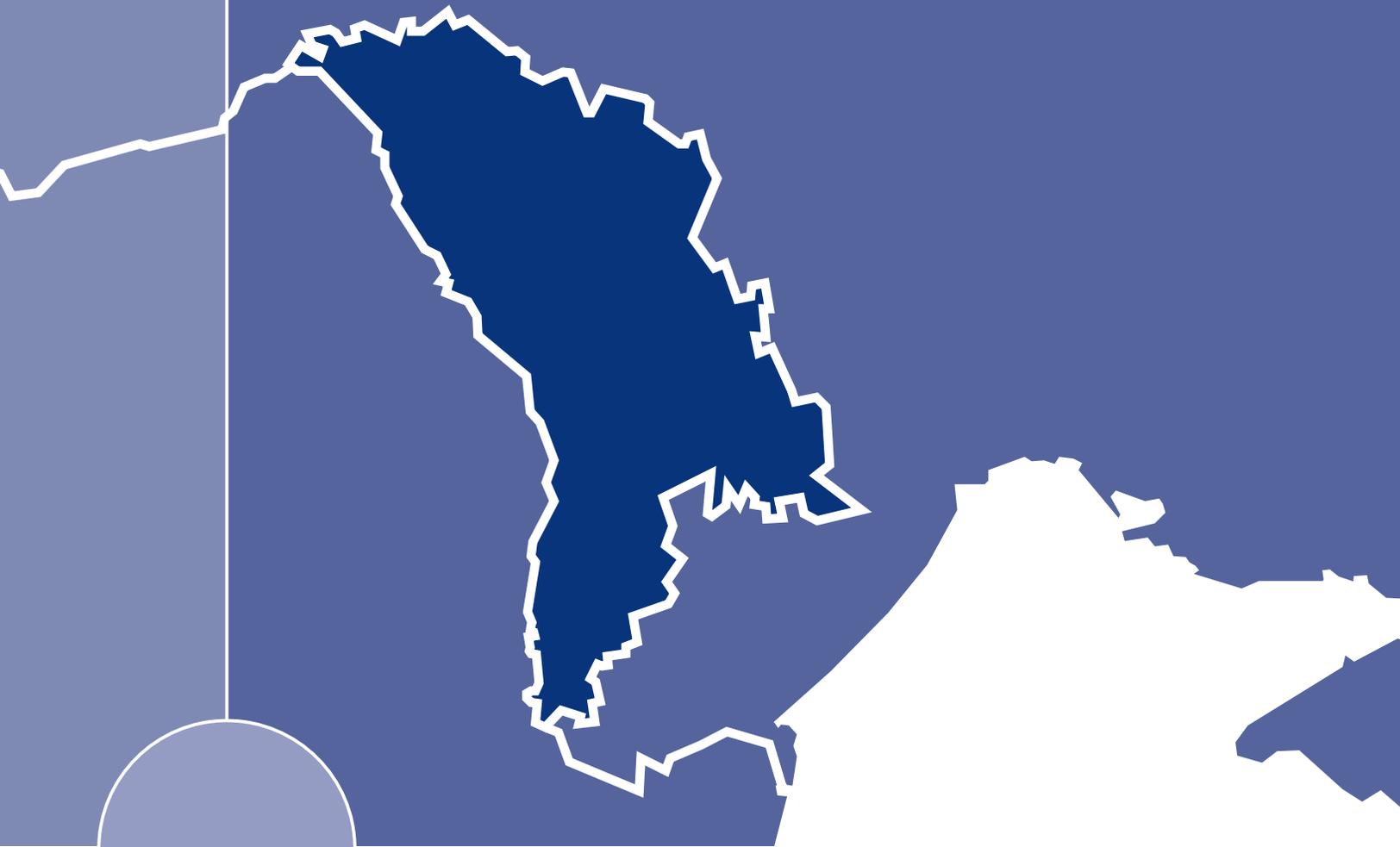


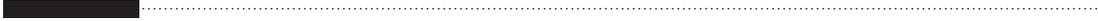


Moldova and international small arms transfers:

Implementing UN Programme of Action commitments



July 2008



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Acronyms

BGS	Border Guard Service
COMTRADE	UN Commodity Trade Statistics Database
EUBAM	EU Border Assistance Mission
EUC	end-user certificate
FARC	Revolutionary Armed Forces of Colombia
ICC	Interdepartmental Control Commission
Interpol	International Criminal Police Organisation
MFA	Ministry of Foreign Affairs
MOD	Ministry of Defence
MOE	Ministry of Economy
MOI	Ministry of the Interior
NATO	North Atlantic Treaty Organisation
OSCE	Organisation for Security and Co-operation in Europe
SALW	small arms and light weapons
SECI Centre	Southeast European Co-operative Initiative Regional Centre for Combating Trans-Border Crime
UN PoA	UN SALW Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects



Contents

Executive summary	i
1. Introduction	1
2. Moldova and the trade in SALW	3
3. Licensing /authorisation of SALW transfers	5
4. End-use certification and verification	9
5. Record keeping	10
6. Pre-notification of transfer	11
7. Border controls	12
8. Criminalisation	14
9. Stockpiles and surplus	15
10. Interdepartmental relationships and co-operation	17
11. Information-sharing and co-operation with external actors	19
12. Oversight (transparency and accountability)	21
13. Corruption	23
14. Capacity	24
15. Conclusions and recommendations	25
Annex 1: Methodology	29

Executive summary

THE PURPOSE OF THIS REPORT is to evaluate Moldova's performance in implementing UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UN PoA) commitments as they apply to international transfers of small arms and light weapons (SALW). No analysis is made of UN PoA implementation in the breakaway Transdniestrian region, on the grounds that it would be unreasonable to assess Moldova's performance with regard to territories over which the Moldovan Government does not hold effective control. Analysis is therefore confined to that part of Moldova over which the recognised government wields undisputed political control.

Since independence Moldova has had virtually no SALW production capacity, yet until recently it had a reputation both as an irresponsible exporter and as a base for the illicit transportation of SALW. However, practice over the last few years appears to have improved; Moldova's engagement in any kind of imports or exports of SALW has become relatively insignificant.

Nevertheless, it is understood that Moldova retains significant SALW stockpiles and would welcome the opportunity to sell at least some of them on the international market. Furthermore, current Moldovan involvement in the brokering and transportation of SALW is unclear, and, according to various UN reports, some Moldovan transportation companies have a history of being involved in arms transfers in breach of UN arms embargoes.

Licensing/authorisation of SALW transfers

Moldova has a relatively well-developed legal framework for controlling exports, imports, transit and retransfer of SALW, with all such transfers requiring government approval. Under Moldovan law, those intending to engage in the international transfer of 'strategic' SALW must first apply for a licence, with 'authorisations' then required for each individual transfer. A division within the Ministry of Economy administers this system and makes a recommendation to an Interdepartmental Control Commission (ICC), which is then responsible for issuing or refusing the authorisation. In addition, individual small arms for civilian use can be imported or exported by four state-owned and run 'Specialised Weapons Stores', with authorisations granted (or refused) by the Ministry of the Interior (MOI). There is, however, some confusion over where responsibility lies for transfers of small arms with a calibre of less than 12.7mm.

In order to authorise a 'strategic' SALW transfer, the government is obliged to receive various documentary evidence and to take into account Moldova's foreign policy and national security interests, and international commitments (including UN resolutions). This appears to fall some way short of meeting Moldova's existing responsibilities under international law, as demanded in the UN PoA. For example, only the Ministry of Foreign Affairs (MFA) indicated a real appreciation of human rights and international humanitarian law in this context. Unfortunately, the opinion of the MFA can easily be ignored, as decisions are taken on the basis of majority voting where as few as half the ICC members need be present to constitute a quorum. There are apparently *no* formally established criteria for transfer decisions regarding civilian-use small arms.

Moldovan law does not effectively control third-country arms brokering, and there appears to be no effective control over arms transportation activities of Moldovan nationals or of companies registered as Moldovan.

