specifies, along with the accompanying Customs Tariff numbers, those goods that are subject to export and import licensing, including arms and military equipment. The Regulation states which governmental departments can issue arms export and import licences and which information an applicant needs to provide.

The transit of arms and military equipment across the territory of Croatia is regulated by the *Law on the Production, Overhaul and Trade in Arms and Military Equipment and the Law on Arms*.

Table 15: Legal Reference

Date	Legal reference	Title
23 March 2002.	No. 33/2002	<i>Law on Production, Overhaul and Trade in Arms and Military Equipment</i> , adopted on 25 March 2002
10 April 2003	No. 67/03	<i>Decree on Goods Subject to Import and Export Licensing</i>

The Croatian arms transfer control system distinguishes between commercial and state-authorized transactions:

- Imports for use by the Croatian army and police shall be issued by the Ministry of Defence and the Ministry of Internal Affairs respectively.¹³²
- State-to-state transfers are generally exempt from any form of licensing.¹³³
- Export and import licences covering weaponry for commercial purposes shall be issued by the Ministry of Economy, subject to previous approval by the Commission consisting of representatives from the Ministry of Defence, the Ministry of Internal Affairs, the Ministry of Foreign Affairs and the Ministry of the Economy. The Commission shall be appointed by the Minister of Economy. The Rules of Procedure of the Commission shall also be passed by the Minister of Economy.¹³⁴

The UN Programme of Action report from the Republic of Croatia states that the Commission “regularly meets twice a month (every 15 days), although if the situation requires it can meet more often. The minutes of every meeting have to be approved and signed by all members of the Authority at the next meeting, which are then archived in the Ministry of Economy. If even one

¹³² Article 4 of the Decree on Goods Subject to Import and Export Licensing.

¹³³ SEESAC, South Eastern Europe SALW Monitor 2006, Croatia, on page 47.

¹³⁴ Article 4 of the Decree on Goods Subject to Import and Export Licensing.

member of the Authority does not give his/her consent for issuing a licence, the request cannot be accepted/approved.”¹³⁵

In issuing licences for the import or export of arms and military equipment, each member of the Commission is authorized to give an opinion, whereby¹³⁶:

- The representative of the Ministry of Defense is responsible for determining whether or not the goods in question are military or nature and if these goods, as such, can be used for military or civilian purposes.
- The representative of the Ministry of Interior Affairs is responsible for controlling the type and the purpose, as well as the amount of the goods in question and for controlling the enclosed specifications and contracts.
- The representative of Ministry of Foreign Affairs is responsible for ensuring that the process of approving a request does not bring Croatia's security into danger, as well as ensuring that the request does not violate international legal obligation that Croatia has undertaken to uphold.
- The representative of the Ministry of the Economy gathers formal requests submitted by parties interested in importing and exporting weapons, contacts those parties and gives them instructions relating to their requests; calls the National Licensing Authority to a meeting; takes Minutes of the Authority's meetings that determine when the meeting took place, how many requests have been received, how many requests have been approved, and why certain requests were not approved; and ensures that requests follow legal requirements.

Export and import licences for military goods referred shall be issued based on a written application by the exporter or the importer.¹³⁷ These application forms (MG-TI and MG-TU forms) are part of the Decree (Annex IV) and need to contain¹³⁸:

- The name and seat of the company, or name and residence of the natural person;
- company code, or personal ID of the natural person;
- name and seat of the end user, with a written declaration of the intended use;
- trade name, quantity and value of goods being exported or imported;
- chemical nomenclature, with the structural formula and concentration, for chemicals from Annex of the Decree;
- classification of nuclear materials, weight ratio of nuclear materials, chemical and physical properties; radioactivity (Bq/kg);

¹³⁵ National report from the Republic of Croatia on the implementation of the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. Report 2003, 2005 and 2006.

¹³⁶ Ibid.

¹³⁷ Article 10 of the Decree on Goods Subject to Import and Export Licensing.

¹³⁸ Ibid.

- tariff item;
- unit price;
- country of origin;
- manufacturer's name and address;
- exporting or importing country;
- name and address of the exporting or importing company;
- import or export timeframe.

An export licence application for weapons for commercial purposes also need to be accompanied by an import licence issued by the competent authority in the country of destination plus the original declaration of the end-user certificate by a competent authority in the country of destination.

The responsible ministries or other competent authorities shall issue a licence within 15 days of the day of a duly submitted application.¹³⁹

SEESAC states in its 2006 report that "the role of the state-owned arms manufacturing company RH Alan is a cause for concern. The Alan Agency is reported to process all arms transfer licence applications prior to submission to the inter-agency group that formally authorises applications."¹⁴⁰ The role of RH Alan is not regulated in the Decree on Goods Subject to Import and Export Licensing.

