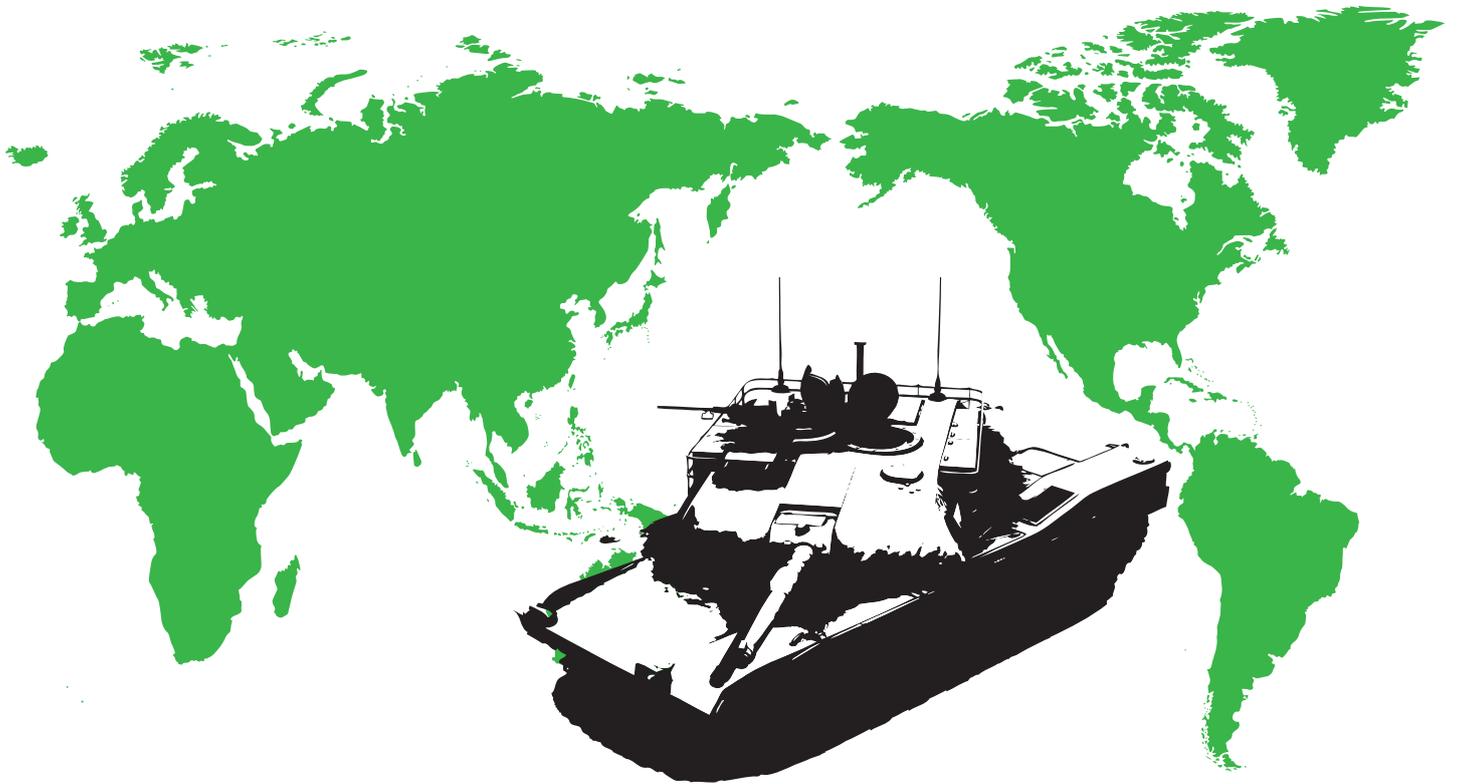




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to freedom

CONTROLLING A DEADLY TRADE



**Recommendations for an effective law to control the
trade in military, security and police goods in Ireland**

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Preface

Every year, throughout the world, more than half a million people are killed by armed violence – that's one person every minute. The international arms trade also facilitates torture, extrajudicial executions, attacks on civilians during conflict and other human rights violations. Without strict control, weapons will continue to fuel violent conflict, state repression and crime.

Ireland is a long-standing proponent of non-proliferation of weapons and has expressed its support for a new legally-binding international Arms Trade Treaty. The proposed treaty would establish global standards that could save thousands of lives and hold irresponsible arms dealers accountable for their actions. This must be made meaningful at home too.

Amnesty International has been campaigning since 2001 for Irish legislation to introduce effective controls, transparency and accountability in the export, brokering and licensed production overseas of military and "dual-use" goods. In 2004, we published a report, *Claws of the Celtic Tiger*, that exposed Ireland's exports of military and "dual-use" goods and services as a substantial industry. It revealed a totally inadequate export control system for arms trading.

The system also lacks transparency and accountability, with an absence of democratic oversight by the Oireachtas. Members of the public cannot find out precisely what arms and "dual-use" goods are being exported from Ireland or for what purposes they are ultimately being used. It is only through the determination of journalists and non-governmental organizations that information comes to light. Hard-won investigation cannot be a substitute for democratic oversight.

In 2006, in light of attacks on civilians in the Israel/Lebanon conflict, the Department of Foreign Affairs made it clear that Irish airports should not be used by aircraft transporting weapons to Israel. Yet, paradoxically, Irish-made components could have simultaneously been making their way into Apache attack helicopters destined for Israel because of loopholes in our export control system.

The absence of controls on arms brokering in Ireland may also have devastating consequences for the human rights of people in other countries. In the newly expanded Europe, there is real concern that unscrupulous arms brokers will find the EU country with the weakest controls to conduct their business.

Amnesty International welcomes the Control of Exports Bill 2007. It is five years since we first called for the Irish Government to move on this legislation. Nonetheless, we are glad the wheels are now beginning to turn. We are concerned, however, that the Bill omits certain crucial requirements for an effective export and brokering control system. The aim of this report is to outline how and why this legislation must be strengthened.

Amnesty International, together with other non-governmental organizations, continues to document the impact that the arms trade operating from Europe plays in fuelling conflicts around the world. If you are interested in taking action in this campaign, please contact us or see www.amnesty.ie.

Seán Love
Executive Director
Amnesty International Irish Section

Executive Summary

In many parts of the world, the final products of the international trade in military, security and police (MSP) goods and services facilitate grave human rights violations. These include arbitrary and indiscriminate killing, “disappearances” and torture. Amnesty International (AI) does not oppose the trade in MSP equipment and services per se, but believes that to help prevent such violations, effective laws should prohibit MSP transfers from taking place unless it can reasonably be demonstrated that such transfers will not contribute to serious human rights violations. AI also calls for governments to institute systems of accountability and transparency to ensure that transfers contributing to human rights violations do not take place.

In July 2004, a review commissioned by the Irish Government recommended a major overhaul of Ireland's export control regime relating to military and “dual-use” goods.¹ In response, the Government promised new primary legislation to address the deficiencies highlighted by the review.² On 9 February 2007, the Government finally published the Control of Exports Bill 2007.³

The proposed legislation provides a legal framework and enforcement measures for Ireland's export controls. However, AI believes that additional measures within and beyond the Bill are necessary to ensure that MSP goods, technology and services provided from Ireland do not contribute to human rights abuses around the world. The Bill does not define:

- **Measures to make Ireland's arms exports transparent and accountable.** The Bill does not establish in any detail what information the Government must disclose to the Oireachtas or to the public regarding exports and licensing of military and security equipment.
- **The detailed categories of equipment and commercial activities to be regulated.**
- **The destinations and end-users to be exempted from certain regulations.**

These categories and destinations will be defined in Ministerial Orders that are not yet published, and will not be subject to the same degree of Oireachtas scrutiny during their formulation. These Orders will, in effect, define Ireland's export controls.

AI is concerned that these Ministerial Orders will not adequately control a number of military and security goods and services in which Irish companies and individuals are involved. Moreover, the lack of both controls and subsequent Government reporting will prevent effective Oireachtas or public scrutiny of such activities.

Through a series of case studies, this report reveals the need for such controls and scrutiny. It demonstrates the involvement of Irish companies and individuals in:

- the manufacture of components for attack helicopters used in the Palestinian Occupied Territories and Lebanon;

1. Carried out for Forfás, on behalf of the Department of Enterprise, Trade and Employment, by Fitzpatrick Consultants Economic Consultants, Dublin, & Stockholm International Peace Research Institute, *Export Licensing of Military and Dual-Use Goods in Ireland* (July 2004) (www.entemp.ie/publications/trade/2004/exportmilitarydualuse.pdf).

2. Department of Enterprise, Trade and Employment press release, “Minister Michael Ahern responds to concerns about illegal Arms Brokering”, 28 October 2004.

3. www.oireachtas.ie/documents/bills28/bills/2007/1007/b1007s.pdf

- the overseas manufacture of Irish-designed armoured vehicles and vehicle components which have been used in combat in Afghanistan, and supplied to Iraqi paramilitary forces accused of torture and unlawful killing;
- the transport of arms to Israel and Venezuela;
- the provision of technical assistance for weapons systems such as armed robotic vehicles;
- the supply of “less lethal” security and prison equipment;
- the provision of military services to overseas armed forces; and
- the brokering of police and security equipment.

AI is concerned that the Bill may not adequately control these activities in all these cases. AI therefore outlines: recommendations for the necessary scope of the Ministerial Orders needed to implement the Bill; measures for the application and enforcement of the new legislation; and minimum standards of transparency and public information. AI believes that these additional measures are necessary to ensure that goods, technology and services provided from Ireland do not contribute to human rights abuses around the world.

Recommendations for Ireland’s new export control system

1) Controlled and prohibited equipment

In addition to the military, security and police goods and services currently defined as licensable by the Control of Exports Order 2005, which is to remain in force, and EC Council Regulation 1334/2000 for the control of exports of dual-use items and technology:

- The Government should back up its commitment to stopping the trade in “tools of torture”, and match European best practice, by introducing an explicit prohibition on the export and brokering of leg-irons, gang chains and portable electric-shock devices.
- “Sting sticks”, spiked batons, sjamboks and hanging ropes should also be included in a list of equipment prohibited for export or brokering.
- A 'catch-all' clause should be included in the Control of Exports Order requiring government authorisation for the export or brokering of any equipment with no other practical use than torture, ill-treatment or capital punishment.

In addition:

- The Government should identify types of equipment and fixtures for installation in places of detention for the purposes of incapacitation, and should include them as licensable items for export or brokering in the Control of Exports Order.
- “Stun guns” should be removed from the ML1a category in the Control of Exports Order.

2 Technical assistance

- The Ministerial Order defining what activities, equipment and end-uses will be covered by controls on technical assistance should include technical assistance relating to all “military list” goods.
- It should also include technical assistance supplied to all destinations, not simply those currently under UN, EU or OSCE embargo.

3) Licensed production overseas

- Irish companies should require prior licensing approval before establishing licensed production arrangements overseas for any equipment on Ireland’s “military list” (defined in the Control of Exports Order 2005).
- In applying for such approval, the Irish company should be required to state the countries and end-users to which the licensee will be permitted to export the equipment.
- The criteria used by the Government for determining such approvals should be as stringent as for direct arms exports. At a minimum, the Government should require all licensed production agreements to prohibit the transfer of the resulting MSP equipment to countries under UN, EU or OSCE embargo.

4) Military, police and security services

- The Government should introduce legislation to explicitly control the activities of private and official providers of military, police and security services, both within Ireland and outside of Ireland.
- Companies and individuals providing such services should be required to register and to provide detailed annual reports of their activities.
- Every proposed international transfer of personnel or training should require prior government approval. This should be granted in accordance with publicly available criteria based on international human rights standards and humanitarian law.

In the absence of such dedicated legislation:

- At a minimum, the Ministerial Order made under the 2007 Control of Exports Bill to define what activities, equipment and end-uses will be covered by controls on technical assistance should seek to control as much of this activity as possible by including controls on “technical assistance” relating to all “military list” goods; and “technical assistance” supplied to all destinations.

5) Small arms

- Authorisations for the export or brokering of small arms, their components and ammunition to EU member states should be reported by the Department of Justice, Equality and Law Reform in the same way as Department of Enterprise, Trade and Employment authorisations for small arms exports to non-EU member states.