On several occasions during this evaluation the point was made that regulating SALW transfers was simply not a priority for most officials.

End-use certification and verification

Some form of end-use certification (EUC) is required for all imports and exports of strategic SALW with a 'military' or 'half-military' purpose.ⁱ In theory, the Ministry of Economy (MOE) is responsible for verifying the authenticity of EUCs, however it is not clear how often this actually takes place, or how such checks are conducted.

Record-keeping

Both the MOI and Moldovan companies are required to keep records on types and quantities of SALW transferred and the identities of their counterparties of all transactions for 10 years. Companies transferring arms are subject to audits at least once a year, though the extent to which this happens in practice is not clear.

Pre-notification of retransfer

Moldova places a contractual obligation on the recipients to which it transfers SALW not to re-export without permission, though there was little sign of procedures in place to check on end-use. The Moldovan Government is also legally obligated to use imported strategic SALW only for the purposes declared in advance of their transfer, and to ensure that no re-export takes place from Moldova without the explicit approval of the original exporting state. But again no evidence was provided as to whether such procedures are always followed.

Border controls

Border security, which is managed by the Customs Service and the Border Guard Service (BGS), is politically sensitive due to the dispute between Moldova and the separatist Transdniestrian region. The EU Border Assistance Mission (EUBAM), established in 2005 with a monitoring and advisory role on both sides of the Moldova-Ukraine border, has found little evidence of large-scale SALW trafficking, and SALW control is not a priority for the Mission. There is a general feeling that the legislation governing border control in Moldova is in need of comprehensive review to bring it into line with international best practice. Moreover, it is widely acknowledged that the relationship between Customs and BGS has been problematic in the past, though there are different views on whether these difficulties have been resolved. Border control in

ⁱ 'Government Decision No. 606', Appendix 2, Article 4. Unfortunately, the terms 'military' and 'half-military' are not defined in the legislation, and there seems to be confusion within the government as to how they should be interpreted.

general is under-resourced, with a lack of physical infrastructure and low salaries for staff (corruption was identified as endemic in this area).

Criminalisation

Moldovan arms transfer control law states that “violations of the regulations ... shall entail the civil and criminal liabilities prescribed under prevailing law”. All breaches of arms transfer control laws are therefore apparently subject to penal and civil codes, however transfer control laws should be amended to detail the range and maximum extent of civil and criminal punishments for relevant offences.

Stockpiles and surplus

Moldova has so far not publicly declared what it regards as surplus SALW. Large stockpiles were left over from when Moldova was part of the Soviet Union, and while it seems these stockpiles have been substantially run down, according to the Ministry of Defence (MOD) there are still huge amounts of obsolete weapons and munitions. The Moldovan Government seems happy to destroy excess SALW and ammunition where it is dangerous or obsolete, or where the prospects of sale are minimal, but is willing to look at selling surplus where it calculates a buyer might be found. Management of stockpiles has by all accounts improved in recent years, but there is still more that could be done. For example, the MOD has identified a need to do more to protect the area around the stockpiles, and not just the stockpiles themselves.

Interdepartmental relationships and co-operation

The SALW transfer licensing process is apparently currently tainted by interdepartmental rivalries and a lack of co-operation. This situation needs to be addressed and Moldova is in the process of setting up a National Commission Monitoring Arms Control and Development, which will include a working group on SALW. With appropriate political direction and support this new Commission could help to resolve these traditional tensions. However, there is also a danger that this could make things worse by simply creating yet another competing agency.

Information-sharing and co-operation with external actors

Moldova generally files reports on arms transfer issues as required by relevant multi-lateral institutions, e.g. on UN PoA implementation, to the OSCE (Organisation for Security and Co-operation in Europe as required by the OSCE Document on SALW, and to the UN Register of Conventional Arms. Moldova has also proved supportive of other measures to better regulate arms transfers, e.g. by supporting moves at the UN in favour of an international Arms Trade Treaty.

Oversight (transparency and accountability)

Moldova does not provide public or parliamentary reports on its international SALW transfers, and there is little interest among the relevant officials to change this. State secrecy laws are vague and broadly drawn and seem to validate non-disclosure. Nevertheless, MOI officials indicated that they would be willing to publish a national report showing types, quantities and end-users of all imports, exports and transits of SALW, but only if they were so instructed by their political masters. However, Members of Parliament (MPs), broader civil society and the population as a whole demonstrate little day-to-day interest in SALW transfer issues. This lack of transparency and interest is worrying, not least given that several respondents identified corruption in connection with international SALW transfers as a problem.

Capacity

There is a need to improve staffing levels and expertise across most elements of the SALW transfer control regime, e.g. the transfer authorisation process, end-use certification checks and end-use monitoring, stockpile management, surplus destruction and border control. This is complicated, however, by the fact that Moldova is now involved in relatively few SALW transfers, and for most officials involved this is only a small part of their job. There is also a need to develop the use of information technologies and physical infrastructure.

Conclusions and recommendations

The report concludes with a relatively small number of key recommendations that, if adopted, could produce a significant improvement in Moldovan practice. These include the need to:

- introduce certain changes to transfer control legislation;
- amend the decision-making process for individual transfers;
- improve end-use certification procedures;
- publicly identify and commit to destroy surplus SALW;
- update border control legislation and increase the resources devoted to it;
- improve transparency and accountability; and
- increase capacity and expertise of relevant officials.

1

Introduction

SINCE THE UN SALW Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UN PoA) was agreed in 2001, there has been progress towards its implementation in a number of countries around the world. This progress has been less pronounced than many had hoped; nevertheless the UN PoA remains the most important and comprehensive international framework for addressing small arms and light weapons (SALW) control ‘in all its aspects’.

Evidence suggests that in many cases, progress has been slow even in countries where there is political will to work towards implementation and in which there is at least some capacity in relevant departments and ministries. A primary reason for this may be the lack of knowledge and capacity for translating rhetorical political commitment into practical action. In the absence of such knowledge, states have not been able to effectively identify or communicate their needs, with the consequence that international co-operation and assistance has not been forthcoming.

This report seeks to address the situation in Moldova. It examines the extent to which Moldova is meeting its UN PoA commitments to strengthen controls on the international transfer of SALW and identifies priorities for future action by both Moldovan officials and the international donor community. The assessment is designed to:

- alert key actors within Moldova to their UN PoA transfer control commitments;
- establish where the gaps in UN PoA implementation lie;
- chart a ‘roadmap’ for addressing those gaps; and
- begin to build the necessary constituency committed to honouring those obligations.

This report, focusing on Moldova, forms part of a broader international programme of work designed to improve implementation of PoA commitments on international SALW transfers.

The report does not examine the situation in the breakaway Transdniestrian region. As the purpose of this report is to evaluate Moldova’s performance in implementing UN PoA commitments, it would be unreasonable to assess this with regard to territories over which the Moldovan Government does not hold effective sway. Analysis is therefore confined to that part of Moldova over which the recognised government of Moldova wields undisputed political control. It should be noted, however, that both sides in the Transdniestrian dispute have sought to gain political advantage out of claims that the other is involved in illicit arms transfers. These claims should be

considered very carefully; the partial evidence available suggests that, recently at least, the situation on both sides may be less problematic than the competing rhetoric would suggest.

In the 1990s and early 2000s Moldova, while having no SALW production capacity, had a reputation as both an irresponsible exporter of Soviet-era surpluses and a base for illicit transportation of SALW. However, over the last few years Moldova's profile in this area has undergone significant change; it would seem Moldova's involvement in illicit or 'grey' SALW transfers is now much reduced. In part this may be due to the fact that most of Moldova's marketable stockpiles have already been sold, but in addition there are clear signs that Moldova is now taking its SALW transfer responsibilities more seriously. Key legislation for controlling transfers of military and dual-use equipment, including SALW, was passed in 2000 and 2002. Moldova now has a reasonably sophisticated legal framework providing for many of the elements called for in the UN PoA, and appears for the most part capable of exerting its will over SALW transfers. Moreover, indications are that the Moldovan Government has recently authorised relatively few international transfers of SALW.