One-time export and import licences for substances from the List of Substances from the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Official Gazette – International Treaties, No. 4/95), being a constituent part of this Regulation (Annex III. – Lists 1, 2 and 3), shall be issued by the Ministry of Economy.¹⁴¹

The Ministry of the Interior is responsible for regulating the transfer of arms and military equipment that transits across the territory of Croatia.¹⁴² The entity in the country of destination importing the arms or military equipment is required to present the Ministry of the Interior a valid copy of the import license issued by the relevant national authority of destination.¹⁴³ The Ministry of the Interior then, following consultations with the Ministry of Defense.¹⁴⁴ Issues transit license for the transit of arms and military equipment exclusively through international border crossing points.¹⁴⁵

In the event that a company wished to import and then re-transfer arms and military equipment from Croatia, they are required to fulfill all the import and

¹³⁹ Ibid.

¹⁴⁰ SEESAC, South Eastern Europe SALW Monitor 2006, Croatia, on page 47.

¹⁴¹ Article 9 of the Decree on Goods Subject to Import and Export Licensing.

¹⁴² Article 20 of the Law on Production, Overhaul and Trade in Arms and Military Equipment, adopted on 25 March 2002

¹⁴³ National report from the Republic of Croatia on the implementation of the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. Report 2004, page 5.

¹⁴⁴ Article 20 of the Law on Production, Overhaul and Trade in Arms and Military Equipment, adopted on 25 March 2002

¹⁴⁵ Ibid.

export requirements specified by the Licensing Authority for Import and Export Control of Weapons for commercial Purposes.¹⁴⁶

International Commitments by Croatia

On 9 May 2002 the Government of the Republic of Croatia adopted a decision whereby it agreed to accept the principles contained in the EU Code of Conduct on arms exports.¹⁴⁷ The decision states that it shall follow the criteria and principles contained in the code, which shall guide it in its arms export policies.

However, despite this public commitment, the Code's criteria are not as yet incorporated into domestic legislation. Officials also admit that difficulties remain with their ability to determine what is an acceptable export and also to monitor the end-use of transferred items.¹⁴⁸

Table 16: Croatia Political Commitments

Agreement	Date of commitment
EU Code of Conduct	August 2002
OSCE Document on SALW	November 2000
OSCE Document on Stockpiles of Conventional Ammunition	December 2003
OSCE Decision on MANPADS	2003
OSCE Decision on End User Certificates	2004
OSCE Decision on Brokering	2004
Stability Pact Regional Implementation Plan	November 2001
UN Firearms Protocol	November 2004
UN Programme of Action on SALW	July 2001
UN Register of Conventional Arms	Submitted returns since 1992 (with the exception of 1995)
Wassenaar Arrangement	Since 2005

Border control

SEESAC states in its 2006 report that "Croatia faces multiple challenges to effective border control because of its long and geographically varied Adriatic coastline to the South, and difficult terrain along its eastern border with Bosnia and Herzegovina. Interviewees from border control agencies report ongoing difficulties with at least some of the country's 189 crossing points. Shortages of personnel, skills, technology and equipment are at the root of these problems. According to the Croatian Customs Service, many crossing points are not adequately equipped and search equipment such as radiation detectors and X-ray vehicles for cargo scanning are particularly lacking. Further, although Customs officers receive regular training, procedures for checks of military goods shipments and related documentation are not adequately covered as part of the training process."¹⁴⁹

¹⁴⁶ National report from the Republic of Croatia on the implementation of the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. Report 2004, page 5.

¹⁴⁷ National report from the Republic of Croatia on the implementation of the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. Report 2004, page 5.

¹⁴⁸ SEESAC, South Eastern Europe SALW Monitor 2006, Croatia, on page 49.

¹⁴⁹ Ibid, page 46.

The Republic of Slovenia

Export & transportation legislation and regulations: Policy and Practice

The import, export and transit of arms and military equipment are regulated by the *Law on Defence* and the *Decree on permits and consents for the trade in and production of military weapons and equipment*.

Article 77 and 78 of the Law on Defence regulates the conditions and scope in trade in military weapons and equipment and lays down legal sanctions for violations of the provisions. The Decree regulates the types of permits, the conditions and procedures for issuing permits and consents for the production of military weapons and equipment. The Decree regulates two types of permits: trade permits and sole traders permits.