6) **Transit and transshipment of MSP goods through Ireland**

- The overflight, transit and transshipment through Ireland of “military list” items, and goods listed in the EU Regulation on equipment which could be used for torture, should require a government licence, whether they are held under bond or not.
- Applicants should be required to state the description and quantity of the goods being transported; and their origin, destination and intended end-use.
- Details of authorisations given for such transits should be published in the same way as details of export licences.
- The Control of Exports Order 2005 should be amended to require authorisations to be granted for the export, overflight, transit and transshipment of military or security personnel and their personal weapons.

7) **Transparency and reporting**

- The Department of Enterprise, Trade and Employment should publish regular report of licences issued for both exports and brokering of controlled goods, services and assistance, preferably monthly (as was the case prior to 2002).
- In line with European best practice, these reports should contain
 - textual descriptions of the equipment covered by export and brokering licences;
 - the value and quantity of the goods exported;
 - the final end-user of the goods exported; and
 - the final destination of the goods exported.
- Information on exports covered general, global or community licenses should be published in the same way as on exports authorised by individual export licences.

8) **Parliamentary scrutiny**

- The Oireachtas should establish a formal structure for scrutinising export licensing and enforcement activities of the Irish Government, and issue an annual response to the Irish Government's annual report on export licensing.

9) **End-use monitoring**

- In addition to pre-export controls and scrutiny of exporters of MSP goods and services, such exporters should themselves be required to report to the Department of Enterprise, Trade and Employment on the delivery of licensed goods to the correct end-users and their subsequent use of such goods, as recommended in the 2004 Forfás review of Ireland's export controls.

Introduction

This report deals with an apparent paradox: the arms controls of a country which its Government has claimed “does not have an arms trade”.⁴ The international trade in military, security and police (MSP) equipment seems remote from ‘neutral’ Ireland. But as successive reports by Amnesty International (AI) have shown, many Irish companies and individuals are involved in the trade.⁵ While Ireland exports few, if any, complete weapons systems, Irish companies supply key components - especially electronics and other high-tech products - for weapons systems assembled elsewhere; they provide licensed Irish technology and technical expertise to overseas manufacturers of military and security equipment; and they are involved in the brokering and transportation of military and security equipment.

AI does not oppose the trade in MSP equipment and services per se. In many parts of the world, however, the final products of the trade facilitate grave human rights violations. These include arbitrary and indiscriminate killing, “disappearances” and torture. To help prevent such violations, AI campaigns for effective laws to prohibit any MSP transfers from taking place unless it can reasonably be demonstrated that such transfers will not contribute to serious human rights violations. AI also calls for governments to institute systems of accountability and transparency to ensure that transfers contributing to human rights violations do not take place.

In July 2004, a review commissioned by the Irish Government recommended a major overhaul of Ireland's export control regime.⁶ In response, the Government promised new primary legislation to address the deficiencies highlighted by the review.⁷ In August 2006, following a documentary demonstrating the ease with which a group of school students were able to broker arms and ‘torture equipment’ in Ireland, the Government again announced the prospect of new legislation, to be laid before the Oireachtas “in the Autumn”.⁸ On 9 February 2007, the Government finally published the Control of Exports Bill 2007.⁹

AI welcomes the publication of this long-awaited legislation and urges its swift adoption by the Oireachtas. At a time when Ireland has co-sponsored a United Nations resolution to begin work on a global Arms Trade Treaty,¹⁰ it is vital that Ireland closes major loopholes in its own export controls. But the new primary legislation provides only a basic legal and enforcement framework for export controls. Ministerial Orders that are not yet published, and which will not be subject to the same degree of parliamentary scrutiny during their formulation, will define in detail the categories of equipment, services and commercial activities which will be regulated, as well as destinations and end-users to be exempted from certain regulations. It is these Orders which will, in effect, define Ireland's export controls. In addition, the Control of Exports Order 2005 is to remain in force.

4. The Minister for Trade and Commerce, Michael Ahern TD, stated in a press release on 9 August 2006 that “Ireland does not have an arms trade nor do we wish to promote one” (www.entemp.ie/press/2006/20060809.htm). The Department of Enterprise, Trade and Employment website is slightly more nuanced, stating that “Ireland is not a producer of arms in the normal sense of the word. In an economy such as ours with its high technology base, goods will be manufactured and exported which have both civilian and military applications (“Dual-Use goods”) and even a small number that have purely military application.” (www.entemp.ie/trade/export/faqs.htm#How, consulted 16 August 2007).

5. AI Irish Section, *Ireland and the Arms Trade – Decoding the Deals* (2001); AI Irish Section, *Claws of the Celtic Tiger* (2004).

6. Note 1 above.

7. Note 2 above.

8. Statement given to Vera Productions in *Dispatches: After School Arms Club* screened on Channel 4 (UK), 3 April 2006; DETE Press Release, “Minister Ahern outlines new legislation to tighten controls on arms exports,” 9 August 2006 (www.entemp.ie/press/2006/20060809.htm).

9. Note 3 above.

10. For details of this UN General Assembly vote, see www.controlarms.org/latest_news/77countries-pr101006.htm

Furthermore, and of particular concern for AI, the Bill fails to define in any detail what information the Government must disclose to the Oireachtas or to the public regarding exports and licensing of military and security equipment. Public information is as important as licensing controls themselves in ensuring that ethical and human rights standards, such as the EU Code of Conduct on Arms Exports, are effectively applied to Ireland's MSP trade. Members of the Oireachtas and the public must be able to scrutinise both export licences and actual exports. In the past, such scrutiny has been impeded by the Government's limited and delayed publication of information about export licensing. **Indeed, as detailed below, disclosure has actually grown substantially more limited in the last two years.**

So, even after the new Control of Exports Bill is passed, much remains to be done in terms of legislation and transparency measures to make Ireland's export controls properly robust. In particular, the necessary Ministerial Orders must be comprehensive and effective. They must also be promulgated immediately upon the passage of the Bill, as, without them, most of the Bill's new controls will not operate. In addition, the Control of Exports Order 2005 requires substantial amendment.

This report outlines: recommendations for the necessary scope of the Ministerial Orders; measures for the application and enforcement of the new legislation; and minimum standards of transparency and public information to ensure that Ireland's new export control regime indeed prevents Irish exports, technology and services from contributing to human rights abuses around the world.

1. Goods and services which may not be controlled by the new legislation

As in many other countries, statistics on the value of actual exports of military goods and “dual-use” items (components and equipment which can be used in either civilian or military applications) are not systematically collected in Ireland. However, the value of export licences issued for military and dual-use equipment has steadily increased in the past three years, and the value of dual-use licences has nearly doubled in that time. This suggests that the value of exports themselves has probably increased substantially.

Table 1: Number and value of individual export licences for military and dual-use items issued annually by the Department of Enterprise, Trade and Employment (DETE)

Year	Number of Military List Licences issued ¹¹	Total Value of Military List Licences (€m) ¹²	Number of Dual-Use Licences issued	Total Value of Dual-Use Licences (€m)
2006	Not available	35	Not available	2400
2005	59	30	425	1800
2004	60	26.7	523	1300

(a) Dual-use goods: community/global licences

The figures above indicate the predominance of dual-use equipment and components in Ireland's MSP trade. This is not unusual - as with other industries, the arms and security trade is increasingly globalised, with few complete weapons systems being manufactured by a single company or country.¹³ Instead, commodity and component chains stretching across several continents combine to produce weapons and security equipment whose final “country of origin” may be distant from where their constituent components and technologies were produced, and which may apply much weaker controls to MSP exports than the countries exporting the weapons system's component parts. It is therefore important that ‘dual-use’ exports are subject to the same scrutiny, and the same human rights considerations, as more obvious “bullets and bombs”-type items.

Since 2001, a blanket European-wide export licence, the Community General Export Authorisation (CGEA), has allowed EU member states to export almost all goods on the European Commission's “dual-use” list to Australia, Canada, Japan, New Zealand, Norway, Switzerland and the USA without the need for an individual export licence.¹⁴ The CGEA does not restrict the re-export of military or security equipment incorporating these goods unless the end-user is actually embargoed by the UN, EU or OSCE, or intends to use the equipment to develop weapons of mass destruction. It is thus possible for Irish companies, without needing any prior authorisation, to export integral components of weapons systems to these “friendly” countries, which may then export the weapons on to countries where they may be used for the commission of human rights violations.

11. Figures for numbers of licences issued have been compiled from licence details provided by DETE to AI's Irish Section. DETE did not release the values of the goods covered by these licences.

12. Figures for values of military list and dual-use licences are those released by DETE to journalists from the *Irish Examiner*: see Michael O'Farrell, “Military-related exports worth €26bn since 1997”, *Irish Examiner*, 5 January 2005; Michael O'Farrell, “Arms trade nets Irish firms €30m”, *Irish Examiner*, 9 January 2006; Shaun Connolly, “Ireland exports €1bn in war material”, *Irish Examiner*, 22 January 2007.

13. See Control Arms, *Arms Without Borders* (October 2006) (www.controlarms.org/documents/Arms%20Without%20Borders_Final_21Sept06.pdf).

14. See www.entemp.ie/publications/trade/2002/cgea.htm

DDC Ireland Ltd

For example, US company Data Device Corporation, with production facilities in the USA and in Cork (DDC Ireland Ltd), has stated that it manufactures a crucial electronic component used to integrate the electronic and control systems of a large number of military aircraft, including the F-16 Fighting Falcon jet fighter, the C-130 Hercules transport plane, and the B-1 bomber.¹⁵ Data Device Corporation's website has also described the use of its component, the MIL-STD-1553 Data Bus, in AH-64 Apache attack helicopters made by US company Boeing, describing how the "data bus allows complex electronic subsystems to interact with each other and the on-board flight computer. This data bus is the lifeline of the aircraft."¹⁶

AI has previously highlighted the company's Irish production facilities,¹⁷ and DDC Ireland Ltd has declined to say whether the Cork plant has supplied Data Buses used in Apache attack helicopters supplied by the USA to countries including Israel and Turkey. In August 2006, as Israeli Apaches were being deployed in Lebanon, Village magazine reported that a Boeing spokesperson had confirmed to its journalist that Irish-made Data Bus components were indeed being used in the manufacture of the Apache, and that it was likely that Apaches shipped to Israel contained these Irish-made components: "[t]he spokesman said it would be merely a matter of "chance" if no Israeli Apaches contained Irish-made components (other companies also supply Boeing with data bus components)."¹⁸

AI has vigorously opposed the transfer of Apache helicopters to Israel because of serious human rights concerns over their use. On 26 July 2006, an Australian journalist in Lebanon reported that ambulances "bearing the emblem of the international red cross", travelling in convoy near the Lebanese village of Quna, "were fired on by an Israeli Apache helicopter as they sped to the besieged port city of Tyre. One of the Israeli rockets pierced the centre of the large red cross marked on the roof of one of the ambulances, as if it was used as a target."¹⁹

The Department of Enterprise, Trade and Employment (DETE), which issues export licences, has declined to provide AI with information on the licensing requirements for MIL-STD-1553 Data Buses.²⁰ It is possible, however, that Data Buses supplied from Ireland to the US manufacturers of the Apache helicopters are exempted from licensing requirements by the CGEA. AI has been unable to determine what licensing category code is attributed to the MIL-STD-1553 Data Bus by DETE or their manufacturer.²¹ However, DDC Ireland Ltd's Data Buses do not appear to have been issued with "military" export licences, since no licences have been issued in 2004 or 2005 for exports to the USA (where the Apache helicopters are assembled) or to Israel (where some Apaches have been delivered) covering any of the military category codes which might include military aircraft Data Buses.²²

15. www.ddc-web.com/applications/Military.asp accessed 16 August 2007.

16. www.ddc-web.com/applications/Military.asp accessed 16 August 2007.

17. AI Irish Section, *Claws of the Celtic Tiger* (2004).

18. Colin Murphy, "State-funded company supplies parts for Israeli war helicopters," *The Village*, 10 August 2006 (www.villagetest.com/Ireland/Society_&_Justice/State-funded_company_supplies_parts_for_Israeli_war_helicopters).