Nevertheless, there are several aspects of Moldova's SALW transfer control regime that require further attention. These include, for example, the current scope of Moldovan legislation, the decision-making process for individual transfers, disposal of surplus, capacity of officials, and transparency and accountability.

While this report is intended as a comprehensive assessment of Moldova's implementation of its SALW transfer control commitments, in the interests of efficiency its recommendations focus on the key next steps that would enable Moldova to quickly move to a situation whereby its international commitments are substantially met. This approach is particularly apposite in Moldova because when placed alongside some of the other challenges the country is facing, it may be argued that the issue of international SALW transfers is of relatively little importance. Moldova is therefore encouraged, in co-operation with the international community, to adopt the recommendations contained herein as a relatively low-cost way to make a significant difference to the quality of its compliance with the UN PoA.

2

Moldova and the trade in SALW

SINCE INDEPENDENCE Moldova has not had a SALW production capacity (aside from some small-scale, state-controlled production of SALW components and ammunition, e.g. of cartridges for smooth-bore weapons for use by hunters). And despite a stated intention to develop an indigenous defence industry (as outlined in the 2002 Concept of Military Reform), there are no plans or indications that this will include SALW. Nevertheless, until recently Moldova had a reputation both as an irresponsible exporter and as a base for illicit transportation of SALW.

However, there would seem to have been a significant change in the extent of Moldova's involvement in illicit or 'grey' transfers of SALW in the last five or so years. Indeed, Moldova's engagement in any kind of import or export of SALW would seem to have become relatively insignificant.

Officials report that no authorisations have been granted for the export of military SALW for the last few years. In 2007, according to figures from the Ministry of Economics, of 47 authorisations issued for transfers of military and dual-use items (24 export; 23 import), only one or two were for military SALW (for imports by the Penitentiary Department of the Ministry of Justice). According to COMTRADE data, Moldova imported "pistols, hunting rifles, ammunition and parts and accessories" worth US\$ 167,135 in 2005 and US\$376,652 in 2006.¹ The Moldovan Customs Service reported that in 2007 a total of 3,233 firearms were imported and just eight (training pistols) exported.

Although it is difficult to obtain exact figures, there is a general understanding that Moldova retains significant SALW stockpiles and would welcome an opportunity to sell at least some of them on the international market. There is therefore no guarantee that the recent pattern of minimal transfers will continue.

Furthermore, the current situation with regard to Moldovan involvement in the brokering and transportation of SALW is unclear, not least because Moldova does not effectively regulate the involvement of Moldovan or Moldovan-registered actors in

¹ These COMTRADE figures were accessed through the Norwegian Initiative on Small Arms Transfers (NISAT) Database, <http://balder.prio.no:8080/PublicQuery_SQL.aspx>. COMTRADE is the UN Commodity Trade Statistics Database. COMTRADE figures are not yet available for 2007.

such activities. Information is patchy, but a number of transportation companies registered in Moldova – such as Aerocom, Renan Air and Tiramavia – were allegedly involved in transfers to countries under UN embargo (e.g. Angola, Liberia and Sierra Leone) around the turn of the century.²

More recently, in 2004, Aerocom was implicated in the controversial supply of more than 200,000 surplus AK-47s from Bosnia to Iraq for use by the Iraqi security forces (there is, however, no record of the relevant Aerocom flights landing in Iraq), despite the fact that Aerocom's air operating certificate had earlier been revoked by Moldovan authorities.³ Aerocom is reportedly now defunct, but its assets and aircraft were it seems transferred to another Moldovan firm, Jet Line International,⁴ whose air operating certificate was in turn revoked in June 2007, along with six other Moldovan air operators.⁵

In November 2005, the UN Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia, added Moldtransavia, another Moldovan air operator, to the list of individuals and entities subject to the measures imposed by paragraph 1 of resolution 1532 (2004) (the Assets Freeze List). According to a 2005 UN press release, the company was indirectly controlled by, and had participated in, illicit arms deals for Viktor Bout (recently arrested in Thailand for conspiring to transfer arms to the FARC in Colombia and widely regarded as among the world's most notorious arms brokers).⁶

² UN Report on Sierra Leone, S/2001/1015, 26 October 2001; Report S/2001/1015 on the Panel of Experts pursuant to Security Council resolution 1343 (2001), paragraph 19, concerning Liberia; UN Security Council, 18 April 2001, addendum to the final report of the Monitoring Mechanism on Sanctions against UNITA (S/2000/1225, annex), submitted in accordance with Security Council resolution 1336 (2001) of 23 January 2001.

³ Amnesty International, *Dead on Time – arms transportation, brokering and the threat to human rights*, May 2006, <<http://www.amnesty.org/en/library/info/ACT30/008/2006>>.

⁴ David Isenberg, 'Shady dealers aim to arm Iraq', *Asia Times Online*, 27 July 2006, <http://www.atimes.com/atimes/Front_Page/HG27Aa01.html>.

⁵ Press release of the Civil Aviation Authority of the Republic of Moldova, 22 June 2007, <<http://en.caa.md/news/?nid=95937f5bc1d4e57052623e387a0d172a>>. Note that these revocations were then subject to legal challenge (see release of the Civil Aviation Authority of the Republic of Moldova, 13 November 2007, <<http://en.caa.md/news/?nid=ab8ac0f005a8d508feda863d813dc4de>>).

⁶ Security Council Committee on Liberia updates asset freeze list, UN Press Release, 30 November 2005, <<http://www.un.org/News/Press/docs/2005/sc8570.doc.htm>>.

3

Licensing/authorisation of SALW transfers

UNDER THE UN POA, Moldova is committed to have in place adequate and transparent laws, regulations and administrative procedures to exercise effective control over the export, import, transit, retransfer and brokering of SALW (Section II, paras 2, 11, 12 and 14). All international transfers should be licensed, with all decisions required to be consistent with states' existing responsibilities under international law (Section II, para 11).

Moldova does have a relatively well-developed legal framework for controlling exports, imports, transit and retransfer of SALW, and all transfers of these types require government approval. However, the system is complicated in that it is divided into two distinct regimes:

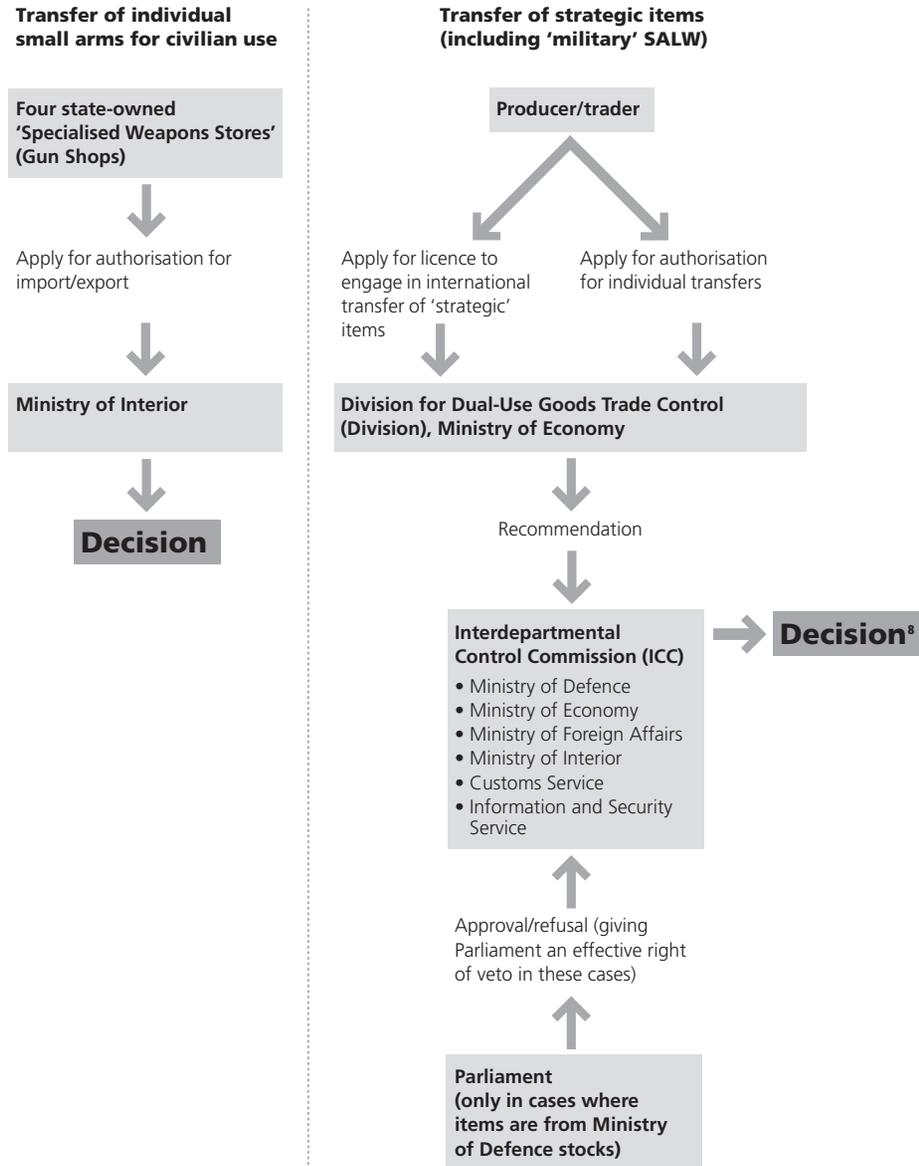
- Transfers of all items in the Control List of Strategic Goods, which includes SALW, are regulated by the 2000 *Law on the Control of Export, Re-export, Import and Transit of Strategic Goods* (2000 Law) and the 2002 *Government Decision No 606 About the National System of Export, Re-export, Import and Transit Control of Strategic Goods in the Republic of Moldova*; and
- Transfers of individual small arms for civilian use are regulated by the 1994 *Law on Individual Arms* (1994 Law).

Under the 2000 Law, companies intending to engage in the international transfer of SALW classed as 'strategic' (i.e. included on the Control List of Strategic Goods, annexed to the 2000 Law) must first apply for a licence. Authorisations are then required for each individual transfer. The Division for Dual-Use Goods Trade Control (Division) within the Ministry of Economy administers applications for authorisations of individual transfers. The Division makes a recommendation to the Interdepartmental Control Commission (ICC), which is then responsible for issuing or refusing the authorisation. The ICC comprises representatives from the Ministries of Defence (MOD), Economy (MOE), Foreign Affairs (MFA) and the Interior (MOI), and the Customs Service and the Information and Security Service. Where the

strategic items for sale are from Moldovan state inventories (e.g. MOD stocks), the explicit approval of parliament is also required.

The 1994 Law stipulates that only four state-owned and run ‘Specialised Weapons Stores’ are permitted to import or export individual small arms for civilian use, with authorisations granted (or refused) by the MOI. However previous research carried out by Saferworld revealed that at least 15 other Moldovan entities imported SALW or their ammunition or components during the period 2001–05.⁷

Moldovan arms export control system: decision-making process and structure



The two systems do not mesh perfectly. There is apparently confusion over which of the two control regimes is responsible for the transfer of small arms with a calibre of less than 12.7mm. The Control List of Strategic Goods includes weapons of a smaller calibre (excepting smoothbore hunting rifles). However, MOI officials claimed to have

⁷ David Wood, *SALW Survey of Moldova*, Saferworld-SEESAC, 2006, pp. 32–33, <http://www.saferworld.org.uk/publications.php/211/small_arms_and_light_weapons_survey_of_moldova>.

⁸ Note that a decision is taken by majority vote; the ICC requires 50 per cent or more attendance to be quorate.

responsibility for non-military small arms with calibre less than 12.7mm or alternatively all small arms with calibre less than 12.7mm.

In order to receive an authorisation, a prospective buyer or seller has to provide various documentary evidence, including:

- confirmation of the origin of the items;
- a commercial contract;
- the counterpart's licence/official permission to engage in the transaction; and
- end-use certification (which must then be verified).

In addition, the 2000 Law stipulates that licensing decisions regarding transfers of SALW on the Control List of Strategic Goods are based on *inter alia* respect for Moldova's foreign policy and national security interests, and international commitments (including UN resolutions). While not included in the 2000 Law, officials advised that Moldova now also respects EU embargoes, though we were unable to find where this is set out, either in legislation or political statements.

This set of criteria would appear to fall some way short of meeting Moldova's existing responsibilities under international law, as demanded in the UN PoA (Section II, para 11). The reference to 'international commitments' is ambiguous, and while it is not necessarily inconsistent with the language of the UN PoA, discussions with officials suggest that these 'commitments' are interpreted narrowly. In applying international law to SALW transfers, an increasing number of states and regional and multilateral institutions now explicitly demand an assessment of the risks that possible transfers pose to breaches of human rights or international humanitarian law or to sustainable development, or whether the items might be diverted or used in the commission of terrorist acts.⁹ However, within Moldova, only the MFA appears to appreciate this approach.

Officials from other ministries typically either dismissed these concerns as irrelevant, on the grounds that Moldova was not a producer of SALW and virtually never exported, or regarded them with suspicion. It was, however, generally acknowledged that very few officials from outside the MFA have been exposed to the concept of 'objective criteria' – either what they might be or how to implement them as part of the licensing process. There was also a feeling that it was common for the wrong officials to attend training where it was available.

The ICC arrives at a decision on the basis of majority voting where as few as half the ICC members need be present to constitute a quorum. This is problematic since it would seem that decisions can in effect be taken by as few as two of the members of the ICC. It is particularly worrying when considered alongside the concern that most involved ministries have little appreciation of the implications of their regulatory commitments under international law.

The situation regarding the transfer of individual small arms for civilian use is also problematic. Decisions rest exclusively with the MOI, one of the ministries apparently agnostic about the need for rigorous assessment according to universally applied criteria consistent with international law. According to conversations with MOI officials there are *no* formally established criteria for decision-making for transfers of civilian-use small arms. This, in the context of the UN PoA, is clearly inadequate.

⁹ See, for example: the 'Code of Conduct of the States of Central America (SICA) on the Transfer of Arms, Munitions, Explosives and Related Material'; the 'ECOWAS Convention on SALW, their Ammunition and Other Related Materials'; the 'EU Code of Conduct on Arms Exports'; the 'Nairobi Protocol for the Prevention, Control and Reduction of SALW in the Great Lakes Region and the Horn of Africa'; the 'OSCE Document on Small Arms'; and the 'Wassenaar Arrangement Best Practice Guidelines for Exports of SALW'.

Although required by the UN PoA (Section II, para 14), Moldovan law does not effectively control arms brokering. Article 3.2 of the 2000 Law states that “subject to the provisions of this law shall be trade operations with foreign states involving the purchase or sale of strategic goods ... that are effected without any physical contact with the territory of ... Moldova”. However, the term “trade operations” is not defined. Moreover, article 1.1 of the same law states that its objective is to “regulate the principles and procedures for controlling the export, re-export and import of strategic goods”, article 1.2 identifies the subjects of the law as those involved in “export, re-export, import or transit of strategic goods”, while in article 2 these terms are defined as requiring the items in question to come into physical contact with Moldovan territory. Key officials questioned on this matter either confirmed that Moldova does not control third-country brokering or did not seem to clearly understand what was meant by the term.

There would also appear to be no effective control over arms transportation activities involving Moldovan nationals or companies registered as Moldovan. Given the recent history of involvement of Moldovan air operators in illicit or ‘grey’ arms shipments (see above), this is an area in need of further attention by the national authorities.