Table 17: Legal Reference

Date	Legal reference	Title
20 December 1994, as amended in 2003 and 2004	Official Gazette, Nos. 82/94, 44/97, 87/97, 13/98	Law on Defence
	Ur. L RS 18/2003 and 31/2005	Decree on permits and consents for the trade in and production of military weapons and equipment

Trading permits, consents for production and permits for single deals can be obtained only by legal persons registered in the Republic of Slovenia who have a suitable activity entered in the register of companies, or by physical persons who have a suitable activity entered in the register of sole traders.¹⁵⁰ The permits and consents are issued by the Ministry of Defence.¹⁵¹

A trading permit includes the right to sell, export and import military material in line with the type and scope of the permit.¹⁵² Such a permit has a time limitation and can be issued for a maximum of five years.¹⁵³ The Decree stipulates that any company wishing to acquire a trading permit must submit a number of documents¹⁵⁴, and the trading permit can only be obtained when

¹⁵⁰ Article 1(7) of the Decree on permits and consents for the trade in and production of military weapons and equipment

¹⁵¹ Ibid, Article 1(2).

¹⁵² Ibid, Article 1(4).

¹⁵³ Ibid, Article 3(1).

¹⁵⁴ Ibid, Article 5(2) and (3): (2) An application to obtain a trading permit must include the following information: the name and seat of the commercial company, institute or other organisation or sole trader; the ownership of the commercial company, institute or other organisation or sole trader; the registration number of the commercial company, institute or other organisation or other appropriate information from the registry of sole traders, - the name of the representative; a list stating the names of the members of the board and management; the type of military weapon or equipment the application refers to. (3) Commercial companies, institutes or other organisations and sole traders must attach to the application for a trading permit the following statements and proofs: an excerpt from the registry of companies or the registry of sole traders; a notification by the Statistical Office of the Republic of Slovenia relating to the identification and classification according to activity; information on the organisation of operations and on the control and assurance of the quality system; a statement and proofs related to the required technical protection system and to the organisation of the protection of the facilities in and premises on which the production or storage of military weapons or equipment referred to in this Decree takes place; proofs on the fulfilment of the requirements related to the handling of classified information; a statement that the commercial company, institute or other organisation or the sole trader is not involved in a composition, is not under bankruptcy or liquidation or has not been

the applicant is suitably technologically equipped and they suitably can protect the facilities and premises in which they carry out the activities.¹⁵⁵ The Ministry of Defence, which issues the trade permits, may ask an *expert commission* for a prior opinion.¹⁵⁶ The expert commission consists of representatives of the Ministry of Defence, Ministry of Foreign Affairs, Ministry of the Interior, Ministry of the Economy, the Customs Administration and the Slovene Intelligence and Security Agency. The expert commission shall be led by the representative from the Ministry of Defence.

Consents for production includes the right to produce military weapons and equipment, a permit for the sale and export of the products manufactured by the holder of the consent and for the import of constituent parts, components and sub-components, necessary for the manufacture of military weapons and equipment.¹⁵⁷ A consent for production shall be valid for the time within which the commercial company, institute, other organisation or sole trader fulfils the conditions necessary for the production of military weapons and equipment.¹⁵⁸ The Decree stipulates that any company wishing to acquire a consent for production must submit a number of documents.¹⁵⁹

Once the company has an trading permit and/ or consent for production, it must then apply for an permit for single deal for each commercial arms transaction it wishes to undertake.¹⁶⁰ A permit for a single deal facilitates a single instance of export, import or transit of military weapons or equipment¹⁶¹, including temporary deals¹⁶². In addition, a company, institution or other organisation or sole trader needs to submit an application for a permit for a single deal to carry out a transit. The applicant must be registered to carry out transport activities.¹⁶³ The validity of the permits are limited in time and will be issued in line with the deadlines as contained in the contracts.¹⁶⁴ When issuing a permit for a single deal relating to import, export, brokerage or transit, the Ministry may determine additional protection measures related to the transport, and the time period within which the export, import or transit must be completed.¹⁶⁵ The Ministry of Defence shall issue a permit for a single instance on the basis of the prior opinion given by the *expert commission* (see above) which has to convey its opinion within thirty days of the day the application for a permit has been submitted. The Decree

banned from or had limitations imposed upon the operations relating to military weapons and equipment; a statement that, following a request by the Ministry, an inspection of the trade in military weapons and equipment referred to in the application will be facilitated; where trade in explosives is involved, a proof of the fulfilment of the conditions for the trade, transfer and storage thereof.

¹⁵⁵ Ibid, Article 4(1) and (2).

¹⁵⁶ Ibid, Article 15(1).

¹⁵⁷ Ibid, Article 1(5).

¹⁵⁸ Ibid, Article 3(2).