19. Martin Chulov, "Civilians killed as Israelis target ambulances," *The Australian*, 26 July 2006. (www.theaustralian.news.com.au/story/0,20867,19915049-2703,00.html).

20. Letter from Department of Enterprise, Trade & Employment to AI Irish Section, 3 July 2007.

21. DDC Ireland Ltd has not responded to requests for this information, and DETE has declined to release this information (Letter from DETE to AI Irish Section, 3 July 2007).

22. ML10(a) or (b) categories (aircraft specially designed or modified for military use, or their specially designed components); or ML11(a) category (Electronic equipment specially designed for military use, and their specially designed components).

Instead, DETE may categorise MIL-STD-1553 Data Buses as dual-use goods (although they are manufactured to an explicitly military standard, they are also used in a small number of formally civilian applications, such as the International Space Station).²³ In this case, their export to the USA for incorporation in AH-64 Apache attack helicopters may be covered by the CGEA, and thus will not require individual export licences; this is despite the fact that the attack helicopters may then be exported to countries where they have facilitated significant human rights violations.

The CGEA forms part of EU-wide legislation, making it difficult for the Irish Government to regulate unilaterally the exports it covers. But the Irish Government also declines to report exports authorised under the CGEA to the public or the Oireachtas, despite the fact that it must collect this information: Irish companies using the CGEA must register within 30 days of making an export, and must make the details of such exports available to licensing authorities upon request.²⁵

RECOMMENDATION: *The Irish Government should require exporters to provide descriptions of goods exported under the CGEA, their quantity and value, and the consignee and end-user.²⁵ The goods' description, quantity, value and end-user should be published in the same way as goods covered by individual export licences.*

(b) Licensed production overseas

Licensed production is another common form of industrial collaboration in the globalised arms trade which the new legislation does not adequately control. Under licensed production agreements, MSP equipment designed and developed by one company is manufactured under licence by another company overseas, beyond the regulation of the licensor's government, and thus often subject to much less rigorous export controls.

The Irish Government has previously stated its support in principle for the regulation of licensed production agreements, at least at a European level.²⁶ But the 2004 Forfás review of Ireland's export control regime concluded that although "provisions to govern licensed production abroad is legally feasible...this is not a priority concern in the circumstances of the Irish industrial base."²⁷

This seems a short-sighted conclusion given the increasing outsourcing of production in the arms and security industry. For example, licensed production activities have been undertaken extensively by Ireland's longest-standing defence manufacturer, Timoney Technology Group, based in Navan, County Meath.

23. See the International Space Station's *Approved Electrical, Electronic, and Electromechanical Parts List* (Jan 2000), passim (mvl.mit.edu/ISS/StationDocs/SSP_30423_rev_H.pdf).

24. See details at www.entemp.ie/trade/export/dualuse.htm

25. The CGEA specifically permits member states to request such information from exporters: "[t]he registration and reporting requirements attached to the use of this general authorisation, and the additional information that the Member State from which the export is made might require on items exported under this authorisation, are defined by Member States." See text of the CGEA at www.entemp.ie/publications/trade/2002/cgea.htm

26. On 22 June 2000, the Minister of State at the DETE stated that "while I have no reason to believe Irish companies avail of licensed production agreements to avoid our export controls system, I would, in principle, support the introduction of uniform controls on licensed production within the EU" (Dáil Éireann priority questions, 18 February 2003).

27. Note 1 above, p.75.

Timoney Technology Group

In its 2004 report, AI reported on Timoney Technology's role in designing and developing a range of armoured vehicles which Timoney has licensed for production overseas, rather than manufacturing and exporting directly from Ireland.²⁸ These included the Bushmaster troop carrier, jointly developed and built by Timoney's Australian licensee ADI Ltd; the Terrex AV81 armoured fighting vehicle, produced in collaboration with Singapore company ST Kinetics, which also owns a 25 per cent shareholding in Timoney; and a Turkish version of the Terrex, named the Yavuz, produced for the Turkish military in a collaboration between ST Kinetics and Turkish vehicle manufacturer Otokar Otobus Karoseri Sanayi AS. AI raised concerns that these vehicles would be re-exported elsewhere without Irish approval or scrutiny.

Since then, such exports appear to have taken place. At least one of these Irish-originated vehicles has been used in armed combat in Afghanistan, and other vehicles based on Timoney designs, or incorporating Timoney-designed components, have been reportedly supplied to armed forces in Europe, North America and the Middle East.

In October 2005, it was reported that the Bushmaster armoured vehicle was being used by Australian special forces fighting in Afghanistan.²⁹ In October 2006, it was reported that the Dutch Army NATO battle group in Afghanistan had used Bushmaster vehicles supplied by ADI Ltd for the first time.³⁰ Australian troops have also reportedly deployed at least 10 Bushmaster vehicles to Iraq.³¹ In addition, several armoured vehicles use a suspension system developed and patented by Timoney's owners,³² enabling "[s]ignificant increases in speed...[and] manoeuvrability", according to Timoney's website.³³ The company states that Timoney suspensions are fitted to armoured vehicles including the Australian-made ADI Bushmaster, Singapore Technologies Kinetic's Terrex AV 81 and Bronco ATTC, and the Armoured Security Vehicle (ASV) manufactured by US company, Textron.³⁴ The Textron ASV (armoured security vehicle), also known as the M1117 Guardian, is an armoured military police vehicle manufactured by Cadillac Gage Textron in the USA. It was recently supplied to the US armed forces in Iraq, where it is reportedly in use by the 59th, 65th, 549th and 984th Military Police Companies, armed with .50-calibre machine guns and MK-19 grenade launchers.³⁵ Timoney has told AI that it has no involvement in the ASV, and that Textron is "not a customer", a response which appears oddly at variance with information given on Timoney's own website, which states that "Timoney or Timoney-designed suspensions are fitted to in-production vehicles such as...the Textron ASV".³⁶

28. Note 17 above, p.15.

29. "Irish role in hunt for Osama", *The Sunday Independent* (Ireland), 2 October 2005.

30. "Irish armour cars in Afghanistan", *The Sunday Independent* (Ireland), 22 October 2006.

31. "Australia To Deploy Bushmaster Vehicles To Iraq", *Defense Daily International*, Vol. 6 Issue 16 (22 April 2005).

32. For one of these patents, see US Patent No. 4848789 assigned to Technology Investments Limited (Trim, IE), invented by Seamus G. Timoney and Eanna P. Timoney.

33. www.timoneygroup.com/custom/drivelines.htm accessed 17 August 2007.

34. www.timoneygroup.com/custom/drivelines.htm accessed 17 August 2007.

35. www.dvidshub.net/?script=images/images_gallery.php&action=viewimage&fid=32519 accessed 17 August 2007; "New armored vehicle fielded in Iraq" at www.amc.army.mil/amc/pa/may05.html accessed 17 August 2007; *The Mountaineer* (magazine of 7th Infantry Division) 6 Feb 2004, www.carson.army.mil/pao/MountaineerArchive/2004%20Archive/02-06-04.htm accessed 17 August 2007.

36. www.timoneygroup.com/custom/drivelines.htm accessed 12 August 2007.

The US military has also reported that ASVs were supplied in 2005 to a paramilitary Iraqi counter-insurgency unit, the 8th Mechanised Police Brigade, attached to the Iraqi Ministry of the Interior. In October 2006 the US military announced that the 8th Police Brigade was being suspended from service due to evidence that the unit was implicated in the kidnapping of 26 Sunni factory workers in southwest Baghdad, 10 of whom were later found dead. The news agency, Inter Press Service, reported that the unit “used Ministry of Interior vehicles”. This follows a pattern of human rights abuse and excessive force by Ministry of Interior police forces. In June 2004, for example, news agency, United Press International, reported an operation by Ministry of Interior forces to round up alleged criminals in the Tahir Square area of Baghdad:

“some American troops in armored vehicles maintained a security cordon around the ten block radius being searched...As arrests were made, men were dragged from their homes disheveled and screaming. Kamal and his commanders moved fast through the area, going from target to target as a combination of Iraqi police, the paramilitary-style SWAT team and plainclothes intelligence officers swarmed through the area. Gunshots periodically rang out in the surrounding blocks...As the arrestees were piled into cars, trucks, vans and buses, they received humiliating slaps, kicks and occasionally significant beatings...In the backs of pickup trucks, Iraqi police officers worked over some of the detainees with lengths of garden hose and metal batons.”

Inadequate existing controls on licensed production overseas

In rejecting the need to include explicit controls on overseas licensed production in the new Bill, the Minister for Enterprise, Trade and Employment has argued that two sections of the Bill might regulate some aspects of these production agreements. Both, however, appear inadequate to control exports of equipment produced overseas.

First, the licensed production overseas of Irish-designed equipment may require the supply of physical components from Ireland, which will themselves require Irish export licences. For example, Terrex AV81 vehicles displayed by ST Kinetics at international arms exhibitions clearly show Timoney logos on their wheels. But export licences for such components do not currently control the re-export of the finished goods. For example, the following export licences covering category ML6a (military ground vehicles and their components) have been granted since 2004:

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37. Multi-National Security Transition Command, “Iraqi Police Brigade Gets New Armored Security Vehicles”, 26 February 2005, www.mnstci.iraq.centcom.mil/docs/advisor/archive/022005/26FebTheAdvisor.pdf, accessed 17 February 2007.
 38. Human Rights Watch, “Iraq: End Interior Ministry Death Squads”, 29 October 2006 (hrw.org/english/docs/2006/10/29/iraq14473.htm).
 39. Ali Al-Fadhily & Dahr Jamail, “Government Death Squads Ravaging Baghdad”, *Inter-Press Service*, 19 October 2006.
 40. P. Mitchell Prothero, “New Iraqi police unit uses old tactics”, *United Press International*, 28 June 2004.
 41. Minister of State at the DETE, Mr. Michael Ahern, Dáil Éireann, 26 April 2007.

Table 2: Individual export licences granted for ML6 category goods, 2004-2005

Date	Destination	Number of Licences
Jan 2004	South Korea	1
Feb 2004	Turkey	1
Mar 2004	South Korea	1
Mar 2004	Taiwan	1
May 2004	France	1
June 2004	Canada	2
June 2004	Singapore	1
July 2004	Canada	1
July 2004	Switzerland	1
Sept 2004	Canada	1
Oct 2004	UK	1
Nov 2004	Canada	1
Mar 2005	South Korea	1
Mar 2005	USA	1
Mar 2005	Switzerland	1
Mar 2005	USA	1
Oct 2005	Taiwan	1
Oct 2005	UK	1
Dec 2005	Canada	1
2006	Data Not Available	

From this list of destinations it appears that some licences (particularly those covering the USA and Singapore) may have been issued for components required for overseas production of Timoney-origin vehicles. But Irish export licences were evidently not required for the export of Timoney-developed components and vehicles from the USA, Singapore and Australia to Iraq and the Netherlands.⁴² It seems unlikely, therefore, that controls on physical components will regulate further exports of vehicles manufactured in Singapore or Turkey using Timoney's technology and designs.

Controlling such technology transfers through regulating physical exports may also be frustrated by outsourced manufacturing. For example, news reports have stated that much of Timoney's manufacturing is carried out in Poland and Korea, from where exports of Irish-designed goods are not regulated by either current or new Irish export controls.⁴³

42. According to information published by DETE, no ML6 export licences have been issued by Ireland for the Netherlands, Iraq or Australia since 1998.

43. "Axle maker aims to keep the wheels moving smoothly", *Sunday Tribune*, 5 Jan 2003.

Second, the Bill's new controls on technical assistance may regulate intangible exports of designs and expertise to overseas manufacturers. But once such initial transfers of plans and technology have taken place, it is difficult to see how future production or exports of the resulting goods can be regulated by Ireland under the proposed legislation.

AI is thus concerned that the export of goods produced overseas under licence using Irish designs and expertise (such as exports of Terrex vehicles from Singapore, ASV vehicles from the USA, or Yavuz vehicles from Turkey) will not be controlled by the new legislation, despite the possibility that they may be exported to end-users with records of human rights abuse using such equipment, or even to countries under EU or OSCE arms embargoes.