During the research for this report, officials indicated on several occasions that authorising SALW transfers was simply not a priority. They argued that Moldova faces many significant challenges, SALW transfers to and from Moldova are infrequent and relatively small, and they have many other tasks to perform. But this capacity issue extends beyond dealing with individual transfers. For example, the Control List of Strategic Goods, which is based on the EU military and dual-use lists, has not been updated since 2003. Moreover, the fact remains that Moldova could potentially be involved in illicit SALW transfers with significant consequences. It is therefore important that Moldova does honour its commitments. One way of addressing this without creating undue burden on an overworked civil service could be to introduce a rule whereby a single ministry can veto individual authorisations based on its capacity to apply appropriate criteria. For example, the MFA would take the lead on consideration of the implications of a transfer for international law.

4

End-use certification and verification

THE UN POA requires the use of authenticated end-user certificates (EUC) as one of the measures necessary to exercise effective control over the export, import, transit or retransfer of SALW (Section II, para 12).

In Moldova, both of the authorisation regimes require that all international transfers of SALW entering, leaving or crossing Moldovan territory are licensed by agencies of the national government. End-user and international import certificates *can* be requested for any transfer of strategic goods, however they are *obligatory* only for imports and exports of goods with a ‘military’ or ‘half-military’ purpose.¹⁰ They are typically not required for goods in transit.¹¹ EUCs must stipulate *inter alia* that the goods will not be re-exported without Moldovan authorisation and that Moldova is entitled to monitor the end-use of items after they have been delivered.

In theory, the MOE, working through diplomatic channels and making use of the MOD and intelligence services, is responsible for verifying the authenticity of EUCs. The MFA may be called upon to contact foreign ministries in partner countries for their help where the prospective transfer is to a country where Moldova does not have diplomatic representation. EUCs are, according to a representative of the MFA, “usually verified”, which would suggest there are circumstances where verification does not take place. Both the frequency and the nature of the EUC verification process are unclear. However, given the low incidence of SALW transfers from Moldova in recent years, it is hard to imagine that much expertise will exist in Moldova’s diplomatic missions for carrying out particularly rigorous SALW end-use checks.

¹⁰ ‘Government Decision No. 606’, Appendix 2, Article 4. Unfortunately, the terms ‘military’ and ‘half-military’ are not defined in the legislation, and there seems to be some confusion within the government as to how they should be interpreted.

¹¹ Interview with Mr Ion Lupan, 23 October 2006.

5

Record-keeping

THE UN POA commits states to keep comprehensive and accurate records for as long as possible on the transfer of SALW (Section II, para 9), while the International Tracing Instrument requires states to keep records relating to the import and export of marked SALW for at least 20 years.¹²

In Moldova, both the MOI and commercial companies are required to maintain records of all SALW transfers for 10 years. These records are to include information on types and quantities of equipment and the identities of their counterparties. All companies are in theory subject at least once a year to an audit of their technical controls (by MOI) and financial controls (by the Fiscal Inspectorate). The Customs Service is also supposed to inspect the facilities of those who import arms. The extent to which these commitments are met is not clear.

¹² "International instrument to enable States to identify and trace, in a timely and reliable manner, illicit small arms and light weapons", 8 December 2005, art. 12, <<http://disarmament.un.org/cab/docs/International%20instrument%20English.pdf>>.

6

Pre-notification of retransfer

THE UN PoA obliges Moldova to adopt and implement provisions that involve notifying original exporting states before retransferring imported SALW. (Section II, para 13)

Where Moldova is the original exporting state, it goes further than is required by the UN PoA, in that it places a contractual obligation on the recipients to which it transfers SALW not to re-export them without permission. However, in order to give weight to this requirement, it would be necessary for Moldova to have in place systems for checking on end-use in the event that there are reasons to suspect an unauthorised retransfer has taken place. This research was unable to discover any evidence to suggest that procedures are in place for checking end-use once the transferred SALW have reached their final intended destination.

Similarly, the 2000 Law requires that imported strategic goods will be used only for the purposes declared in advance, and that no re-export will take place from Moldova without the explicit approval of the original exporting state. This, formally, is equivalent to international best practice, and as Moldova is not a producer of SALW it can be assumed that such approval would be necessary for all exports. But once again it is unclear whether such procedures are followed in all circumstances.

7

Border controls

THE UN POA touches upon the issue of border control at a number of points (e.g. section II, paras 2, 6, 12, 23, 27 and 37). In essence, the UN PoA requires that states secure their borders against illicit movements of SALW, and that where illicit transfers do take place, steps are taken to pursue and prosecute the perpetrators.

Moldovan border security has long been an issue of political sensitivity and propaganda in the context of the dispute between Moldova and the separatist Transdnistriean region. Related to this, each side in the dispute has made claims about the arms trafficking credentials of the other.¹³ However, the EU Border Assistance Mission (EUBAM) has found little evidence of large-scale SALW trafficking on either side of the border – although interviews conducted as part of this assessment suggest that border incidents (including potentially SALW trafficking) are still a problem when EUBAM is not present.

The Customs Service and the Border Guard Service (BGS) jointly manage border security in Moldova. Customs are responsible for the movement of goods and personal belongings, and have investigative powers; BGS manage persons, passports and visas, and do not have investigative powers. Where no Customs personnel are present, the BGS can detain people for smuggling contraband on their persons – it does not have the right to check items apart from personal belongings. In addition, EUBAM, established in 2005, has a monitoring and advisory role on both sides of the Moldova-Ukraine border. EUBAM also provides support to Customs' central operations, e.g. in risk management and developing intelligence-based approaches.

There was a general feeling that the legislation governing border control in Moldova is in need of comprehensive review to bring it into line with international best practice. One of the identified priorities for review is the need to clarify responsibilities among the relevant actors.

There are competing opinions regarding the relationship between the BGS and Customs. It was widely acknowledged that this was problematic in the past, but there

¹³ One recent example of this is a report in the *Tiraspol Times* claiming that there has been a steady flow of Moldovan cargo planes to Iraq, carrying a continuous stream of weapons for Sunni insurgents in and around Baghdad (J. Cooper, 'Moldova plane crash in Iraq tied to insurgency arms smuggling', *Tiraspol Times*, 31 January 2007), <http://www.tiraspoltimes.com/news/moldova_plane_crash_in_iraq_tied_to_insurgency_arms_smuggling.html>. However, a number of the claims made in the report appear without any corroborating evidence.

were different views on whether these difficulties have been resolved. One potential concern is that the lead agency varies according to different legislation. Another potential concern is the fact that the heads of both the BGS and Customs are politicised appointments: the President, on the basis of a proposal of the Prime Minister, nominates them both.

As a rule, Customs prioritises the illicit movements of goods into Moldova, rather than illicit export or transit, with the trafficking of people and drugs the main concerns. SALW control is not a priority, possibly for good reason if the Customs Service and EUBAM assessments of the scale of the problem are accurate. Customs operates a 'three-lane' approach at border crossings: green lane for low risk; yellow lane for medium risk; and red lane for high risk, e.g. those with previous smuggling convictions are automatically 'red-laned'. Different levels of checks are applied according to the lane. Exports are more likely to be 'green-laned' than imports. Random and intelligence-based checks are used for imports and exports; Customs activity in terms of transit is all intelligence-based, with no goods in transit are subject to random stops.

Given the low priority accorded to SALW transfers and the other pressures under which Customs officials work, there are serious doubts that they would have the capacity or inclination to deal with attempted illicit SALW trafficking were this to become a problem, especially if it did not involve imports. There is a need for more and better-quality training in terms of item recognition and SALW smuggling techniques. There is also a problem with the mismatch between customs codes and the coding used to identify the different categories of strategic goods; computer systems are not currently capable of managing this and so everything is paper-based.

More generally, border control is under-resourced. There is a need to improve the physical infrastructure, and also to improve the conditions of employment for staff, who suffer low salaries and are not generally respected by the public.