¹⁵⁹ Ibid, Article 10(2): An application for a consent for production must include the information referred to Article 5. The information referred to Article 5 are described in footnote 5 of this chapter of the report.

¹⁶⁰ Ibid, Article 14(1).

¹⁶¹ Ibid, Article 1(6).

¹⁶² Ibid, Article 14(2).

¹⁶³ Ibid, Article 14(3).

¹⁶⁴ Ibid, Article 3(3).

¹⁶⁵ Ibid, Article 14(4).

stipulates that any company wishing to acquire a single deal must submit a number of documents.¹⁶⁶

Export and Transit Control by the Government.

When issuing a single deal permit, the Ministry of Defence sends the issued permit to the General Police Administration and the General Customs Administration.¹⁶⁷

A commercial company, institute or other organisation or sole trader in possession of a permit for a single deal must, at least three days prior to the arrival of the goods at a border crossing, notify the Ministry of this.¹⁶⁸

The Ministry shall, at least three days prior to the arrival of the goods at a border crossing, convey the notification from the applicant to the General Police Administration and the General Customs Administration, stating the date, border crossing and the number of the permit.¹⁶⁹

A commercial company, institute or other organisation or sole trader in possession of a permit for a single deal must within eight days of the realisation of the deal, hand to the Ministry a proof of the completed deal in line with the permit.¹⁷⁰

International Commitments by Slovenia.

On May 2004 Slovenia became member of the European Union, and implemented the EU Code of Conduct on Arms Export.¹⁷¹ However, despite this commitment, the Code's criteria are not as yet incorporated into the arms export legislation. Other relevant commitments are described in Table 1.

¹⁶⁶ Ibid, Article 16(1): The Ministry issues a permit for a single deal on the basis of an application which has to include the following information and proofs:
the full name and address of the applicant,
the code and description of the goods in line with the list contained in the attachment to the Decree,
a detailed description of the goods,
the tariff mark and description of the goods in line with the nomenclature of the customs tariff,
the quantity and value of the goods,
the full name and address of the importer, exporter, manufacturer, final user and the carrier,
in the case of exports, an import permission from the country the goods are imported to when such a permit is required by the country in question,
in the case of exports, a statement by the final user or a certificate of the final user or some other appropriate document,
in the case of brokerage, a proof of being registered to trade in military weapons and equipment,
a statement on the intended use of the imported goods,
the time period within which the deal will be completed and time periods within which specific parts of the deal will be completed.

¹⁶⁷ Ibid, Article 18(1).

¹⁶⁸ Ibid, Article 18(2).

¹⁶⁹ Ibid, Article 18(3).

¹⁷⁰ Ibid, Article 18(2).

¹⁷¹ National report from the Republic of Slovenia on the implementation of the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. Report 2005, page 1.

Table 18: Slovenia Political Commitments

Agreement	Date of commitment
EU Code of Conduct	2004
OSCE Document on SALW	November 2000
OSCE Document on Stockpiles of Conventional Ammunition	December 2003
OSCE Decision on MANPADS	2003
OSCE Decision on End User Certificates	2004
OSCE Decision on Brokering	2004
Stability Pact Regional Implementation Plan	November 2001
UN Firearms Protocol	November 2004
UN Programme of Action on SALW	July 2001
UN Register of Conventional Arms	Submitted returns since 2002
Wassenaar Arrangement	February 2005

Transparency.

There are no provisions laid down in the Defence law and Decree that there should be periodically reporting about the arms trade licences to the parliament and public. There is a provision in the Law that states that the Minister of defence must report to the government on all licences issued for the export, import and transit of military weaponry and equipment: “at least once a year the minister shall report to the government on all licences issued for the export, import and transit of military weaponry and equipment.”¹⁷²

¹⁷² Article 77, (3) of the Defence Law.

Conclusion

When evaluating the information obtained from the fact-finding Mission, it is clear to the group of experts that a very real possibility of diversion exists in terms of both weapons and ammunition exports from both Bosnia and Serbia. A persistent theme has been the export via arms brokering companies, rather than government-to-government exports. Also, several of these companies happen to have past histories of previous sales of arms and ammunition which breached various UN and EU embargoes. Additionally, we note that several of the States which have - at least notionally - supplied End Use Certificates are States which are known to have had EUC's used in the past to facilitate clandestine movements of weapons and ammunition. Thus there exists a likelihood that recent arms exports from both Bosnia and Serbia have been diverted to fuel low intensity conflicts in Africa, the Middle and Far East.