RECOMMENDATION: *The Control of Exports Bill should require Irish companies to receive prior licensing approval before establishing licensed production arrangements overseas for any equipment on Ireland's "military list" (defined in the Control of Exports Order 2005, which is to remain in force). In applying for such approval, the Irish company should be required to state the countries and end-users to which the licensee will be permitted to export the equipment. The criteria used by the Government for determining such approvals should be as stringent as for direct arms exports. At a minimum, the Government should require all licensed production agreements to prohibit the transfer of the resulting MSP equipment to countries under UN, EU or OSCE embargo.*⁴⁴

(c) "Less lethal" and prison equipment

Both public attention and export control regimes tend to focus upon equipment with military uses. But much human rights abuse is facilitated by other kinds of security and policing equipment used by security and police forces, prison personnel and private individuals. Several kinds of security and policing equipment remain uncontrolled by Ireland's current export control lists, and AI is concerned that these omissions may be replicated in the new Bill's Ministerial Orders.

Barenco

Irish company, Barenco, based in County Kildare, manufactures a range of security and prison equipment, and also distributes other companies' products. The company's website states that it "has extended its interests throughout Europe, the USA and Canada, and the Middle and Far East. In addition it is developing interests in Africa and South America."⁴⁵

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44. In the US, for example, licensed production (or "manufacturing license") agreements are treated as physical exports and require prior approval from the US State Department. US licensed production contracts usually limit production levels and prohibit sales or transfers to third countries without prior US government consent. If licensed production is to be undertaken by an overseas manufacturer rather than a government agency, the State Department may also insist on a guarantee from the government of the manufacturer that the end-use of the licensed article will be verified. For details, see Ian Davis, 'Licensed Production Overseas: Time for a New Control Initiative?', *discussion paper for roundtable on EU and US cooperation on arms export controls organised by Saferworld and the British-American Security Information Council*, 23 January 2003 (<http://www.basicint.org/WT/armsexp/LPO.htm>)
45. www.barenco.com/aboutus/index.asp accessed 17 August 2007.

Barenco manufactures a patented Sprinkler Head & System, "suitable for correctional institutions, public buildings and office complexes".⁴⁶ The company states that "[i]n the corrections environment chemical agent dispensers can be incorporated to stop disturbances and restore control to officers".⁴⁷ Demonstration units provided by the company include a "mock cell".⁴⁸

While Ireland's control list covers "portable devices" for disseminating riot-control chemicals, it does not appear to cover static or fixed equipment disseminating such chemicals; nor does it explicitly cover equipment and fittings for the use of force in prisons and detention facilities. Although a licence is currently required to export significant quantities of certain chemical irritants, it is unclear whether "chemical agent dispensers" would require a licence, especially if they were exported without the chemicals actually included, or if they included a chemical irritant other than those currently controlled separately.⁴⁹ AI wrote to Barenco to ask if its sprinkler systems had been exported, and if any had been supplied or exported with chemical agents, but had not received a response at the time of writing.

The use of chemical agent dispensers in prisons may have legitimate enforcement uses, but the potential for their abuse means that their export and use should be closely controlled. Considerable evidence exists regarding dangerous health effects, and even the risk of fatality, associated with prolonged or concentrated exposure to commonly used riot-control agents.⁵⁰ The Committee for the Prevention of Torture of the Council of Europe, of which Ireland is a member, has stated serious concerns about the use of such irritant gases in places of detention, expressing "very serious reservations about the use of incapacitating or irritant gases to bring recalcitrant detainees under control... The use of such gases in very confined spaces, such as cells, entails manifest risks to the health of both the detainee and the staff concerned. Staff should be trained in other control techniques (for instance, manual control techniques or the use of shields) to immobilise a recalcitrant detainee".⁵¹

AI is not aware that Barenco's sprinkler systems have been supplied to users likely to use them to facilitate human rights violations. But the apparent production of such equipment in Ireland nonetheless highlights the fact that the new legislation will be unable to prevent Irish companies from supplying prison equipment like chemical agent dispensers to overseas prisons and detention centres where prisoners are routinely subject to abuse, and even to countries under EU or UN embargo on human rights grounds. Without licensing the export of such equipment, it remains almost impossible for Irish parliamentarians and the public to find out about the use and potential abuse of such Irish-origin equipment.

46. www.barenco.com/security-products/sprinkler.asp accessed 17 August 2007.

47. Ibid accessed 17 August 2007.

48. Ibid accessed 17 August 2007.

49. The export of significant quantities of CS, CN, CA or CR chemicals (often generically known as "tear gas") requires an export licence under the current Control of Exports Order 2005. In addition, exports of two other irritants, PAVA and OC, to destinations outside of the European Union are controlled by EC Regulation 1236/2005 "concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment".

50. For a summary, see Omega Foundation, *Crowd Control Technologies: An Assessment of Crowd Control Technology Options for the European Union* (May 2000), p.xxi. One US manufacturer of tear gas projectiles has warned that "Firing one Federal No.230 Flite-Rite [tear gas projectile] in a room [eight feet by eight feet by seven feet]...could endanger the life of an average subject if he stayed in the room for seven minutes" (Quoted from A. Nairn, "Tears of Rage", *Multinational Monitor*. Vol.9, No.4 (April 1998)).

51. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *The CPT Standards: "substantive" sections of the CPT's General Reports* (CPT/Int/E revised 2006) (cpt.coe.int/en/documents/eng-standards-scr.pdf).

RECOMMENDATION: *The Government should identify types of equipment and fixtures for installation in places of detention for the purposes of incapacitation, and should include them as controlled items in the Control of Exports Order.*

(d) Technical assistance

The Bill introduces controls on the provision of technical assistance for the production, development or use of arms and security equipment.⁵² These controls implement measures mandated in 2000 by a European Council Joint Action on the control of technical assistance related to certain military end-uses.⁵³ Such controls are a welcome addition to Ireland's export control regime given the globalisation of the MSP trade, and the consequent importance of the supply of "intangible" goods, designs, manuals and technical expertise to manufacturers of arms and security equipment around the world.

The Bill provides that the Minister for Enterprise, trade and Employment may by Ministerial Order prohibit or regulate the provision outside the State, except under and in accordance with a licence, of such class or classes of technical assistance as may be appropriate. **However, the DETE has stated that it plans only to control technical assistance to extent required under the 2000 EU Joint Action, i.e. limited to "the provision of technical assistance in relation to ... [w]eapons of mass destruction and ... Military end-uses in countries that are subject to arms embargoes".**⁵⁴ This narrow definition makes no mention of human rights risks in defining the end-uses for which technical assistance will be restricted. AI is concerned that this definition will not control the provision of technical assistance to non-embargoed but sensitive destinations of concern, and will not encompass types of technical assistance which may still facilitate violations of human rights and international humanitarian law.

Timoney Technologies: "Team Excalibur"

Timoney Technologies Group, based in Navan, County Meath, designs and develops special-purpose and armoured vehicles. Since 2001, Timoney has been a member of a research and development consortium, Team Excalibur, under the aegis of the US National Robotics Engineering Centre at Carnegie Mellon University, Pennsylvania, working to develop unmanned robotic combat vehicles. Other consortium members include US and Israeli companies developing vehicle hulls, battery packs, electronics and electric motors.⁵⁵

Timoney has contributed to the development of a number of robotic armed vehicles manufactured in the USA. The company states that it is "working on the U.S. Marine Corps Gladiator Tactical Unmanned Ground Vehicle (TUGV)", incorporating "advanced variants" of Timoney's patented suspension system.⁵⁶

52. Control of Exports Bill, Section 5.

53. EC Joint Action of 22 June 2000 concerning the control of technical assistance related to certain military end-uses (2000/401/CFSP) (trade.ec.europa.eu/doclib/docs/2003/december/tradoc_114998.pdf).

54. Screening Regulatory Impact Assessment, Control of Exports Bill 2007 (www.entemp.ie/trade/export/control_of_exports_bill_2007_screening_ria.doc).

55. Ibid. See also "UQM Selected to Participate in NREC TUGV Project", *Electric Vehicle Online Today*, 28 May 2003; "OIF Marines Will Get Additional UAV Man-Pack Receiving Systems", *Defense Daily*, 24 July 2003.

56. www.timoneygroup.com/custom/specialist.htm# accessed 27 February 2007.

According to the US Navy, Gladiator is a remote-controlled but “semi-autonomous” vehicle designed to operate alongside US Marines, equipped with M249 machine guns.⁵⁷ The production of 200 Gladiator vehicles for the US Marine Corps is reportedly planned by a US subsidiary of UK arms company BAE Systems.⁵⁸

Timoney has also contributed to the development of ‘Spinner’ and ‘Crusher’ unmanned ground vehicles for the US Defense Advanced Research Projects Agency (DARPA).⁵⁹ DARPA has stated that prototype Crusher vehicles “will be equipped with representative sensing and weapons payloads.”⁶⁰

Although it is difficult to assess the potential use of Crusher or Gladiator vehicles until they are fielded, the US military’s use of unmanned armed vehicles has in the past raised serious legal and humanitarian concerns. US forces have used Predator unmanned aerial vehicles, armed with Hellfire missiles, in targeted assassination attempts in Iraq, Yemen and Pakistan, including an attempt to kill a suspected al-Qaeda member in Pakistan in January 2006 which reportedly killed over 20 civilians. AI has argued that these kinds of targeted attacks - with air-to-surface missiles taking the place of judicial process - appear to constitute extra-judicial executions in breach of international law.⁶¹

If the forthcoming Ministerial Order is framed as narrowly as the DETE’s Regulatory Impact Assessment has suggested, then technical assistance like that provided by Timoney for the development of US unmanned armed vehicles is unlikely to require a licence, since it is not supplied to a country under embargo or in connection with weapons of mass destruction. It will thus remain uncontrolled and un-scrutinised by Government or the Oireachtas.

RECOMMENDATION: *The Ministerial Order defining what activities, equipment and end-uses will be covered by controls on technical assistance should include technical assistance relating to all “military list” goods, and should include technical assistance supplied to all destinations.*

(e) “Tools of torture”: controlled but not prohibited

AI has documented the widespread use of several kinds of security and policing equipment in torture and ill-treatment. These include leg-irons and chains (the UN Standard Minimum Rules for the Treatment of Prisoners prohibit the use of “chains and irons” as restraints); and electric-shock devices such as stun guns, electric-shock batons and remote-controlled “stun belts”. AI has documented the use of electric-shock devices for torture and cruel and degrading treatment in at least 87 countries since 1990.⁶⁴

57. US Office of Naval Research, “USMC Tactical Unmanned Ground Vehicle Program infosheet”, www.onr.navy.mil/media/extra/fact_sheets/ugv_gladiator.pdf

58. BAE Systems/United Defence press kit, www.uniteddefense.com/media/UGV_press_kit/downloads/UGV_EPK_Content.doc accessed 27 February 2007.

59. www.timoneygroup.com/custom/specialist.htm# accessed 27 February 2007; Crusher brochure, National Robotics Engineering Centre (www.rec.ri.cmu.edu/projects/crusher/Crusher_Brochure.pdf) accessed 27 February 2007.

60. DARPA Press Release, 28 April 2006 (www.darpa.mil/body/news/2006/crusher_upi.pdf) accessed 27 February 2007

61. Antony Barnett, “UK’s role in deadly CIA drone”, *Observer* (UK), 29 January 2006.

62. UN Standard Minimum Rules for the Treatment of Prisoners, Section 33 (www.unhchr.ch/html/menu3/b/h_comp34.htm).

63. AI, *The Pain Merchants* (2003) (AI Index ACT 40/008/2003).

64. *Ibid*, Appendix 4.

Exports of these goods currently require a licence under two categories of “security and paramilitary equipment” in Ireland's military list (categories ML21c and ML21d). However, the new legislation does not include an absolute legal prohibition on the export of such equipment, despite this being explicitly permitted by a 2006 European Council Regulation which introduces Europe-wide controls on such equipment.⁶⁵ Other EU members have done so: the UK, for example, has banned the export, brokering, transshipment and marketing of electric-shock devices and leg-irons.⁶⁶ But neither the Control of Exports Bill, nor the Irish enabling legislation covering the implementation of the EC Regulation, includes such a prohibition.⁶⁷

In view of the Government's failure to introduce an explicit legal prohibition on the export and trading of such equipment, it is of concern that an export licence for “[p]ortable devices designed or modified for the purpose of administering an electric shock or an incapacitating substance, or components therefor” (category ML21d)⁶⁸ was granted in August 2003 for export to Serbia and Montenegro.⁶⁹ While this may have been intended for exports of chemical incapacitant devices such as tear gas grenades rather than electric-shock equipment, without a legal prohibition on exports of electric-shock weapons it is impossible for the Oireachtas or public to be certain that no exports of such equipment have been authorised.