Several respondents referred to corruption as endemic in the Customs Service. One respondent suggested developing a national strategy for combating corruption, which would include the development of a code of conduct and a significant increase in salaries.

Moldova seems to have a positive customs-control relationship with most neighbouring states. For example, SBG has good links with the Southeast European Co-operative Initiative Regional Centre for Combating Trans-Border Crime (SECI Centre), and there are good links on this issue with the other GUAM states (Georgia, Ukraine and Azerbaijan). However, despite the presence of EUBAM on both sides of their shared border, the relationship with Ukraine does not appear to be straightforward. From 1996 to 2001 Moldova and Ukraine conducted common goods checking, but since 2001 Ukraine has refused to carry out these shared procedures. On a positive note, Moldova and Ukraine established in early 2008 an Exchange of Pre-Arrival Information System between their customs services.

8

Criminalisation

THE UN POA requires Moldova to criminalise the illegal trade in SALW, including activities that would breach UN embargoes, and take action against those so engaged (Section II, paras 2, 3, 6, 12, 15, 32 and 37). However, the only reference to penalties or sanctions in the 2000 Law (article 15) reads, “violations of the regulations ... shall entail the civil and criminal liabilities prescribed under prevailing law”. Officials advise that all breaches of this Law – for example where documentation is forged or where controlled goods are transferred without an authorisation – are therefore subject to penal and civil codes.

While this is welcome, it would be far preferable if the 2000 Law could be amended to detail the range and maximum extent of civil and criminal punishments for breaking this Law. This would send a clear and explicit message that crimes of this nature are taken seriously by the authorities, and allow for the legislature to set targeted and deliberate penalties that fit specific crimes. It would also provide an appropriate framework for addressing offences of a relatively minor and/or technical nature that might be otherwise ignored if dealt with in a more general context.

Breaking UN arms embargoes is a crime in Moldova, and measures are in place to ensure that all relevant authorities are informed in good time. The MFA advises by letter the central operations of the Customs Service, which then alerts all their sub-units. Any extant authorisations for SALW transfers to the embargoed country are immediately revoked. Furthermore, MFA officials advise that reports on the implementation of UN resolutions mandating arms embargoes are sent to the UN.

9

Stockpiles and surplus

LARGE STOCKPILES OF 'STRATEGIC' GOODS, including SALW, were left over from when Moldova was part of the Soviet Union. It is widely believed that these stockpiles have been substantially run down, but according to the MOD there are still huge amounts of obsolete weapons and munitions.¹⁴ The UN PoA by implication requires that states identify those stocks that can be regarded as surplus (Section II, para 18),¹⁵ but unfortunately the Moldovan Government has so far been reluctant to publicly declare what it regards this to be. Nor were we able to determine whether the Government has clearly defined for itself the proportion of stocks it classes as surplus. External experts have recommended that Moldova should review its policy on identifying surplus weapons and ammunition with a view to reducing holdings to the minimum required for defence needs.¹⁶

According to the UN PoA and to the OSCE (Organisation for Security and Co-operation in Europe) Document on SALW, to which Moldova is a party, destruction is the preferred method of disposal of SALW (Section II, para 18). The Moldovan Government seems happy to destroy excess SALW and ammunition where it is dangerous, obsolete or where the prospects of sale are minimal. For example, 152mm cannon ammunition, left over from Soviet days, was classified for destruction, as Moldova has no 152 mm cannons. Destruction efforts are ongoing, in some cases through external support. For example, in 2007 Finland made up to €160,000 available for ammunition destruction. In the same year Moldova destroyed 336 tonnes of ammunition, and, according to the MOD, if funding allows, by 2010 all surplus munitions will have been destroyed.¹⁷

However, contrary to the commitment contained in the UN PoA, the Government is willing to look at selling surplus SALW where it calculates a buyer might be found. If in future Moldova is positioned closer to NATO and as a consequence reconfigures its military equipment holdings, the implications of this policy could become more serious.

¹⁴ Interview with MOD officials, January 2008.

¹⁵ Section II para 18 of the UN PoA requires states to "regularly review ... the stocks of [SALW] held by armed forces, police and other authorised bodies and to ensure that such stocks declared by competent national authorities to be surplus to requirements are clearly identified ...".

¹⁶ Interview with officials from OSCE Mission, Chişinău, January 2008.

¹⁷ Interview with MOD officials, January 2008.

Management of SALW stockpiles has by all accounts improved in recent years, but there is still more that could be done. For example, the MOD has identified a need to do more to “guard the [armed conscript] guards” and to protect the area around the stockpiles, and not just the stockpiles themselves.¹⁸

The OSCE has been and continues to be active in supporting better stockpile security, for example, by working with the MOD to agree projects to upgrade existing systems in line with OSCE best practice guidelines for SALW and ammunition stockpile management. Such projects are dependent on extra-budgetary funding from OSCE participating states.¹⁹

¹⁸ Interview with MOD officials, January 2008.

¹⁹ Interview with officials from OSCE Mission, Chişinău, January 2008.

10

Interdepartmental relationships and co-operation

AS REFERRED TO ABOVE, a division of the MOE administers the SALW transfer authorisation process, but it is the ICC that takes decisions. The details of how this institution functions in practice are not known, though officials did say that the process is tainted by interdepartmental rivalries and lack of co-operation. Given the different ways in which different ministries view, for example, the concept of ‘objective criteria’, this comes as no surprise, but the ways in which this lack of co-operation manifests itself is still unclear (difficulties between the BGS and Customs are discussed above).

The UN PoA calls upon each state to establish a national point of contact, a national co-ordination agency and an institutional infrastructure responsible for policy guidance, research and monitoring of efforts to prevent, combat and eradicate the illicit trade in SALW (Section II, paras 4 & 5). Moldova is in the process of setting up a National Commission Monitoring Arms Control and Development, to be led by the MOI. Scheduled to start work in mid 2008, it will consist of three working groups: SALW, conventional arms and weapons of mass destruction. The exact responsibilities of the SALW working group and its ways of working are still to be finalised (and there would seem to be a risk of jurisdictional rivalry with the conventional arms working group), but it is intended that it will *inter alia*:

- deal with policy planning and development;
- develop a national SALW strategy and action plan;
- co-ordinate implementation of international commitments, including the UN PoA;
- manage compliance with international best practice; and
- consider changes to legislation.

In terms of cross-governmental co-operation the creation of this body presents both an opportunity and a challenge. It would seem to meet the institutional commitment

contained in section II paras 4–5 of the UN PoA, and it should provide the various ministries with the opportunity to discuss and share perspectives and experiences on SALW policy issues in a way that may not be possible in the more technically-focused ICC. At the same time, creating yet another Commission without addressing any of the existing, underlying inter-ministerial tensions could be seen as merely adding fresh potential conflict between the two commissions on top of existing antagonisms. In this context, the need for clear and consistent political direction from above, agreed by all relevant ministers, along with appropriate resourcing and frequent regular meetings of the new Commission, is of central importance.

One of the members of the new Commission expressed interest in information-sharing with other, already established national SALW commissions from other states of similar size, for example in the Balkans, with a view to learning lessons from their experiences.

Information-sharing and co-operation with external actors

THE UN POA commits Moldova to a number of measures aimed at improving cross-border co-operation among national jurisdictions. This covers issues such as liaison with relevant sub-regional and regional institutions and on UN PoA implementation, law enforcement and implementation of UN embargoes (Section II paras 23, 24, 27, 32 and 37).