While the independent group of experts report documents a series of recent cases of concern in Serbia and BiH, it should be noted that officials within both the Serbian MFA and MIER have been cooperative and transparent. The Group of Experts assesses that with information-exchange, training, and access to EU arms export data-sharing programs, currently denied to the Serbian authorities, the problematic arms shipments documented in this report could be substantially reduced. The Republic of Serbia has a useful set of arms export laws and experienced staff to implement them, the problem is one of capacity-building and access to information, rather than competence.

Much has been said in the relevant section of this report about the international 'supervision' of the movement of defence equipment within BiH by EUFOR, and export control of such equipment. The present system of export control by EUFOR and MoFTER of BiH weapons exports merely provides an impenetrable layer of obfuscation which makes a mockery of any attempt at transparency in understanding such exports.

Recommendations

The group of experts proposes the following recommendations to improve the current arms export control systems in use in Bosnia-Herzegovina and Serbia.

- 1) A programme of advice and assistance to the governments of both Bosnia-Herzegovina and Serbia should be considered.

This proposed programme should have two main elements, viz:-

- a) A package of 'sensitization' seminars
 - i) To give background information to officials in both countries on the complexities of the international arms trade;
 - ii) To give an explanation of the methods used by unscrupulous brokers to divert weapons and ammunition to embargoed destinations and;
 - iii) To foster a generally heightened awareness by officials of their responsibilities *vis-à-vis* export licenses for arms and ammunition;
 - b) The provision by appropriate OSCE member States of the use of a member of embassy staff in a State destination and final destination to assist in the evaluation of the international arms export criteria (e.g. assessment of risk of diversion, assessment of internal political stability, assessment of respect for human rights, etc.);
 - c) The provision by appropriate OSCE member States of the use of a member of embassy staff in a final destination to assist in the analysis of customs documentation to verify that the exported arms and ammunition have actually arrived in the State concerned, and to exclude diversion.
- 2) There is also more that could be done in areas which have a greater financial implication, in particular:
 - i) The provision of X-Ray machines capable of examining standard sea containers and to be deployed at the Montenegrin port of Bar and the Croatian port of Ploče;
 - ii) It might also be appropriate to guarantee or underwrite that part of a Ministry's budget which is concerned with the salaries of appropriate staff, this would be both a reassurance to the staff concerned that their future is reasonably secure and would also ensure that any sensitisation training is not subsequently vitiated by high staff turnover.

Annexes

Annex 1: EUFOR Trade in Armaments & Military Equipment Procedure

Import and Export of Weapons in BiH

REF: A.	European Union Code of Conduct on Arms Exports	1991/1992
B.	SOP on Delineation of Tasks Section 1 GFAP Between EUFOR and NATO (Part B)	
C.	Law on Import and Export of Arms and Military Equipment (Article IV 4a BiH Constitution) (Amended)	Feb 2003 2004
D.	Instructions to Parties (Change 22)	Mar 2005

The responsibility of arms exports rest with the BiH Government since the inception of the above law in 2003. EUFOR/NHQSA continue to monitor and if necessary intervene to ensure no shipments contravening UN/EU/US embargoes take place. Shipments to countries within the Balkans JOA require additional approval from JFCNP. EUFOR MNTF JMA inspection teams conduct the START point and FINAL point inspections on entry and exit into/out of BiH territory. These inspections can occur at a Defence Industry Factory, a weapons/ammunition storage site(WSS/ASS), border crossing point, airport of embarkation/debarkation, railhead station or a civilian company warehouse.

Trade in Armaments and Military Equipment Procedure.

Any ministry or enterprise authorized to undertake arms trade must notify HQ EUFOR JMA via MoFTER through the relevant entity ministry of internal affairs and defence. This Notification of Intention (**Form 5**) must be submitted 15 days in advance with the appropriate signed and dated ministry authentication. Form 5 must include details of the contents, proposed timings and final destination.

On HQ EUFOR/NAHQSa receipt of Form 5 SO Movement Control ascertains the existence of any weapons embargoes pertaining to the application. Once no restrictions are verified SO Movement Control forwards the notification to the following branches for approval.

<u>HQ EUFOR</u>	<u>NHQSa</u>
-POLAD	POLAD
-LEGAD	LEGAD
-CJ2	NAT
-CHIEF JMA	COM NHQSa

-The time scale for the above branches approval is 3 days. If they raise no objections JMA Chief current affairs and compliance confirms the Form 5.

-On request, SO Movement Control informs OHR on BiH export/import activities. In case of shipments within the Balkan JMA, OSCE are also informed to ensure regional arms control protocols are not breached.

-COMEUFOR/SMR NAHQSa is the principal approval authority. Once approval is granted MoFTER are forwarded the approved form 5.

