

Probing the Grey Area

IRRESPONSIBLE SMALL ARMS TRANSFERS

The central argument of this chapter is that even when duly authorized, transfers of small arms, light weapons, and their ammunition are not necessarily legal or responsible. Authorized transfers may contravene agreed international law, rules, and customs—including legal norms relating to respect for human rights or to international conflict. Transfers may also be irresponsible because of a heightened risk of diversion to unauthorized recipients. The chapter thus argues that illicit transfers include government-authorized transfers to countries with a demonstrated record of human rights violations, to those engaged in armed conflict, and to those where a serious risk of diversion exists. Low levels of public disclosure typically prevent us from determining whether exporting states acted responsibly in authorizing small arms shipments to countries presenting such heightened risks.

The chapter draws particular attention to the responsibility states have to refrain from transferring weapons that are at risk of being misused. Building upon analysis in the *Small Arms Survey 2004*, this chapter provides numerous examples of government-authorized transfers that can be considered irresponsible because the governments authorizing them knew (or should have known) of circumstances creating a significant risk of misuse (see Chapter 4 on TRANSFER CONTROLS). The chapter also updates and fine-tunes the annual Small Arms Trade Transparency Barometer. Transparency by governments is imperative to help clarify whether their exports are in fact 'legal' or 'illicit'. This year's Barometer underlines that transparency remains poor in many countries, and the chapter points to possible areas for improvement.

Among the main findings of the chapter are the following:

- At least 60 states made what could reasonably be interpreted as irresponsible small arms shipments to 36 countries during the period 2002–04.
- The diversions of up to several hundred thousand small arms transferred by the United States to Iraq and tens of thousands of rounds of ammunition from South African peacekeeping troops in Burundi since 2003 demonstrate a clear need for greater accountability and safeguards to ensure that efforts to resolve conflicts do not inadvertently fuel conflict.
- UN arms embargoes, legally binding for all UN members, are routinely broken on a large scale and with impunity, as government-authorized, but covert, arms transfers in 2006 to Lebanon, Somalia, and Sudan clearly illustrate.
- The top exporters of small arms and light weapons (those with an annual export value of at least USD 100 million), according to available data and estimates in 2004—the last year for which global data is available—were the United States, Italy, Germany, Brazil, Austria, Belgium, and China. The top importers (those with an annual import value of at least USD 100 million) were the United States, Germany, Saudi Arabia, Egypt, France, and the Netherlands.
- According to the 2007 Small Arms Trade Transparency Barometer, the most transparent major small arms exporters are the United States, France, Italy, Norway, the United Kingdom, and Germany. The least transparent are Bulgaria, North Korea, and South Africa. ■

Box 3.1 Definitions of key terms

The global market for small arms, light weapons, and their ammunition can be represented as two overlapping circles (see Figure 3.1).

Authorized transfers are transfers that are authorized by at least one government.

Irresponsible transfers, also called *grey market transfers*, are transfers that are authorized by a government, but are nevertheless of doubtful legality, at least with reference to international law (significant risk of misuse), or irresponsible in some other sense (significant risk of diversion to unauthorized recipients).

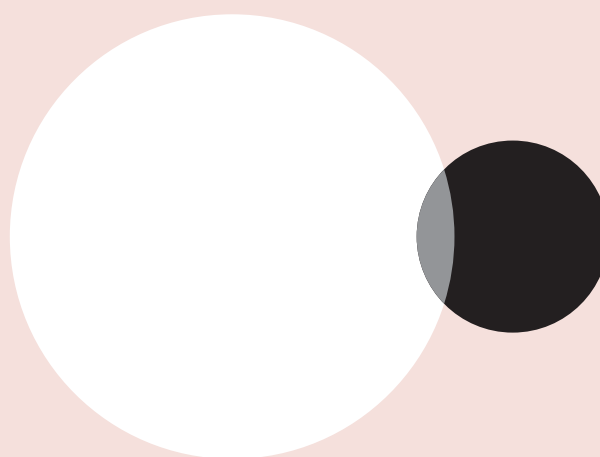
Illegal transfers are synonymous with *black market transfers*. Both terms refer to transfers that are not authorized by any government.

Illicit transfers comprise both *irresponsible* and *illegal* transfers (grey/black market).

Covert transfers are those in which governments hide their involvement—often, though not always, because they are illicit.

Figure 3.1 **Locating irresponsible transfers**

- Large circle: authorized transfers
- Small circle: illicit transfers
- Overlap: irresponsible transfers/grey market
- Black area: illegal transfers/black market
- White area: legal transfers (authorized and responsible)



Note: This figure is not intended to express proportions.