Moldova has demonstrated a willingness to comply with its international SALW reporting obligations. It files reports on UN PoA implementation to the UN Office for Disarmament Affairs (UNODA), however Moldova's most recent report does not include requested information on implementation of the International Tracing Instrument.²⁰ Moldova also reports to the OSCE as required by the OSCE Document on SALW. In recent years Moldova has filed 'nil returns' to the UN Register of Conventional Arms. The UN Register now includes an option to report on international SALW transfers, but it is not clear from Moldova's entry whether it is including information on this category of arms. There are also questions on how Moldova reports to these institutions with regard to SALW transfers it regards as 'state secrets'. Moreover, it would seem that provision exists for certain SALW transfers to be approved but without being recorded or reported (e.g. to the OSCE) on the grounds that they are politically sensitive.²¹ As noted above (in the section on criminalisation), the MFA advises that reports on the implementation of UN resolutions mandating arms embargoes are sent to the UN.

²⁰ *Report of the Republic of Moldova on 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*, 17 April 2008, <<http://disarmament.un.org/cab/bms3/Moldova.pdf>>.

²¹ In 2004 and 2005, SALW transfers unrecorded and unreported were authorised from Moldova to destinations including Russia and Ukraine. See David Wood, *SALW Survey of Moldova*, Saferworld-SEESAC, 2006, p. 28, <http://www.saferworld.org.uk/publications.php/211/small_arms_and_light_weapons_survey_of_moldova>. See, in particular, references to comments made at *Inter-ministerial roundtable to review initial findings of the national SALW Survey of the republic of Moldova*, Chişinău, 15 December 2005.

Moldova participates in several regional and international mechanisms in order to tackle cross-border organised crime and illicit trafficking. These include the SECI Centre, the South Eastern and Eastern Europe Clearing House for SALW, the Black Sea Economic Co-operation Organisation and INTERPOL.

Moldova has also proved supportive of other measures to better regulate arms transfers. For example, Moldova has ratified the UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organized Crime (the Firearms Protocol). Moldova has also supported moves at the UN in support of an international Arms Trade Treaty. It voted in favour of UN General Assembly Resolution 61/89 'Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms', and in 2007 submitted a paper to the UN Secretary General outlining its support for a Treaty.

Oversight (transparency and accountability)

WHILE THE MOLDOVAN GOVERNMENT does publish some limited information, such as laws and draft laws, on the internet (as required by section II para 23 of the UN PoA), it does little else to enhance transparency regarding SALW transfers (Section II para 31). It does not, for example, report on international SALW transfers either publicly or in confidence to parliament. Furthermore, there is little interest among the relevant officials to change the *status quo*. Although the list of items covered by state secrecy laws has been reduced over time, it remains vague and broadly drawn and seems to validate non-disclosure. Included among those items subject to state secrecy laws are:

“Information on exportation and importation of arms, military techniques, their repairation and exploitation; on provided technical assistance to foreign states in manufacturing of arms, military techniques, military object and objects regarding defence industry; on provided technical-military assistance to foreign states, in case the dissemination of this information may harm state security.”²²

Despite this, MOI officials believe that if were they were instructed by their political masters to publish a national report showing types, quantities and end-users of all imports, exports and transits of SALW, they could do so without difficulty, and that this would not fall foul of state secrecy rules.

Although parliament in theory has extensive scrutiny powers, in practice MPs demonstrate little day-to-day interest in SALW transfer issues. In the three years of the current parliament, the issue of transfer controls has not been raised. Broader civil society and the population as a whole have shown a similar lack of interest.

When MPs do ask questions of the Government, although the executive is obliged to answer, there appear to be no rules on the quality of those answers. Nor is there a mechanism for challenging the Government if it gives wrong or evasive answers.

²² President Decree No. 1184, 26 June 2007, on approving the “State list of information attributed to the state secret”, published in *Monitorul Oficial (Official Monitor/State Gazette)*, 6 July 2007, nos 94–97, art. 429.

To date, only on the occasion of politically embarrassing scandals has parliament actively engaged with the Government over arms transfer issues. For example, parliament launched an inquiry into the circumstances surrounding the controversial sale of 21 MiG-29 fighter aircraft to the US in 1997.²³

²³ The case eventually resulted, in 2006, in the Defence Minister at the time of the sale, Valery Pasat, being prosecuted and sentenced to 10 years in prison on the grounds of selling the aircraft at a price way below market value. He was eventually released in July 2007 due to a combination of the court recognising the charges were unproven and him being eligible for release under a 2004 Amnesty Law ('Valeriu Pasat not going to renounce citizenship of Moldova', *Moldova Azi*, 27 March 2008, <<http://www.azi.md/news?ID=48715>>).

Corruption

WHILE THERE ARE NO REFERENCES in the UN PoA to corruption, the capacity for corrupt practices to negatively impact upon the quality of any SALW transfer control regime is obvious.

Several respondents identified corruption in Moldova as a problem, and there are other worrying signs regarding the potential for the Moldovan SALW transfer control regime to be infected in this way. Transparency International in its most recent Corruption Perceptions Index gave Moldova a score of 3.2 (on a sliding scale where 10 is best, zero is worst).²⁴ Salaries for some officials are low, and we were advised that the public holds Customs officials and the SBG in low regard. In March 2008, three senior MOI officials were arrested and the Minister of the Interior, Lieutenant-General Gheorghe Papuc, placed under house arrest for involvement in a suspected heroin-smuggling operation.²⁵ All these features can be regarded as risk factors.

In such circumstances, it is particularly concerning that there is little interest in improving levels of oversight and transparency among government, parliament or broader civil society circles (see previous section). It is generally accepted that corruption flourishes where decision-makers operate under conditions of secrecy and where accountability is absent. In order to build confidence in the integrity of the Moldovan SALW control regime, comprehensive transparency and a robust system of rigorous external accountability are critical.

²⁴ *Transparency International Annual Report 2006*. (Transparency International), p. 21, <http://www.transparency.org/publications/publications/ar_2006>. Other states with the same score are Burkina Faso, Lesotho, Morocco and Trinidad & Tobago.

²⁵ Karen Ryan, 'Moldova's Top Police Officer Accused of Leading Heroin Smuggling Ring', *Net News Publisher*, 1 April 2008, <<http://www.netnewspublisher.com/moldovas-top-police-officer-accused-of-leading-heroin-smuggling-ring/>>; 'Three senior Moldovan police arrested on heroin smuggling charge', *The Earth Times*, 31 March 2008, <<http://www.earthtimes.org/articles/show/195640,three-senior-moldovan-police-arrested-on-heroin-smuggling-charge.html>>.

Capacity

A RECURRING THEME FROM THE PRECEDING SECTIONS has been the fact that most elements of the SALW transfer control regime suffer from significant capacity constraints. This applies to the transfer authorisation process, end-use certification checks and end-use monitoring, stockpile management, surplus destruction and border controls.

In terms of staffing levels and expertise, of critical importance are the number of staff employed, the amount of time they are able to devote to SALW transfer control issues and the level of training they receive. On all counts, more should be done in Moldova. However, there are several reasons why this may be difficult: Moldova and its government face many other challenges; Moldova is now involved in relatively few SALW transfers; and for most officials involved in the authorisation or checking processes this is only one small (and frequently, in their eyes, unimportant) part of their job.²⁶ In such an environment it is not easy to persuade the Moldovan Government that SALW transfers should be accorded a higher overall priority. Nor is it easy to persuade individual officials that they should spend time and effort becoming SALW transfers 'experts', be it in terms of understanding relevant international law for those on the ICC or in terms of item recognition for Customs officers, for example. Given these constraints on increasing the SALW transfer control expertise within the Moldovan civil service, it is critical that where training is provided, it is for the appropriate officials. Various respondents commented that not enough attention has been paid to this in the past.

Information technology and physical infrastructure are other areas where capacity is constrained. For example: the databases dealing with SALW trafficking and with the domestic register of firearms are not linked; plans for munitions destruction are dependent on as-yet-unsecured funding; stockpile security needs additional investment in automated systems; and the ability of Customs to combat trafficking is constrained by a lack of inspection equipment (e.g. X-ray machines for inspecting containers).

²⁶ It was notable that in several cases respondents in Moldova were far more interested in talking about domestic gun issues than in discussing the control of cross-border SALW transfers.