-With the approved Form 5, Mofter can issue an export/import licence and the applicant can then, prepare a transport request **Form 6**. This form also requires HQ EUFOR

approval . Again the form must be authenticated through the relevant ministry and submitted 5 days prior to shipment. It again must provide details of the contents, proposed timings and final destination. It is HQ EUFOR, JMA, CHIEF CURRENT AFFAIRS & COMPLIANCE, who authorizes and confirms Form 6.
-Once approved SO Movement Control submits Form 6 through the EUFOR point of contact to the applicant.

INTERNAL FACTORY SHIPMENTS

Both the Federal and RS Ministries of Economy Mining and Industry are responsible for all Arms Industry movements between DIFs and WSS/ASS within BiH.

-The relevant DIF or AFBiH unit initiates the movement through a **Form 7A** transport request. This form is submitted through the appropriate MoEMI, 5 days prior to the intended movement date for HQ EUFOR JMA sanction. Once approved the applicant must fax the confirmed Form 7A to the BiH MoD.

Civil purpose trading of arms or explosives must notify HQ EUFOR about every relating shipment across BiH. Notification must be submitted through a **Form 7B**, 3 working days prior to the intended movement date. Once confirmed by JMA it is submitted back to the applicant.

SO Movement Control is responsible for notifying all approved transports to the MNTFs. All Form 6 must be forwarded at least 48 hrs to allow task forces to coordinate all necessary inspections.

A monthly compliance report must be provided to NHQSa documented all exports and SO GOF NHQSa establishes the report as an annex to the NAT report submitted to JFCNP on the 4th of every month.

Annex 3: EUFOR Form 6 (Bangladesh MoD)

Original: Bosnian

FORM 6

REQUEST FOR TRANSPORT (Road/Rail/Air)
FACTORY PRODUCED OR IMPORTED WEAPONS, AMMUNITION AND MILITARY
EQUIPMENT THROUGH BOSNIA AND HERZEGOVINA

1. From:	UNIS PRETIS NIS d.d. /Joint Stock Company/, Vogosca
Contact:	Kenan Hasanbegovic
Telephone:	033 475 653
2. Serial No:	29-03-37-893/04
3. Date of Transport:	1 June 2005
4. Type of Transport:	By road using three trucks; 1. MAN/19.422 H, license plates DU 180-AH/DU 813-CC; ADR no. 14785 Driver: Ivan Maslac, passport no. 001352644 – Metkovic, ADR no. 0010002 (to transport containers CFCU 004700-8 and 602578-7) 2. MAN/19.403 FLT, license plates DU 353-CU/DU 814-CC; ADR no. 20201 Driver: Dario Kljusuric, passport no. 001891497 – Metkovic, ADR no. 0009276 (to transport containers 902223-0 and CFCU 625130-0) 3. MAN/19.403 FLT, license plates DU 697-BR/DU-682-CI, ADR no. 19749 Driver: Vlado Kresic, passport no. 10198195 – Mostar, ADR no. 0010119 (to transport container CFCU 328074-9)
5. Description Product and Quantity:	1. HE M-60P1 rifle grenade.....20,000pcs 2. HEAT M-60 rifle grenade.....20,000pcs
Package:	Wooden cases / 20ft containers
6. Start Point /Time: Selling Company: City: State: (Import Only) Contact: (Import Only) Telephone: (Import Only)	UNIS PRETIS NIS d.d. in Vogosca, at 05:00hrs UNIS PRETIS NIS d.d. in Vogosca Vogosca – Sarajevo
7. Final Destination/time: Buying Company City: State: (Export Only) Contact: (Export Only) Telephone: (Export Only)	Ministry of Defence of Bangladesh M/S Fameway Investments Ltd Limassol Cyprus Daniel Galko, Manager 00385 35 459 053

2005 05 25 SU E FORM 6
d.d. / LNO Sarajevo/BK

29-03-37-(893-4)-1/05

UNIS PRETIS-NIS

International Peace Information Service Vzw

Original: Bosnian

8.	Border Crossing Point and Time (coordinates), Route:	Doljani, at 13:00hrs Route: Vogosca- Konjic – Jablanica – Mostar – Doljani border crossing point – Ploce port
9.	Special Requirements:	Shipment to be conducted in accordance with ADR/Part 7/Table of corresponding compatibility groups!
10.	HQ EUFOR Date of Receipt:	25 May 2005
11.	HQ EUFOR Approval	
	Date:	25 May 2005 #original signed#
	Original Signed by:	Major Kauer for LTC COSTEIRA, Chief Current Affairs and Compliance, HQ EUFOR – Butmir, Sarajevo