Small Arms Trade Transparency Barometer 2007: Notes

* Major exporters are those countries that export at least USD 10 million worth of small arms, light weapons, and their ammunition annually, according to UN Comtrade data. The 2007 Barometer includes all countries that were among the major exporters at least once in their reporting covering the years 2001-04. For major exporters in 2004, see Annex 3 to the present chapter at <<http://www.smallarmssurvey.org/yearb2007.html>>; for 2003, see Small Arms Survey (2006, pp. 68-73); for 2002, see Small Arms Survey (2005, pp. 102-05); for 2001, see Small Arms Survey (2004, pp. 103-06).

Scoring system

- (a) **Timeliness (1.5 points total, score based on national arms export reports data only):** A report has been published within the last 24 months (up to 31 January 2007) (0.5 points); information is available in a timely fashion (alternatively: 1 point if within 6 months of the end of the year in question, or 0.5 if within a year).
- (b) **Access (2 points total):** Information is: available on Internet through UN Comtrade (1 point); available in a UN language (0.5 points); free of charge (0.5 points).
- (c) **Clarity (5 points total):** The reporting includes source information (1 point); small arms and light weapons distinguishable from other types of weapons (1 point); small arms and light weapons ammunition distinguishable from other types of ammunition (1 point); detailed weapons description included (1 point); reporting includes information on types of end users (military, police, other security forces, civilians, civilian retailers) (1 point).
- (d) **Comprehensiveness (6.5 points total):** The reporting covers: government-sourced as well as industry-sourced transactions (1 point); civilian and military small arms and light weapons (1.5 points); information on re-exports (1 point); information on small arms and light weapons parts (1 point); information on small arms and light weapons ammunition (1 point); summaries of export laws and regulations, and international commitments (1 point).
- (e) **Information on deliveries (4 points total):** Data disaggregated by weapons type (value of weapons shipped [1 point], quantity of weapons shipped [1 point]), and by country and weapons type (value of weapons shipped [1 point], quantity of weapons shipped [1 point]).
- (f) **Information on licences granted (4 points total):** Data disaggregated by weapons type (value of weapons licensed [1 point], quantity of weapons licensed [1 point]), and by country and weapons type (value of weapons licensed [1 point], quantity of weapons licensed [1 point]).
- (g) **Information on licences refused (2 points total):** Data disaggregated by weapons type (value of licence refused [0.5 points], quantity of weapons under refused licence [0.5 points]), and by country and weapons type (value of licence refused [0.5 points], quantity of weapons under refused licence [0.5 points]).

Note 1: The Barometer is based on each country's most recent arms export report that was publicly available as of 31 January 2007 and/or on 2004 customs data from UN Comtrade. National reports that were published more than 30 months before 31 January 2007 are not included.

Note 2: Under (e), (f), and (g) no points are granted for number of shipments or number of licences granted or denied, as such figures give little information about the magnitude of the trade. The data is disaggregated by weapons type if the share of small arms and light weapons in the country's total arms trade is delineated (x per cent of the total value of the arms exports consisted of small arms and light weapons; x number of small arms and light weapons were exported in total). The data is disaggregated both by country and by weapons type if there is information on the types of weapons that are transferred to individual recipient states (x numbers/x USD worth of small arms was delivered to country y).

Note 3: Under (e), (f), and (g), 'weapons type' means broader weapons categories (i.e. 'small arms' as opposed to 'armoured vehicles' or 'air-to-air missiles'), not specific weapons descriptions ('assault rifles' as opposed to 'hunting rifles').

Note 4: The fact that the Barometer is based on two sources—customs data (as reported to UN Comtrade) and national arms export reports—works to the advantage of states that publish data in both forms, since what they do not provide in one form of reporting they might provide in the other. Points achieved from each source of the two sources are added up. However, points are obviously not counted twice (e.g. if a country provides both customs data and export reports in a UN language, it gets 1 point for this under 'access', not more).

¹ Spain makes public its report on small arms and light weapons exports to the OSCE as an annex to its arms export report. The report contains information both on licences granted (volumes by country and weapons type) and on actual deliveries (also volumes by country and weapons type). It covers only the OSCE states, and hence a very limited number of transactions. Spain is therefore granted only part of the points on licences and deliveries. Other states make their OSCE reports public, but separately from the arms export reports. These are therefore not taken into account in the Barometer.