It is also of concern that one US manufacturer of hand-held electric-shock devices, Taser International, lists an Irish company as a distributor of its products in documents dated November 2004 and May 2005.⁷⁰ This is despite the legal prohibition on the domestic possession of electro-shock guns within Ireland, and the fact that no Irish police or military force is yet using Taser stun guns (although the Minister for Justice, Equality and Law Reform authorised the addition of Taser electro-shock devices to the range of less lethal weapons available to the Garda Emergency Response Unit in April 2007).⁷¹

Since June 2001, 152 people have died in the USA after being shot with tasers, 61 in 2005 alone.⁷² Most were subjected to multiple or prolonged shocks. In 23 US cases, coroners have listed the use of the taser as a cause or a contributory factor in death. In seven cases autopsies have listed taser as a primary cause of death, and have classified the death as a homicide. M26 tasers produced by Taser International can be used both to fire projectile darts delivering a 50,000V electric shock at 5 second intervals, and to deliver an electric shock by “drive stun” in direct contact with the body, like a conventional stun gun.⁷³

65. Council Regulation (EC) NO 1236/2005 (27 June 2005) concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, Article 7(1).

66. UK Trade in Goods (Control) Order 2003 (www.opsi.gov.uk/SI/si2003/20032765.htm); UK Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (www.opsi.gov.uk/si/si2003/20032764.htm); UK Export Control (Security and Para-military Goods) Order 2006 (www.opsi.gov.uk/si/si2006/20061696.htm).

67. Statutory Instrument (S.I.) 366 of 2006 adopted on 11 July 2006.

68. Control of Exports Order 2000 (S.I. No. 300 of 2000). This confusing categorisation, combining “incapacitating substance” devices with electric-shock devices, has been clarified in the Control of Exports Order 2005, which now categorises all electric-shock devices in ML21d and all incapacitating substance devices in ML21e.

69. www.entemp.ie/trade/export/mlaug03.htm

70. www.taser.com/pages/international/internationaldistributors.doc accessed November 2004;

www.taser.com/documents/intl_dist.pdf accessed 27 February 2007.

71. Department of Justice, Equality and Law Reform press release, “ERU authorised to use TASER type devices: Commissioner to establish Regional Primary Response Teams as recommended by Garda Inspectorate”, 3 April 2007

(www.justice.ie/en/JELR/Pages/PR07000210). For prohibition of domestic possession, see the Department of Justice, Equality and Law Reform website at www.justice.ie/80256E01003A21A5/vWeb/pcJUSQ5YBJWM-en

72. AI, USA: *Amnesty International's continuing concerns about taser use* (2006) (AI Index AMR 51/030/2006).

73. Taser International, *M26 series electronic control specification* (www.taser.com/law/specs/RD-SPEC-M26-001-J.pdf), accessed 27 February 2007.

AI has not been able to determine whether this company has supplied any electric-shock devices either within Ireland or outside it. Nonetheless, given the humanitarian and human rights concerns regarding electric-shock devices, and the fact that an Irish export licence has been issued covering this category of equipment in recent years, **AI urges the Irish Government to match European best practice by instituting an absolute legal prohibition on the export of electric-shock equipment.**

In addition, AI is concerned that the Bill's provisions on the brokering of MSP equipment may not cover the brokering of "security" equipment such as electric-shock batons and stun guns (see Section 2 below). The ease with which such equipment can be brokered was illustrated in an April 2006 documentary in which Irish school students brokered the supply of an electric-shock baton from Taiwan to the USA.⁷⁴

Unregulated "tools of torture"

The EU Regulation on the trade in "torture equipment" and Irish legislation implementing the Regulation, does not control several types of equipment which have no practical use other than execution, torture or ill-treatment. These include "sting sticks" (spiked metal batons); forms of interrogation equipment clearly designed for ill-treatment; and specially designed hanging ropes.⁷⁵ While Amnesty is not aware of such equipment being exported or brokered by Irish individuals or companies, it is aware of attempts to trade all these types of equipment internationally.⁷⁶ Amnesty International believes that Irish and European legislation should ban the export and brokering of such equipment.

RECOMMENDATION: *AI urges the Government to back up its commitment to stopping the trade in "tools of torture," and to match European best practice, by introducing a prohibition on the export and brokering of leg-irons, gang chains and portable electric-shock devices in the ministerial orders mandated by the new Control of Exports Bill.*

In addition, sting sticks, sjamboks and hanging ropes should be included in a list of equipment prohibited for export in the Control of Exports Order; and a "catch-all" clause instituted in the Order requiring Government authorisation for the export or brokering of any equipment with no practical use other than torture, ill-treatment or capital punishment.

74. Vera Productions, *Dispatches: After School Arms Club* screened on Channel 4 (UK), 3 April 2006.
75. AI, *European Union: Stopping the Trade in the Tools of Torture* (2007) (AI Index: POL 34/001/2007).
76. Ibid.

(f) Military, police and security services

Conflicts in Iraq and Afghanistan have seen unprecedented numbers of private military and security personnel employed within the military and security structures of the USA, the UK and other governments. This follows a marked increase over the last decade of the use of private security or military companies by governments, companies and also inter-governmental and non-governmental organisations (IGOs and NGOs) to provide security training, logistics support, armed security and - in some cases - armed combatants. In a growing number of cases, such private providers have been implicated in serious human rights abuses and violations of international humanitarian law.⁷⁷ Since private military and security providers currently operate in an uncertain legal area in relation to international humanitarian law and the laws of war, it is essential that governments regulate and report transfers of military, police and security services and personnel.

Unfortunately, the Control of Exports Bill introduces no controls or reporting mechanisms specifically covering the supply of military and security services and personnel, despite reports (see below) that Irish companies and personnel are involved in this area of activity. While Irish companies and individuals are in many circumstances prohibited from supplying military goods or military technical assistance without Government authorisation, they are free to provide military and even combat services in person without regulation or reporting. Other countries already regulate such activities undertaken by their nationals. For example, South Africa's 1998 Foreign Military Assistance Act⁷⁸ prohibits mercenary activity (i.e. direct participation in combat for financial gain) by South African citizens, and requires Government authorisation for the provision of "foreign military assistance".⁷⁹

Private military and security personnel

There have long been reports of Irish citizens being involved in private military enterprises, from Major 'Mad' Mike Hoare's notorious mercenary activities in Congo, Nigeria and the Seychelles during the 1960s and 1970s, to the involvement of Irish mercenaries in covert operations in apartheid-era South West Africa.⁸⁰

77. See, for instance, the alleged activities of private contractors seconded to US Military Intelligence Brigades at Abu Ghraib prison in Iraq, detailed in the US Article 15-6 Investigation of the 800th Military Police Brigade conducted by Major General Antonio M. Taguba (www.npr.org/iraq/2004/prison_abuse_report.pdf).

78. www.info.gov.za/gazette/acts/1998/a15-98.pdf#search=%22south%20africa%20Foreign%20Military%20Assistance%20Act%22

79. This covers "military services or military-related services, or any attempt, encouragement, incitement or solicitation to render such services, in the form of—

(a) military assistance to a party to the armed conflict by means of—

(i) advice or training;
(ii) personnel, financial, logistical, intelligence or operational support;
(iii) personnel recruitment;
(iv) medical or para-medical services; or
(v) procurement of equipment;

(b) security services for the protection of individuals involved in armed conflict or their property;

(c) any action aimed at overthrowing a government or undermining the constitutional order, sovereignty or territorial integrity of a state;

(d) any other action that has the result of furthering the military interests of a party to the armed conflict"

80. Colonel Mike Hoare, *The Seychelles Affair* (London 1987); Colonel Mike Hoare, *The Road to Kalamata: A Congo Mercenary's Personal Memoir* (Lexington Books, July 1989); "Irish mercenary killed activist Namibian lawyer, judge rules," *Agence France-Presse*, 23 June 1994.

Although Amnesty is unaware of any Irish-registered private companies currently offering armed military services, several news reports have suggested that Irish military and civilian personnel continue to be offered work in the growing private security/military industry. In July 2005, RTÉ interviewed an Irish man from County Cork who was reportedly injured in an ambush in Iraq while serving in a private security team for US workers.⁸¹ In March 2004, newspaper reports claimed that Ireland's elite Army Rangers were being offered €300,000 a year to work in Iraq for private security companies, and quoted a Defence Forces spokesman who "confirmed that Irish troops, in particular soldiers with Army Ranger Wing (ARW) experience, were being sought by private companies."⁸² The Irish Government is reportedly aware that this remains an ongoing practice: in May 2006, a Defence Forces spokesman quoted in the UK's *Sunday Mirror* newspaper stated that it was likely that a number of the 291 members of the Irish Army who had left in the previous year had been employed in Afghanistan and Iraq.⁸³

Military, police and security training

While the Control of Exports Bill introduces new controls on technical assistance, including "instruction, training, transmission of working knowledge or skills," AI is concerned that these controls will only cover training relating to weapons of mass destruction or military activity in embargoed destinations (see Section 1d), rather than wider military or security training by Defence Forces or An Garda Síochána, or by Irish private firms and individuals. These activities should be scrutinised to ensure that they do not sustain practices in contravention of humanitarian law, or other international military and policing standards; and should be reported to the Oireachtas.

Military logistics: "Nations don't go into war without the public anyway"

In addition to providing military and security personnel, a growing number of companies are providing military logistic and support services which would previously have been undertaken by regular armed forces. One notable Irish involvement in this field is the Omega Air group, headquartered at Dublin Airport.⁸⁴ According to the US Navy (in correspondence between the author and US NAVAIR Public Affairs), for five years a US member of the group, Omega Air Inc, has provided military airborne refuelling worldwide to the US Navy and Marine Corps, which operates modified Boeing 707 aircraft.⁸⁵ While Omega Air Inc has a different set of directors to its Irish counterpart, the US Government's Federal Register lists Omega Air Limited (Ireland) as the "controlling entity" of the US company.⁸⁶ In the aforementioned correspondence between the author and US NAVAIR Public Affairs, the US Navy has confirmed that Omega Air Inc provides the pilots, aircraft and ground crew. Although pilots and planes are based in the USA, Omega Air states that spares and logistics for all its aircraft worldwide are coordinated from Omega Aviation Services Ltd, based in Shannon.⁸⁷ The company states that "any USN [US Navy]/USMC [US Marine Corps] unit can request and use Omega", providing "Service to the [US] Fleet Anywhere in the World".⁸⁸ The US Defense Advanced Research Projects Agency (DARPA) has also reported Omega Air's involvement in test flights to develop automated refuelling for unmanned aerial vehicles.⁸⁹

81. Gerry Ryan Show (RTÉ), quoted in Neil Cotter, "Irish Mercenary tells of fierce Iraq ambush", *The Mirror* (UK), 2 July 2005.

82. "Rangers' £300K Iraq Deal", *The Mirror* (Irish Edition), 29 March 2004.

83. Kevin McDonnell, "Top Guns for Hire", *Sunday Mirror*, 21 May 2006.

84. www.fuelbirds.com accessed 17 February 2007.

85. www.omegairrefueling.com accessed 17 February 2007; correspondence, between the author and US NAVAIR Public Affairs 28 February 2007.

86. "Department of Commerce: International Trade Administration, Export Trade Certificate of Review", Federal Register December 12, 2001 (Vol. 66, No. 239), pp. 64216-64217.

87. www.fuelbirds.com/Group.html accessed 17 February 2007.

88. www.omegairrefueling.com/Scheduling_Overview.htm accessed 17 February 2007.