2005 05 25 SU E FORM 6
d.d./ LNO Sarajevo/BK

29-03-37-(893-4)-1/05

UNIS PRETIS-NIS

Annex 4: Shipper's Note "mv Sloman Traveller"

PRIMEDBET: Ovim prilikom prihvataju se svi odredi, uvjeti i troškovi, navedeni u tarifnim brošurama. Svakom promjeni navedenih podataka mora se odmah javiti agenciji. Inače je krcatelj odgovoran za posljedice. REMARKS: This note is subject to all terms, conditions and exceptions of the Carrier's Bill of Lading. Any alterations in the furnished particulars must be immediately notified to the Agency, failing this the Shipper is liable for consequences. Applicable only when document used as a Through Bill of Lading.	Krcatelj — Shipper UNIS PROMEX D.D. BOSANSKA 13 71000 SARAJEVO BOSNIA AND HERZEGOVINA	Putovanje br.: Voyage No.:	Reference No.: or Booking No.:	B/L No. B/L NO.2	
	Obavijestiti — Notify Address PROCUREMENT MANAGEMENT SERVICES LTD. BASEMENT, UNIT 31 BYRON IND EST, BROOKFIELD RD ARNOLD, NOTTINGHAM NG5 7EU				
	Pre-Carriage by* SLOMAN TRAVELLER	Place of Receipt by Pre-Carrier* LONDON			
	Onemogućeno — Not Allowed LONDON	Place of Delivery by On-Carrier* LONDON			
Oznake i brojevi — Marks and Nos: Kontejner br. — Container No.		Količina i vrsta robe: Number and kind of packages; Description of goods		Težina Gross weight	
		693 . PALLETS SAID TO CONTAIN 7.389...OF CASES OF SURPLUS VEAPONS "F I O S" FREIGHT PAYABLE AS PER CHARTER PARTY PASLLETS - CONTROL: STEEL STRIPE BANDS LOOSENED. USED CASES. CASES ARE NOT SEALED. CARRIER SHALL NOT BE LIABLE FOR THE NUMBER AND FOR CONTENT OF CSES.		Btto: 613.752,00 KGS	
Specifikacija vozarine — Specification of freight and charges		NAPOMENA KRCATELJA I CAR, DEKL — SPACE FOR SHIPPER'S USE ONLY			
		Krcatelju predati prepisa teretnica Copies B/L to shipper			
Vozarina plative — Freight payable at					

Annex 5

INTEREUROPA

ZAPISNIK

№ 011869

sastavljen dana 01. 02 192005 godine o prispjeću robe u luku Ploče — SCZ-u sa prevoznim sredstvom 734 7640/266M426 broj 18 dokument prevoznika br. 15. 34
 carinski dokument broj 55018 1450 1785 = 2005 sa sadržajem robe od koleta 18 kilograma 15570
 kubika 1 naziv robe AUTOMATSKIE PISTOLE AK 47
 Iz naprijed navedenog proizlazi da postoji razlika više-manje koleta 6 kilograma —
 kubika —
 Prije istovara robe u skladište 206+750 ustanovljeno je da su carinske plombe bile ispravne - neispravne.

Naprijed navedena roba prijavljena je carinarnici Ploče kao uvozna, provozna izvozna.

Napomena: PRILIKOM ISTOVARA ROBE U PLOČAMA
KARIONA IZJAVIO JE DA SU NEJOSPODE
6 KOLETA
STANJE ROBE U KARIONU JE :
12 KOLETA = 15570 KG
ISTOVARU SU NASTALI ; SPEDITER, SKLADIŠTA
TE ROBE KARIONA

U Pločama, 01. 2 2005



carinski radnik 12

Spediter-vozar [Signature]

Skladištar [Signature]



Annex 7: Wagenliste zum Frachtbrief

		08.07.05		Anlage B			
von		SARAJEVO TERETNA		Frachtbriefnummer:		035-05-GE-014	
nach		PLOCE		Kontroll-Etikette		Versanddatum	
Leitungswege		SARAJEVO - MOSTAR - CAPLJINA - PLOCE		Empfänger		Zu verzählen in	
Absender		2. DEINSKIGT EUFOR G4 VerKtspStiofz		2. DEINSKIGT EUFOR G4 VerKtspStiofz		CAPLJINA	
				Festgesetztes Nettogewicht			