² Austria's national arms export report (Austria, 2006) is a republication of the data it submitted for publication in the EU Annual Report covering 2004 exports (EU, 2005).

³ Canada's most recent national arms export report (Canada, 2003) was published more than 30 months before the cut-off date for the 2007 Barometer and is thus not included.

⁴ The 2007 Barometer covers reporting before Montenegro's independence in June 2006 (BBC, 2006b).

⁵ Belgium has not published any national arms export reports since 2002, because export control was regionalized in September 2003 (for details, see Wallonia, 2004, pp. 3-12). The score is therefore based on customs data submissions only.

⁶ South Africa's most recent national arms export report (South Africa, 2003) was published before the cut-off date for the 2007 Barometer.

Sources: Australia (2006); Austria (2006); Bosnia-Herzegovina (2005); Czech Republic (2005); Finland (2004); France (2005); Germany (2006); Italy (2005); Netherlands (2005); NISAT (2007a, 2007b); Norway (2006); Portugal (2006); Romania (2005); Spain (2006); Sweden (2006); Switzerland (2006); UK (2006); UN Comtrade (2007); US (2006)

Table 3.3 Small Arms Trade Transparency Barometer 2007, covering major exporters*

	TOTAL (25 max.)	Export report (year covered)	UN Comtrade	Timeliness (1.5 max.)	Access (2 max.)	Clarity (5 max.)	Comprehensiveness (6.5 max.)	Deliveries (4 max.)	Licences granted (4 max.)	Licences refused (2 max.)
United States	20.5	X (05)	X	1.5	2	4	5.5	3.5	4	0
France	18.5	X (04)	X	1	2	4	5.5	4	2	0
Italy	17.5	X (04)	X	1.5	1.5	4	6.5	3	1	0
Norway	15.5	X (05)	X	1.5	1.5	3.5	6	3	0	0
United Kingdom	15.5	X (05)	X	1	2	4	5.5	3	0	0
Germany	15.25	X (05)	X	1	1.5	4	4.75	2	2	0
Finland	14	X (03)	X	0.5	2	4	5.5	2	0	0
Netherlands	14	X (04)	X	1	2	2.5	5.5	3	0	0
Spain ¹	13.75	X (05)	X	1.5	2	2.5	4.75	3	0	0
Czech Republic	13.5	X (04)	X	1	2	3	5.5	2	0	0
Austria ²	13	X (04)	X	0	1.5	2.5	5	2	2	0
Sweden	12.75	X (05)	X	1.5	2	3	4.25	2	0	0
Australia	12.5	X (02-04)	X	0.5	2	2.5	4.5	3	0	0
Switzerland	12.5	X (05)	X	1.5	2	2.5	4.5	2	0	0
Bosnia-Herzegovina	12	X (04)	X	1.5	1.5	2.5	4.5	2	0	0
Canada ³	11	-	X	0	1	2.5	4.5	3	0	0
Croatia	11	-	X	0	1	2.5	4.5	3	0	0
Iran	10.5	-	X	0	1	2.5	4	3	0	0

Mexico	10.5	-	X	0	1	2.5	4	3	0	0
Portugal	10.25	X (04)	X	0.5	1.5	2.5	3.75	2	0	0
Serbia and Montenegro ⁴	9.75	-	X	0	1	2.25	4.5	2	0	0
Brazil	9.5	-	X	0	1	2.5	3	3	0	0
China	9.5	-	X	0	1	2.5	3	3	0	0
South Korea	9.5	-	X	0	1	2.5	4	2	0	0
Turkey	9.5	-	X	0	1	2.5	4	2	0	0
Belgium ⁵	9	-	X	0	1	2.5	3.5	2	0	0
Japan	8.5	-	X	0	1	2.5	3	2	0	0
Pakistan	8.5	-	X	0	1	2.5	2	3	0	0
Singapore	8	-	X	0	1	2.5	1.5	3	0	0
Thailand	8	-	X	0	1	2.5	2.5	2	0	0
Russian Federation	6.5	-	X	0	1	2	1.5	2	0	0
Saudi Arabia	6.5	-	X	0	1	1.5	2	2	0	0
Romania	5.5	X (02)	X	0.5	2	2	1	0	0	0
Israel	5	-	X	0	1	1	1	2	0	0
Bulgaria	0	-	-	0	0	0	0	0	0	0
North Korea	0	-	-	0	0	0	0	0	0	0
South Africa ⁶	0	-	-	0	0	0	0	0	0	0