89. DARPA press release, 7 September 2006.

The US Navy has stated that Omega Air's services have not been provided for US combat operations.⁹⁰ However, Omega Air's owner has reportedly stated that Omega Air hopes to expand its military services for combat operations, and the company is reportedly currently bidding for a contract to supply the US Air Force with comprehensive refuelling services in both training and combat missions using 60 specially modified DC-10 planes.⁹¹ In July 2006, a Dow Jones news journalist quoted Omega Air's owner, Ulick McEvaddy, stating that Omega Air's planes could support combat missions even using civilian personnel:

"The old bogey is always how do we know we can rely on you in war?...Nations don't go to war without the public anyway...Vietnam, Korea – there were as many civilians in theater as there were soldiers."⁹²

According to the US Government Accountability Office, the US Air Force *Global Mobility Concept of Operations* – the operational requirements which govern the air refuelling contract – describes the "air refuelling mission" as providing worldwide refuelling to both US and "allied" aircraft (including unmanned aircraft) in global attack, homeland defence and theatre support missions, and also to support "special operations and US nuclear forces".⁹³ Without Irish controls on the provision of military services, Irish companies and individuals may be able to supply such broad services without any parliamentary or public scrutiny.

RECOMMENDATION: *Ireland should introduce legislation to explicitly control the activities of private and official providers of military, police and security services, both within Ireland and outside of Ireland. Companies and individuals providing such services should be required to register and to provide detailed annual reports of their activities. Every proposed international transfer of personnel or training should require prior government approval. This should be granted in accordance with publicly available criteria based on international human rights standards and humanitarian law.*

At a minimum, the Ministerial Order made under the 2007 Control of Exports Bill to define what activities, equipment and end-uses will be covered by controls on technical assistance should seek to control as much of this activity as possible, by including controls on technical assistance relating to all "military list" goods; and technical assistance supplied to all destinations.

90. Correspondence with US NAVAIR Public Affairs, 28 February 2007.

91. www.airforce-technology.com/projects/kdc_10 accessed 27 February 2007; Rebecca Christie, "Irish Investor to make big mark on US Tanker Market", *Dow Jones Newswires*, 13 July 2006.

92. Rebecca Christie, 'Irish Investor to make big mark on US Tanker Market', *Dow Jones Newswires* 13 July 2006

93. For details of the 'Global Mobility Concept of Operations', see United States Government Accountability Office, *Defense Acquisitions: Air Force Decision to Include a Passenger and Cargo Capability in Its Replacement Refueling Aircraft Was Made without Required Analyses* (6 March 2007), p.7 fn. 20 (www.gao.gov/new.items/d07367r.pdf).

(g) **Small arms exports to EU countries**

The extraordinary contribution of small arms to both conflict deaths and other human rights abuses demands strict controls on their proliferation. Together, small arms and light weapons are estimated to be responsible for the majority—between 60 and 90 per cent—of direct conflict deaths around the world. The use of small arms also contributes to indirect conflict deaths, which are likely to be many times higher than the number of direct deaths: an estimated 200,000–270,000 non-conflict-related firearm deaths occur each year throughout the world.⁹⁴ The frequency with which small arms are involved in incidences of rape, torture and violent crime further highlights the need for strict controls on their trade.⁹⁵

Amnesty International is concerned that exemptions in the current Irish export control list, which may remain in force under the new legislation, prevent the control and reporting of some significant transfers of small arms. In particular, DETE export licences are not currently required for exports to other EU member states of “pistols, revolvers, rifles, carbines, shotguns and other smoothbore weapons and crossbows and component parts thereof”; ammunition for these weapons; and “silencers, telescopic sights and component parts thereof”.⁹⁶ Instead, individuals or dealers exporting firearms and ammunition to EU countries are simply required to gain permission from their local Garda Superintendent, and to submit the relevant possession licences for the exported firearms to the Department of Justice, Equality and Law Reform. The Department of Justice has confirmed that neither import certification from the destination country, nor end-user information, is required for such authorisation.⁹⁷ Therefore, these exports are not assessed against security, re-export or human rights risks, and are not reported to the public or the Oireachtas.⁹⁸

AI is not aware of any manufacturers of complete small arms based in Ireland, and available evidence suggests that comparatively few small arms and their components are exported directly from Ireland (although Ireland's previous lack of controls on arms brokering makes it difficult to gauge the role of Irish companies and individuals in the worldwide trade). However, a small number of export licences for the licensing category covering “Rifles, carbines, revolvers, shotguns, stunguns, crossbows, pistols, machine pistols and machine guns” (category ML1a) are issued each year, suggesting the presence of some Irish companies or individuals in the trade.

94. Estimates made by Small Arms Survey, Graduate Institute of International Studies, Geneva, Switzerland (www.smallarmssurvey.org/files/sas/home/FAQ.html#FAQ7).

95. See, for example, *The Impact of Guns on Women's Lives* (2005) (AI Index: ACT 30/001/2005) by Amnesty International, Oxfam, and IANSA (International Action Network on Small Arms) for the Control Arms Campaign.

96. Control of Exports Order 2005 Section 4(b). Under this order, temporary exports of “privately owned” firearms outside the EU are also exempted from export licensing requirements, as long as they are not exported from Ireland for longer than 6 months, and have the necessary import authorisation from the corresponding government. If being exported to an EU state, firearms are subject to the granting of a Transfer Document from the Department of Justice, Equality and Law Reform, in accordance with EU Directive 91/477/EC on the Control of the Acquisition and Possession of Weapons. Exports outside the EU are the subject of an export order from the Department of Enterprise, Trade and Employment.

97. Telephone communication with Firearms & Explosives Section, Department of Justice, Equality & Law Reform, 7 March 2007.

98. For details of this “Article 11” authorisation, see EC Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons, Article 11.

Table 3: Individual export licences covering ML1a category goods issued since 2004

Date	Destination	Number of Licences
Jan 2004	USA	1
Feb 2004	USA	1
Feb 2004	Australia	1
Mar 2004	USA	1
May 2004	Canada	1
July 2004	Singapore	2
Sept 2004	New Zealand	1
Nov 2004	Australia	1
Nov 2004	Monaco	1
April 2005	USA	1
May 2005	USA	1
June 2005	Canada	1
2006	Data Not Available	

Consistent data on actual exports of small arms and ammunition are difficult to obtain due to the confusing and inconsistent application of customs codes by different customs authorities around the world. Nonetheless, customs data reported to the UN trade database, Comtrade, indicates some transfers of small arms, ammunition and firearm accessories from Ireland not covered by the export licences published by DETE for 2004 and 2005 (and some apparently not reported to Comtrade by the Irish Government).

Table 4: Transfers of small arms and related equipment from Ireland in 2004 and 2005 reported to UN Comtrade by Ireland (Source: UN Comtrade database)⁹⁹

Date	Destination	Category	Value (US\$)	Reporting State
2004	Brazil†	Small arms ammunition	6806	Ireland
2004	Germany	Parts & accessories of shotguns or rifles	2780	Ireland
2004	Italy	Sporting & hunting shotguns	4258	Ireland
2004	Sweden	Parts & accessories of shotguns or rifles	564	Ireland
2004	UK	Parts & accessories of shotguns or rifles	50967	Ireland
2004	UK	Sporting & hunting rifles	27150	Ireland
2004	UK	Sporting & hunting shotguns	183481	Ireland
2004	USA	Sporting & hunting rifles	1193	Ireland
2004	USA	Sporting & hunting shotguns	11190	Ireland
2004	Brazil†	Small arms ammunition	1645	Ireland
2004	UK	Sporting & hunting shotguns (3487 units)	752575	Ireland
2004	UK	Shotgun cartridges	454594	Ireland
2004	UK	Parts & accessories of shotguns or rifles	30572	Ireland
2004	UK	Sporting & hunting rifles (4606 units)	898183	Ireland

99. Data accessed via database compiled by Norwegian Initiative on Small Arms Transfers (NISAT), www.nisat.org.

Table 4: Selected transfers of small arms and related equipment from Ireland in 2004 and 2005 reported to UN Comtrade by importing governments (Source: UN Comtrade database)¹⁰⁰

Date	Destination	Category	Value (US\$)	Reporting State
2004	Portugal	Small arms ammunition	41246	Portugal
2004	UK	Parts & accessories for small arms & light weapons	30686	UK
2004	UK	Sporting & hunting shotguns (1339 units)	2065031	UK
2004	UK	Parts & accessories of shotguns or rifles	89057	UK
2004	UK	Shotgun barrels	5592	UK
2005	Canada	Military rifles, machine guns & other (1 unit)	4464	Canada
2005	Estonia	Pistols & revolvers (335 units)*	399	Estonia
2005	Germany	Sporting & hunting rifles (25 units)	6000	Germany
2005	The Netherlands	Pistols & revolvers (200 units)*	2486	The Netherlands
2005	Poland	Pistols & revolvers (126 units)*	1587	Poland
2005	Sweden	Pistols & revolvers (190 units)*	938	Sweden
2005	UK	Shotgun barrels	21899	UK
2005	UK	Sporting & hunting rifles (532 units)	709494	UK
2005	UK	Sporting & Hunting shotguns (2769 units)	709494	UK

* These units seem unusually inexpensive according to the values reported to Comtrade, suggesting either that their quantity or value has been misreported, or that the items are in fact not functioning firearms.

† No Irish export licences for Brazil in the category which covers licensable small arms ammunition (ML3a) were issued in 2003, 2004 or 2005. It is possible that these transfers, reported by the Irish government to Comtrade, were for the temporary personal use of an individual firearms licensee, or for the use of a UN-mandated operation of the Irish Defence Forces or Garda. Nonetheless, greater detail in the reporting of export licences and authorisations for temporary exports would clarify such apparent discrepancies.

Most of these transfers were presumably not issued with DETE export licences because they were destined for other EU member states.¹⁰¹ However, any international transfers of significant quantities of small arms, even within the EU, may carry the risk of misuse or diversion, and should be scrutinised and regulated by the Government. For example, since 2002, law enforcement officials in Bulgaria have repeatedly used firearms in circumstances prohibited by international standards, resulting in deaths and injuries. In February 2004, the European Court of Human Rights ruled that the Bulgarian state was responsible for the killing of two unarmed Romani men by military police personnel in 1996, as well as failing to conduct an effective official investigation.¹⁰² In Poland, during 2004, three people died in two separate incidents when police officers used firearms in breach of international standards. Although some members of the Sejm (parliament) called for a thorough reform of police force training, their recommendations were not adopted.¹⁰³

100. Data accessed via database compiled by Norwegian Initiative on Small Arms Transfers (NISAT), www.nisat.org.

101. It is also possible that some of the larger transfers to EU countries and beyond represent temporary transfers of firearms, or transfers connected to operations made by the Permanent Defence Force or the Garda Síochána. Several of these transfers also appear to be small quantities of equipment, which may represent movements of personally-owned firearms rather than commercial transfers. But it is unlikely that all the larger transfers reported to Comtrade were personally-owned firearms, or Defence Force/Garda equipment.

102. *Nachova and Others v. Bulgaria* (ECHR Applications 43577/98 & 43579/98).

103. AI, *Annual Report 2005: Poland*.

Although the largest of the Irish transfers in the tables above were described as “sporting & hunting” rifles or shotguns, such weapons can still facilitate human rights violations. The use of sporting and hunting weapons has been reported, for example, in massacres of civilians by “death squads” in Algeria,¹⁰⁴ and by armed groups in the Solomon Islands.¹⁰⁵ There is also the concern that exported weapons classified as “hunting and sporting” weapons may, in fact, be destined for military or police end-users.

RECOMMENDATION: *Authorisations for the export and brokering of small arms, their components and ammunition to EU member states should be reported by the Department of Justice, Equality and Law Reform in the same way as DETE authorisations for small arms exports to non-EU member states; and they should be scrutinised against security and human rights criteria in the same way as exports to non-EU member states*

104. AI, *Algeria: Civilian population caught in a spiral of violence* (1997) (AI Index: MDE 28/023/1997).

105. AI, *Catalogue of Failures: G8 Arms Exports and Human Rights Violations* (2003) (AI Index: IOR 30/003/2003), p.92.

2) Brokering

Since 2001, AI has highlighted Ireland's lack of controls on individuals and companies brokering arms and security equipment between third countries. AI has reported the involvement of Irish-registered companies in the supply, brokering, financing or transport of weapons to embargoed conflict zones including Liberia and Sierra Leone; and in an apparent attempt to supply weaponry to embargoed Sudan.