Lfd. Nr.	Wagen Nummer	Achsen	Last- grenze	Bezeichnung des Gutes	Masse der Ladung	Leergewicht des Wagens	Gesamtmasse des Wagens		
Code		to	to		to	to	to		
1	BC 550 / 197002-7	4		Personentrsp	2,0	40,0	42,0		
2	Rgs 3450 392 4402-3	4		2x Kabine II Fm, Wolf	7,5	25,8	33,3		
3	Rgs 3450 392 424-4	4		2x Kabine II Fm, Wolf	7,5	24,68	32,18		
4	Rgs 2478 332 9015-3	2		2x Kabine II Fm	5,0	15,1	18,1		
5	Rgs 18150 390 2000-4	4		SaZGM 9t / Aufl 40ft	18,5	24,6	43,1		
6	Rgs 3450 392 0009-4	4		Lkw 2t KfKw / KOMI	12,0	23,95	35,95		
7	Rgs 3450 392 2445-3	4		Lkw 5t MB / Lkw 7t gl 3S	18,6	25,36	43,96		
8	Rgs 3450 392 4229-4	4		Dingo / Lkw 2t K / SZGM	24,7	24,74	49,44		
9	Rgs 3450 392 4201-3	4		Lkw 2t gl / SchwL / Wolf	20,7	25,1	45,8		
10	Rgs 3450 392 4242-0	4		2x Haggunds / Wolf	11,6	25,16	26,76		
11	Rgs 3450 392 4227-8	4		Lkw 2t BAT / Anh / Wolf	13,3	24,57	27,87		

12	Rgs	31503924200-5	4		Lkw 5t TA / Lkw 2t / Anh	18,0	25,3	43,3	
13	Rgs	31503924208-8	4		4x Wolf	10,0	24,89	34,89	
14	Rgs	31503924216-1	4		4x Wolf	10,0	24,19	34,19	
15	Rgs	31503924001-7	4		Wolf SSA / Wolf / Pkw 8	8,6	25,43	34,03	
16	Rgs	31503924100-7	4		3x Wolf	7,5	25,3	32,8	
17	Rgs	31503920016-9	4		2x Lkw 5t DB Gen	19,4	24,1	43,5	
18	Rgs	31503920015-1	4		Lkw 5t DB / AntTr 25m	10,7	24,2	34,9	
19	Rgs	31503924214-6	4		2x Lkw 5t DB	13,4	25,44	38,84	
20	Rgs	31503924232-8	4		2x Lkw 5t DB	13,4	24,92	38,32	
21	Rgs	31503924206-2	4		Lkw 5t DB / Lkw 5t TA	17,1	24,89	41,89	
22	Rgs	31503920005-2	4		3x Wolf	7,5	24,31	31,81	
						277,0	550,03	827,03	



Unterschrift des Absenders und Datum
[Signature]
 Hptm

Annex 8: Email between SFOR JMA Current Operations and SFOR Legal Advisor.

SFOR MAIN SS JMA CURRENT OPERATIONS

From: SFOR MAIN SS LEGAL ADVISOR
Sent: Friday, May 02, 2003 8:03 AM
To: SFOR MAIN SS JMA CURRENT OPERATIONS
Subject: FW: Form 5 - 890, 905

Classification: NATO/SFOR UNCLASSIFIED

Serial numbers 11-03-37-890/03 from Sarajevo, BiH to Cacak, Serbia and Montenegro and 11-03-37-905/1/03 from Novi Travnik, BiH to Cacak, Serbia and Montenegro: no legal objection; IAW SOP 4150 the OSCE mission in BiH should be informed (to ensure that they are content that the shipments do not contravene regional arms control protocols or breach regional balance of power regimes) and AFSOUTH must be involved in the decision making process.

Bruce Haddenhorst

BRUCE A. HADDENHORST
Major, USAF
Assistant Legal Advisor
HQ SFOR
IPN 941-5207
DSN 606 641-5207
FAX 606 641-5212

-----Original Message-----

From: SFOR MAIN SS JMA CURRENT OPERATIONS
Sent: Wednesday, April 30, 2003 5:50 PM
To: SFOR MAIN SS JMA ACOS; SFOR MAIN SS POLAD NATO CHIEF; SFOR MAIN SS LEGAL ADVISOR; SFOR MAIN SS DCOM OPS XO; SFOR MAIN NS J2 PROD CHIEF; SFOR MAIN NS J2 SPECIAL PROJECT CHIEF
Cc: SFOR MAIN SS JMA CURRENT OPERATIONS
Subject: Form 5 - 890, 905

Classification: NATO/SFOR UNCLASSIFIED



2003 04 30 SU E
FORM 5 - 890....



2003 04 30 SU E
FORM 5 - 905.d...

Sir, Madam

If you have any objections or concerns, please raise them within the next 3 days, otherwise these requests will be approved by Chief Current Operations, JMA.

Erwin Kauer
Maj AUT
SO Movement Control
Current Operations
JMA, HQ SFOR
IPN 941-5429