Conclusions and recommendations

MOLDOVA HAS COME A CONSIDERABLE DISTANCE in improving its SALW transfer control regime since the turn of the millennium, and it would seem to be far from the problematic case of ten years ago. In part this is because Moldova does not now have much to sell, but it is also because the Government has been getting its regulatory house in order. Moldova now faces the prospect of being able to function as an example to other states in the region. However, there are a number of things that Moldova needs to do to further improve its SALW transfer control regime before it can achieve this status.

The proposals that follow are not intended to be comprehensive. They do not set out all the requirements for Moldova to become fully compliant with the international transfer control commitments contained in the UN PoA. Rather, they identify a relatively small number of measures that can be undertaken fairly quickly to produce a significant improvement in Moldovan practice. On this basis they are recommended to both the Moldovan Government and to those UN Member States that are interested in providing assistance as mandated in section III of the UN PoA. It should be remembered that as Moldova's role in the international trade in SALW is now quite limited, the costs involved in implementing these recommendations will in many cases be relatively small.

Changes to transfer control legislation

In the first instance, the **Government of Moldova** should make a number of changes to the main transfer control law, the *2000 Law on the Control of Export, Re-export, Import and Transit of Strategic Goods*. These include:

- Merging the legal frameworks for regulating transfers of 'strategic SALW' and individual small arms for civilian use;
- Controlling in law third-party SALW brokering and related activities in much the same way as direct SALW imports and exports are currently controlled;

- Providing specific civil and criminal penalties for breaches of the transfer control legislation; and
- Adding additional criteria to the principles underlying control of SALW transfers so as to ensure that decisions about authorisations are consistent with states' existing responsibilities under relevant international law. Specific reference should be made to *inter alia* human rights and international humanitarian law, internal and regional conflict, sustainable development, terrorist acts and diversion to unauthorised end-users or for unauthorised end-use.

International partners should offer drafting support and expertise, in particular with regard to controls on arms brokering and related activities and to criteria development.

Changes to the decision-making process for individual transfers

The **Government of Moldova** should change the system whereby decisions to authorise or refuse transfers can be taken by as few as two members of the ICC (decisions are taken on the basis of a majority vote from among at little as half the ICC members). Instead, individual ministries should be given the power to veto proposed transfers based on their particular expertise. For example, questions surrounding international commitments would fall to the MFA; issues of internal security would be the province of the MOI and intelligence services.

Ministers would need to provide visible support to this approach on an ongoing basis.

International partners should offer assistance in terms of information-sharing and advice on the various factors that might influence individual licensing decisions and more general policy with regard to potential end-users.

End-use certification

The **Moldovan Government** should require the presentation of EUCs for *all* transfers of SALW as standard, including transit and regardless of whether the weapon or weapons are classified military or civilian. All such certificates should be authenticated and verified by Moldovan diplomatic staff where present in-country, or potentially through in-country visits. Alternatively, Moldovan authorities could call upon international partners to carry out such checks in cases where Moldova is unable to do so. As there are now very few transfers of SALW involving Moldova, the additional workload created by this obligation would be minimal.

International partners should make their resources available to assist Moldovan efforts to verify EUCs when asked, for example, by using their own diplomatic staff where available.

Identification and disposal of surplus

The **Moldovan Government** should make a commitment to publicly identify all surplus SALW and their ammunition. It should also be official policy that all identified surplus will be destroyed, and an overall programme for destruction, including quantities and timings, should be published. In order to expedite the destruction programme, efforts should be made to engage on this issue with international donors.

International partners, such as the OSCE and individual states, should work with Moldova to develop stockpile security and surplus destruction programmes. Funding and technical support should be provided as required.

Improvements to border controls

The **Government of Moldova** should carry out a comprehensive review of current legislation governing border controls to bring it into line with international best practice and to clarify the roles and responsibilities of the BGS and the Customs Service.

In addition, the Government should make more resources available to the two services to enable them to act effectively. These additional resources should be targeted at increased remuneration and better training for staff, better IT systems and improved physical inspection technologies and equipment. These improvements would be relevant to all types of trafficking and not just SALW. However, as and when more resources are made available, the particularities of dealing with SALW (e.g. the complexities of item recognition and smuggling techniques peculiar to weapons) should not be forgotten.

International partners should continue to provide support through EUBAM, with periodic review of EUBAM's functions to ensure it retains its relevance (and with a view to its eventual disbanding, once Moldova's own border controls are of sufficient standard). Support should be provided as required to enable Moldova to redraft its legislation, and consideration should be given to providing financial, infrastructural and technical support to deal with Moldova's resource issues.

Improvements to transparency and accountability

The **Moldovan Government** should immediately move to publish detailed national reports of all SALW transfers entering, leaving or crossing Moldovan territory (and, once the legislation is amended accordingly, brokered by Moldovan citizens or Moldovan-registered companies). Meanwhile, state secrecy laws should be reviewed to remove any reference to SALW transfers. As there are now very few transfers of SALW involving Moldova, the additional workload created by this obligation would be minimal.

MPs should be encouraged to take an interest in this issue, for example by the **Moldovan Government** presenting the content of the national report to the Parliament, or through the arrangement of exchange visits by **parliamentarians from other states** to share experiences regarding how best to hold governments to account on security issues, including SALW transfers.

International partners should provide advice and support regarding provision of information on international SALW transfers into the public domain and regarding strategies for responding to interest by MPs and the public.

Corruption

On the understanding that corruption thrives on secrecy, **Moldovan Government** initiatives on transparency (e.g. the publication of detailed national reports and greater engagement of parliament and broader civil society) as outlined under the previous heading would be helpful in dealing with this issue. In addition, the Government should ensure that any corrupt practices in connection with an international SALW transfer should be criminalised within the context of the SALW transfer controls legislation (currently the 2000 Law).

However, attempting to address corrupt practice in the area of international SALW transfers in isolation is likely to have only limited impact. There is, therefore, a need to ensure that any broader anti-corruption drives take account of SALW transfer issues.

International partners should be prepared to assist Moldova in changing the law and in developing anti-corruption strategies, and to extend full co-operation with any investigations into corrupt practices in Moldova.

Capacity

There are capacity and expertise shortfalls across all aspects of SALW transfer controls, to the extent that it is not realistic to expect that all these shortfalls can be met in the short- or even medium- term. Therefore, the Moldovan Government will need to prioritise those areas where need is greatest, in line with the recommendations set out above.

Wherever possible, efforts should be made to encourage and take advantage of broader assistance provision where relevant, e.g. the introduction of physical inspection equipment at broader crossings and updates to Customs' IT systems.

Any staff training must be very carefully targeted not only to ensure that the right information is imparted but also that it is delivered to those who need it most and can use it best. Care should also be taken not to lose the expertise that already exists or is built up over time, for example, through excessively rapid rotation of staff into new unrelated positions.

International partners should seek to engage with Moldova in the context of any relevant SALW outreach or other assistance programmes, with due regard to Moldova's own identification of needs and priorities. Assistance regarding international SALW transfers should be folded into broader assistance programmes as appropriate.

ANNEX 1: Methodology

The methodology for the assessment of Moldova's controls on the international transfer of small arms combined desk- and field- based research. The assessment was conducted between January and March 2008.

The desk-based research focused on the background of the nature of any SALW transfer problems and in identifying the formal transfer controls framework under which Moldova theoretically operates. Published reports, media coverage, regional and international agreements, and national laws, regulations and operational procedures were all examined.

An introductory meeting was held to engage a core group of actors who were to be consulted during the assessment. This was followed by a series of interviews – individual and group based – with key actors from a number of relevant government departments and civil society.

The assessment's primary focus was on the existing legal controls, their implementation and the enforcement mechanisms that are in place to control the international transfer of SALW to, through and from Moldova.

Saferworld works to prevent and reduce violent conflict and promote co-operative approaches to security. We work with governments, international organisations and civil society to encourage and support effective policies and practices through advocacy, research and policy development and through supporting the actions of others.



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