¹⁰⁶The ease with which arms could be legally brokered from Ireland was again highlighted in 2006 by an television documentary, *After School Arms Club*, in which Irish school students were able to broker the delivery of an electric-shock stun baton from Taiwan to the USA.¹⁰⁷ In addition, the transnationality of networks of MSP equipment suppliers and brokers illustrates the importance of extending controls to cover the activities of Irish companies and individuals undertaken outside of Ireland.

AI therefore strongly welcomes the introduction of brokering controls in the 2007 Control of Exports Bill, which will enable Ireland to fulfil its legal obligations under the 2003 EC Common Position on the Control of Arms Brokering.¹⁰⁸ Given the transnational nature of many brokering networks, and the ease with which brokers can move between jurisdictions, AI also welcomes the fact that proposed new controls will cover both the activities of individuals and companies within Ireland, as well as Irish individuals and companies operating outside of Ireland.¹⁰⁹

It remains unclear, however, what categories of goods will be covered by the new brokering controls in the Bill. The EC Common Position on Brokering only requires controls on brokering of "items on the EU Common List of Military Equipment" (corresponding essentially to Ireland's "military list" specified in the Control of Exports Order 2005). As Section 1 of this report has shown, however, many other categories of security and police equipment not included on the military list, may also be used to facilitate human rights abuses. Brokers of such equipment equally require control and scrutiny.

Global Defence and Safety Solutions Ltd

Global Defence and Safety Solutions Ltd (GDSS) was incorporated in Ireland in July 2005. GDSS' website states that the company "provides access to the defence, security and safety markets of the Asia/Pacific Region on an agency basis", representing "European and American based suppliers of defence, safety and security related products... Now headquartered in Dublin, Ireland, with a regional office in Malaysia, GDSS has a proven track record of success in opening up Greenfield markets for European and American based suppliers of defence, safety and security related products."¹¹⁰

This description suggests that this Dublin-based company is involved in brokering defence and security equipment from Europe and America to police and military forces in the Asia/Pacific region: included in GDSS' list of "Sample end-users" are "Police," "SWAT," "Special forces," "Intelligence services," "Counter-terrorism units" and "Prison security".¹¹¹

106. For Liberia & Sierra Leone, see AI Irish Section, *Claws of the Celtic Tiger* (2004), pp.4-5. For Sudan, see AI, *Sudan: Arming the perpetrators of grave abuses in Darfur* (2004) (AI Index: AFR 54/139/2004).

107. Vera Productions, *Dispatches: After School Arms Club* screened on Channel 4 (UK), 3 April 2006.

108. Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering (eur-lex.europa.eu/LexUriServ/site/en/oj/2003/L_156/L_15620030625en00790080.pdf).

109. Control of Exports Bill 2007, Section 3.

110. www.globaldefence.ie/About.htm accessed 13 December 2006.

111. www.globaldefence.ie/Services.htm accessed 17 December 2006.

As an example of its “products in action”, GDSS’ website details the use of the “Domo wireless body-worn digital video transmission system” by the Indonesian police, including photographs of the system being used by an Indonesian police officer, and a “Command Vehicle” used to transmit surveillance video taken by police officers “via satellite to Jakarta Police HQ”.¹¹²

GDSS states that it “has invested significant resources in the promotion of the domo range of digital wireless video transmission systems”, but does not state whether it arranged this particular deal.¹¹³ AI asked GDSS whether they had arranged the supply of this video surveillance system (originally produced by UK company DOMO) to the Indonesian police, but had not received a response at the time of writing. While not “bombs and bullets” technology, the transfer of such surveillance equipment is of serious concern given the Indonesian police and security services’ record of serious human rights abuses. During 2006 in Indonesia, AI documented “reports of extrajudicial executions, torture and ill-treatment, excessive use of force during demonstrations and harassment of human rights defenders...(and) at least eight prisoners of conscience were sentenced to prison terms during 2006 and eight others sentenced in previous years remained in jail. They included peaceful political activists, union leaders, religious practitioners and students.”¹¹⁴

It is important that the brokering of such equipment is controlled both within Ireland and by Irish companies and individuals outside Ireland. For example, company documents registered by GDSS give a Malaysian address for one of its directors, so it is possible that the company conducts business from outside of Ireland.

RECOMMENDATION: *The Ministerial Order specifying what equipment will be covered by the new brokering controls should cover “dual-use”, police and security equipment and goods listed in EU Regulation 1236/2005 on equipment which could be used for torture, as well as equipment for military end-use. Controls on the brokering of such equipment should cover business activities both conducted within Ireland, and by Irish companies and individuals overseas.*

112. www.globaldefence.ie/Services_Samples.htm accessed 17 December 2006.

113. www.globaldefence.ie/Partners.htm accessed 17 December 2006.

114. *AI Annual Report 2007* (the report.amnesty.org/eng/Regions/Asia-Pacific/Indonesia).

115. Companies Registration Office “A1” filing for Global Defence and Safety Solutions, filed on 27 July 2005.

3) Transit & transshipment of MSP equipment through Ireland

The quantity of arms which transits or overflies Ireland each year is considerably greater than the quantities of military goods exported directly from Ireland. The Department of Transport has released information to Amnesty International about 356 civilian flights requesting permission to carry weapons or munitions through Irish airspace between January 2003 and October 2006, 56 of which landed in Ireland.¹¹⁶ Equipment being transported ranged from missile and bomb parts, to small arms, to military aircraft and helicopter components.

The transit and transshipment of weaponry through Irish airports and airspace received substantial public attention in 2006 when it was reported that an Antonov 124 cargo aircraft carrying Apache attack helicopters manufactured in the USA and bound for Israel, and Mi-17 military helicopters going from Russia to Venezuela, had transited through Shannon airport.¹¹⁷

Controls on the overflight, transit and transshipment of military and security equipment through Ireland remain inadequate, even those facilitated by Irish companies. Indeed, Amnesty International is concerned that the new legislation may have weakened controls in this area. The existing Control of Exports Act explicitly imposes export controls on “goods brought into the State for transshipment, whether under bond or otherwise”.¹¹⁸ This covers a “transshipment bond” procedure in which goods could sometimes be imported and re-exported prior to customs procedures and duties being completed, in return for the payment of a bond, forfeited in the event that customs duties remain unpaid or the shipment violates customs regulations.¹¹⁹ The Government has made it clear that the new definition of exports in the 2007 Bill, covering “the exportation of goods brought into the State for re-export”, will allow controls to be imposed on goods in transit through Ireland.¹²⁰ However, this definition in the 2007 Bill does not specify whether “re-exports” covers goods held under bond. Nor does the Bill specify whether export controls will apply to arms and equipment being transhipped through Irish ports and airports for technical stop-overs or refuelling, without passing through customs, as appears to have been the case with the reported carriage of military helicopters destined for Israel and Venezuela during 2006.

Some controls on the overflight or temporary landing of arms already exist. Aircraft carrying “munitions of war or implements of war” over Ireland, or landing in Ireland, require authorisation from the Department of Transport.¹²¹ These powers have sometimes been exercised to prevent arms transfers likely to facilitate human rights violations, as was reported in the case of refusals for the transit of US cluster munitions destined for Israel in July 2006.¹²² According to information provided by the Department of Transport, eight weapons-carrying civilian flights were refused overflight or landing permission between January 2003 and October 2006, four on the grounds that they were carrying landmines, whose conveyance through Ireland is prohibited by the Explosives (Land Mines) Order 1996.¹²³

116. Letter from Department of Transport to AI Irish Section, 23 November 2006.

117. “Now Russia flies arms through Shannon airport”, *Irish Independent*, 15 April 2006.

118. Control of Exports Act 1983, Section 1

119. See, for example, Office of the Revenue Commissioners, *Notice No. 1187 Rev. 3* (June 2006), Section 9.

120. Minister of State at the DETE, Mr. Michael Ahern, Dáil Éireann, 26 April 2007.

121. Air Navigation (Carriage of Munitions of War, Weapons and Dangerous Goods) Order 1973.

122. “Irish refused bombs sent to Prestwick airport”, *The Scotsman on Sunday*, 30 July 2006 (news.scotsman.com/index.cfm?id=1104532006).

123. S.I. No. 175 of 1996.

AI welcomes such refusals. However, these powers cannot provide a substitute for a systematic and *publicly accountable* system of scrutinising transits and transshipments of military and security equipment with regard to arms embargoes and human rights concerns. In particular, the Department of Transport has told AI that it “does not have information on the flag states of the aircraft involved in munitions flights, nor does the Department seek information on the purpose and final destination of the munitions carried”.¹²⁴ It is difficult to see how, without this information, the Department can determine whether arms passing through Ireland are destined for embargoed destinations, at risk of being diverted to undesirable end-users, or destined for end-users likely to commit human rights violations. Additionally, without the publication of authorisations or refusals for overflights and transits, the Oireachtas or the public cannot scrutinise the arms and security equipment passing through Ireland.

The existing aviation controls on the carriage of weapons and munitions also exempt military personnel and their “personal weapons”.¹²⁵ Thus military forces and their weaponry destined for conflict zones or with a record of human rights violations could pass through Irish airports and airspace without any notification or scrutiny.

In addition, no controls are currently applied to Irish companies and individuals providing transport or logistic services for the supply of arms and security equipment. For instance, the abovementioned planes carrying military helicopters destined for Israel and Venezuela through Shannon airport were reportedly operated by Russian freight carrier Volga Dnepr, and in both cases stopped in Shannon for the purposes of “technical stops”.¹²⁶ Shannon was presumably chosen as a stopover because an Irish-registered subsidiary located at Shannon, Volga-Dnepr Ireland Ltd, provides maintenance services for Volga Dnepr’s Antonov aircraft, as well as supplying maintenance and spare parts to Antonov cargo aircraft around the world, according to the company.¹²⁶

RECOMMENDATION: *The overflight, transit and transshipment through Ireland of military list items, and goods listed in the EU Regulation on equipment which could be used for torture, should require a government licence, whether they are held under bond or not. Applicants should be required to state the description and quantity of the goods being transported; and their origin, destination and intended end-use. Details of authorisations given for such transits should be published in the same way as details of export licences.*

The Control of Exports Order 2005 should be amended to require authorisations to be granted for the export, overflight, transit and transshipment of military or security personnel and their personal weapons.

124. Letter from Department of Transport to AI Irish Section, 23 November 2006. The Department of Transport has stated that it does receive information about the immediate source and destination of civilian planes carrying arms, but declined to release this information to AI.

125. Air Navigation (Carriage of Munitions of War, Weapons and Dangerous Goods) Order 1973.

126. “Now Russia flies arms through Shannon airport”, *Irish Independent*, 15 April 2006; “Official criticises use of Shannon for attack helicopters”, *Irish Times*, 10/4/2006. Due to its unusually large fleet of giant Antonov AN-124-100 cargo aircraft, Volga Dnepr is one of the few commercial carriers capable of transporting very large equipment like helicopters. The company reports that it has a “56% share of the global market in this specialist sector” (www.volga-dnepr.com/eng/group/biz/charter accessed 17 August 2007).

127. www.volga-dnepr.com/eng/presscentre/releases/?id=365 accessed 17 August 2007.

4) Transparency and reporting

Public and parliamentary information about Ireland's trade in MSP equipment and services has been partial and contradictory. There have been two reasons for this. Firstly, much activity related to the MSP trade in Ireland has remained entirely uncontrolled and unlicensed, and thus not reported in Government publications. However, in addition, the Government's disclosure of information regarding those MSP trading activities which are licensed has been limited and delayed.

This has worsened since Amnesty last reported on the subject in 2004. Regular details of licences granted for the export of military and "dual-use" equipment were published annually on DETE's website until 2001, and then monthly thereafter.¹²⁸ However, AI is unaware of any military list licence information being placed on the Department's website, or before the Oireachtas, since September 2003;¹²⁹ nor of any dual-use licence information since November 2002.¹³⁰ In 2004, AI was told by DETE that the delay in placing this information on the website was due to a lack of staffing resources. Yet, surprisingly, after nearly four years, this problem does not appear to have been resolved. Links to the existing licence data, moreover, have been removed from the Export Licensing section of DETE's website.¹³¹ Instead, the Government's only disclosures have been listings of export licences granted in 2004 and 2005 supplied annually on request to individual AI researchers or journalists, and annual statistics published by the European Union.

This has made it difficult to tell whether existing legislation and licensing policy is functioning effectively, and impossible for the Oireachtas to scrutinise export licences on human rights, security or other grounds until long after licences have been granted.

The Bill introduces, for the first time, a statutory requirement for the DETE to submit an annual report to the Oireachtas on its export control activities.¹³² AI greatly welcomes this commitment to regular reporting.

However, the Bill does not specify what information must be included in the DETE's annual reports, and in the past the DETE has released far less information on export licences than is required for adequate scrutiny of the potential human rights impact of military and security exports.

128. See www.entemp.ie/trade/export/statsdual.htm accessed 17 August 2007.

129. www.entemp.ie/trade/export/mlsept03.htm accessed 17 August 2007.

130. www.entemp.ie/trade/export/dunov02.htm accessed 17 August 2007.

131. See www.entemp.ie/trade/export, accessed 17 August 2007. At www.entemp.ie/trade/export/faqs.htm#How, the link to 'statistics' is broken (accessed 17 August 2007).

132. Control of Exports Bill, Section 9.

Information previously published online, and provided to AI, has listed only:

- the number of military and dual-use licences issued
- their countries of destination
- the broad “military list” or “dual-use” category code of the goods covered

No information has been included about:

- the precise type of equipment covered
- the quantities and values of equipment authorised for export¹³³
- (since November 2002) the end-user in the country of destination

This lack of information makes it effectively impossible, in some cases, to determine the scope, nature and users of the equipment and technology given export licences.

(a) Confusing categories of military and dual-use goods

The broad “military list” or “dual-use” equipment categories currently given in the Government's published export licence data are largely insufficient to identify the actual type of equipment covered, or to assess its likely human rights impact. Categories ML22 and ML23, for example, can cover “software” and “technology” for the development, production or use of any other piece of military equipment on Ireland's military list: potentially covering anything from an accessory for a machine gun, to machinery for manufacturing fighter jet parts, to equipment for the production of certain chemicals and additives.¹³⁴ In 2005, the Irish Government issued eight licences for ML23 goods, for export to Saudi Arabia (two licences), Australia, Germany, South Korea, the USA and Turkey (two licences). Without further information, it is impossible to determine what equipment was actually licensed for export to a number of destinations where military and security equipment has been used extensively by police and armed forces to abuse human rights.

Other categories on Ireland's military list are contradictory and confusing. Category ML1a, for instance, covers a range of firearms, but also includes “stunguns”, a term normally used to describe hand-held electric-shock devices, widely used for torture and ill-treatment.¹³⁵ “Stun guns” are also included in a separate licensing category (ML21d), categorised as “[p]ortable devices designed or modified for the purpose of administering an electric shock”. AI welcomes this separate category, and also the inclusion of electric animal prods in the ML21d category on the updated 2005 Irish control list, which AI had previously highlighted as an oversight. However, the overlapping categories mean that it remains unclear whether such equipment has received export authorisations. As far as AI is aware, the Irish Government has issued only one ML21d export licence since 1998.¹³⁶ It has, however, issued a number of ML1a licences in 2004 and 2005, to the USA, Canada, Australia, Singapore, New Zealand and Monaco.

133. DETE have provided journalists with aggregate annual figures for the values of licences issued, but these do not cover specific licences or categories of equipment.

134. Control of Exports Order 2005, S.I. No. 884 of 2005 (www.entemp.ie/trade/export/si_884_2005.doc).

135. AI, *The Pain Merchants* (2003) (AI Index ACT 40/008/2003), Appendix 4.

136. See Section 1e above.

137. Note 135 above.

The widespread use of electric-shock equipment for torture and ill-treatment makes it important that any exports of stun guns should be made public.¹³⁷ AI has no evidence to suggest that any of the ML1a licences covered electric-shock stun guns. However, without describing the actual goods, or disaggregating stun guns from the ML1a category, neither the Oireachtas nor the public can verify whether or not stun guns have been approved for export from Ireland.

Crucially, the DETE already collects far more detailed information about the nature and quantity of goods covered by export licences than has been publicly released. Licence applicants must provide: a detailed description of the goods; their custom commodity code and their military list or dual-use list category code; and the goods' quantity and monetary value. Indeed, European Union reports have included the value of equipment covered by some Irish export licences (and in some cases the value of actual exports), suggesting that the DETE could make this information available on a more systematic basis.¹³⁸ Disappointingly, the Government has already rejected a Seanad amendment to the Control of Exports Bill which would require the Government to publish this information (as well as the names of the licensee companies) – it based its rejection on the grounds of “Irish and European legislation” covering commercial confidentiality.¹³⁹ AI is not recommending that the names of licensee companies be disclosed (although at least one other European country, Italy, routinely publishes the licensee company for many export licenses).¹⁴⁰ However, the values, quantities and textual descriptions of licensed goods are routinely published by other European countries. For example, Germany and the UK both provide textual descriptions of goods licensed for export to each destination, and both countries publish the value and quantities of small arms exports.¹⁴¹

RECOMMENDATION: *The Control of Exports Bill should require the Government to match European best practice by reporting:*

- *textual descriptions of the equipment covered by export and brokering licences;*
- *the value and quantity of the goods exported;*
- *the end-user of the goods exported;*
- *and the final destination of the goods exported.*

In addition, “stun guns” should be removed from the ML1a category.

137. Note 135 above

138. See, for instance: Official Journal of the European Union, *Seventh Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports*, 2005/C 328/01 (23 December 2005).

139. See statement by Minister of at DETE, Seanad Debate, 1 March 2007 (Vol. 186 No. 9): “With regard to the amendment, the non-governmental organisation sector frequently seeks information on actual exports by named companies. I would like to be clear about this; I do not consider it appropriate to provide such data. Information submitted by companies in connection with export licence applications is provided in confidence. It is almost always commercially sensitive and there may be security and international relations issues around it. I am also concerned that the disclosure of such detailed information could prejudice or impair enforcement of and compliance with applicable Irish and European legislation.”

140. See Camera dei Deputati, *Relazione Sulle Operazioni Autorizzate e Svolte per il Controllo dell'esportazione, Importazione e Transito dei Materiali di Armamento, nonché dell'esportazione e del Transito dei Prodotti ad Alta Tecnologia, Anno 2005* (www.camera.it/_dati/leg15/lavori/documentiparlamentari/indiceetesti/067/001_RS/INTERO_COM.pdf).

141. See Federal Republic of Germany, *Rüstungsexportbericht 2005* (www.nisat.org/Export_Reports/Germany%202005/ArmsExportsGermany2005.pdf); UK quarterly reports on Strategic Export Controls (www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029395474).

(b) Inadequate end-user reporting

Since late 2003, the Irish Government has released no information about the end-users of exported military or dual-use equipment. Such information is vital in assessing whether the export is likely to contribute to human rights abuse.

Given the predominance in Ireland's MSP trade of components exported for incorporation into complete weapons systems elsewhere, it is particularly important to disclose the final end-user of the entire weapons system, and its final country of destination. During 2002, details of dual-use licences published by the Government included the type of end-user for each licence, but in every case this was listed as "civilian". This seems odd given the fact that several Irish companies openly state that they supply components and technology for military systems, ranging from armed attack helicopters to armoured vehicles, as detailed in section 1 of this report. While an overseas company using Irish components to manufacture larger weapons systems may strictly be described as a "civilian" entity, this gives a far from complete picture of the exported equipment's actual use.

Crucially, DETE already collects detailed information about end-users. Applicants for export licences are required to give the names and addresses of both the goods' recipient and their end-user; and a description of the end-use.¹⁴²

RECOMMENDATION: *The Irish Government should publish the final end-users of equipment granted individual export licences, and the final country of destination of such equipment.*

(c) Frequency of reporting

The Bill only requires an annual report of export licensing activities, and simply specifies that this must be made "as soon as practicable after the end of each year". At present, annual disclosure of Irish export licences occurs via the European Union, which publishes Irish export licence data in its annual reports on the EU Code of Conduct on Arms Exports.¹⁴³ However, this disclosure comes up to 20 months after the original licences were issued.

The human rights situation in given destinations may change rapidly. In such cases, it is almost impossible for parliamentarians and civil society to scrutinise or challenge authorisations for exports of military and security goods to such destinations until long after the fact; and it is entirely impossible to challenge authorisations until after the authorisation (and possibly the export itself) actually takes place.

RECOMMENDATION: *The DETE was to be commended for publishing monthly lists of export licences until 2003, and Amnesty International urges it to re-continue this practice.*

142. Export of Military Goods Licence Application Form (www.entemp.ie/trade/marketaccess/exports/military_application_form.doc); Export of Dual-Use Goods Application Form (www.entemp.ie/publications/trade/2002/exportlicenseapplication.pdf).

143. See, for example, Council of the European Union, *Eighth Annual report According to the Operative Provision of the European Union Code of Conduct on Arms Exports* (12 October 2006).

144. www.parliament.uk/parliamentary_committees/quad.cfm

(d) **Parliamentary scrutiny**

While the Control of Exports Bill 2007 requires the Irish Government to report annually to the Oireachtas on its export licensing activities, there is no established body or mechanism within the Oireachtas for scrutinising these reports, or for monitoring Ireland's MSP export policy and activity more broadly. This is in contrast to several other European states. The UK Parliament, for instance, has a dedicated select committee, the Quadripartite Committee on Strategic Export Controls, bringing together members of the Trade & Industry, Foreign Affairs, Defence and International Development Select Committees to scrutinise the UK's MSP exports. Not only does such a body enable oversight of an often opaque government activity; but it also enables details of particular export licences to be scrutinised in confidence to ensure that Irish legislation, and standards such as the EU Code of Conduct on Arms Exports, is being properly applied, but without breaching commercial confidentiality.¹⁴⁵ The Oireachtas should establish a formal structure for scrutinising export licensing and enforcement activities, and this structure should be conferred with the necessary powers of inquiry and adequately supported with technical and other expertise.

RECOMMENDATION: *The Oireachtas should establish a formal structure for scrutinising export licensing and enforcement activities of the Irish Government, and issue an annual response to the Irish Government's annual report on export licensing.*

145. See, for example, UK House of Commons, *Quadripartite Committee - First Report Session 2005-6* (www.publications.parliament.uk/pa/cm200506/cmselect/cmquad/873/87305.htm#a4).

5) End-use monitoring and reporting

AI welcomes the Bill's introduction of more extensive powers for Irish authorities to inspect and audit companies exporting MSP goods and services. However, such inspection and investigative powers can only ever uncover a portion of the abuses of the licensing system. They need to be complemented by a systematic and rigorous process for monitoring the delivery and end-use of exports themselves.

Without any post-export checks to verify that arms and security equipment have indeed been delivered to the stated end-user and used in accordance with the end-user certificate, it is difficult to ensure that MSP equipment is not diverted to undesirable end-users, or into the illicit trade. The Government has rejected such post-export monitoring on the grounds that "contemporary international export control practice favours enhanced pre-shipment controls and the use of risk analysis programmes."¹⁴⁶ Yet the USA, for example, has since 1990 established a worldwide system of post-export monitoring (the Blue Lantern program), carried out by the US State Department and contracted inspectors.¹⁴⁷

DETE and the Department of Foreign Affairs obviously have more limited resources and personnel than their US counterparts, arguably making such a comprehensive programme unrealistic for the Irish Government. However, the 2004 export control review undertaken for Forfás suggested instead that exporting companies could themselves be required to undertake "some level of post-shipment checking...e.g. in the context of service visits to customer sites."¹⁴⁸ The Control of Exports Bill 2007 does not mandate post-shipment checks of this sort.

RECOMMENDATION: *In addition to pre-export controls and scrutiny of exporters of MSP goods and services, such exporters should themselves be required to report to the DETE on the delivery of licensed goods to the correct end-users and their subsequent use of such goods, as recommended in the 2004 Forfás review.*

146. Minister of State at the DETE, Mr. Michael Ahern, Dáil Éireann, 26 April 2007.

147. For details, see US State Department, *End-Use Monitoring of Defense Articles and Defense Services Commercial Exports FY 2005* (www.pmdtc.state.gov/docs/End_Use_FY2005.pdf).

148. Note 1 above.



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