

**Report of the Republic of Poland  
on the implementation of provisions of the Program of Action  
on Prevention and Elimination of Illicit Trade of Small Arms and Light  
Weapons in All its Aspects  
and  
International Instrument to Enable States to Identify and Trace, in a  
Timely and Reliable Manner, Illicit Small Arms and Light Weapons  
in the Year 2007**

**A) National level**

**1. National coordination agency**

Due to a very complex character of the Program of Action on Prevention and Elimination of Illicit Trade of Small Arms and Light Weapons in All its Aspects and the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, Poland does not have a single coordination body or agency for both instruments.

The control of domestic arms manufacture and trade is executed by the appropriate licensing authority – Minister of Interior and Administration in cooperation with advisory authorities – Minister of National Defence, Minister of Economy, Head of the Internal Security Agency and the corresponding voivodship Police Commander.

Minister of Economy acts as the control authority in the area of foreign trade in goods, technologies and services of strategic importance. Minister of Foreign Affairs, Minister of National Defence, Minister of Interior and Administration, Head of the Internal Security Agency, Head of the Foreign Intelligence Agency, Minister of Public Finance and President of the National Atomic Energy Agency act as advisory authorities in the process of granting licenses.

**2. National point of contact**

The Polish national point of contact for the Program of Action on Prevention and Elimination of Illicit Trade of Small Arms and Light Weapons in All its Aspects weapons is as follows:

Ministry of Foreign Affairs  
Department of Security Policy  
Phone 48 22 523 92 02  
Fax 48 22 628 58 41  
e-mail: [dpb@msz.gov.pl](mailto:dpb@msz.gov.pl)  
[maria.wejs@msz.gov.pl](mailto:maria.wejs@msz.gov.pl)

Poland assigned the following points of contact for the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons:

Mr Janusz Nabialek  
Expert  
Division of International Operational Police Cooperation  
Criminal Intelligence Bureau  
National Police Headquarters  
Phone 48 22 601 23 59  
Fax 48 22 601 26 74, 48 22 848 26 91  
e-mail: [ncbwarsaw@kqp.gov.pl](mailto:ncbwarsaw@kqp.gov.pl)

Ministry of Foreign Affairs  
Department of Security Policy  
Phone 48 22 523 92 02  
Fax 48 22 628 58 41  
e-mail: [dpb@msz.gov.pl](mailto:dpb@msz.gov.pl)  
[marja.wejs@msz.gov.pl](mailto:marja.wejs@msz.gov.pl)

In order to facilitate further implementation of the Instrument the question of location of the point of contact is currently being revised. Once a new point of contact is designated, it will be immediately notified to the Secretariat of the United Nations.

### **3. Legislation, regulations, administrative procedures**

The control of domestic arms manufacture and trade is regulated by the Law of June 22, 2001 *on economic activity in the sphere of manufacturing of and trade in explosives, arms, ammunition and technology of military or police use* (Journal of Laws No. 67, Item 679 as amended). Recent amendments to this Law were introduced to harmonize Polish regulations with the law of the European Union.

Detailed regulations presented in previous national reports remain in force.

### **4. Law enforcement/criminalization**

Pursuant to article 263 paragraph 1 of the *penal code* (Law of June 6, 1997, Journal of Laws No. 88, Item 553 as amended), the provisions of Law of May 21, 1999 *on arms and ammunition* (Journal of Laws No.53, Item 549 as amended) and the above mentioned Law of June 22, 2001, illicit manufacture, possession and trade in firearms and ammunition constitute a crime. It is also an offence to attempt, aid and abet the above acts.

The recent amendments to the above mentioned laws have had **no effects on the issue of manufacturing, trade and marking of arms.**

### **5. Combating of organized crime**

No new legislation was passed in 2006 and 2007 on the matter. Detailed procedures indicated in previous reports submitted by Poland still apply.

## **6. Marking, record keeping and tracing**

No changes have been introduced to the legislation and procedures concerning marking, record keeping and tracing.

Poland has implemented most of the provisions of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons. Review of the Law of June 22, 2001 *on economic activity in the sphere of manufacturing of and trade in explosives, arms, ammunition and technology of military or police use* with an aim to extend the record keeping period from 10 to 20 years is currently under way.

The ongoing consultations on the designation of the new point of contact for the Instrument aim at further enhancement of implementation of its measures, as well as at ensuring proper enforcement of the already binding law in the field of identification and tracing of illicit SALW.

## **7. Export controls**

Detailed regulations presented in previous national reports, implementing among others relevant EU regulations, remain in force and are compatible with the standards determined by the United Nations documents. No changes have been introduced to the system of granting licenses by the licensing authority.

The Law of May 21, 1999 *on arms and ammunition* gives Customs Service the right to retain arms shipments if they do not meet the requirements specified therein, to control permits issued by consuls for the importation by individuals of arms and ammunition, and to keep in deposit arms and ammunition carried by individuals without firearm license. Customs Service is given additional controlling prerogatives in the Law of January 9, 1997 *Customs code* (Journal of Laws of 2001, No.75, Item 802 as amended). The Customs Service may control commercial documents, data and means of transportation, and check the identity of persons and goods. A customs inspection may be conducted at any time and in any place in the Polish customs area and outside it - if provided for by international agreements. In 2006 Customs Service detected illegal transfer of 9 pieces of firearms, 38 pieces of crucial elements of firearms, 2905 rounds of ammunitions and in 2007 - 21 pieces of firearms, 494 pneumatic weapon, 6517 rounds of ammunition, 46 grenades.

In accordance with the Law of October 12, 1990 *on Border Guard* (Journal of Laws of 1990 No.78 item 462 as amended), Border Guard prevents transport across the State border of arms, ammunition and explosives without permission as regulated in other legal acts (e.g. Law of May 21, 1999 *on arms and ammunition*; Law of November 29, 2000 *on foreign trade in goods, technologies and services of strategic importance to the security of the State and to maintaining international peace and security*; Law of June 21, 2002 *on explosives for civil use*). Collected arms and ammunition are delivered to the Police.

In the years 2006 – 2007 Border Guard continued efforts aimed at sealing off the Polish part of the external EU border and preparations to exercise compensatory measures after abolishing border control at the internal EU border when Poland joined Schengen Area on December 21, 2007. Tasks undertaken, such as increase of number of professional officers, modernization of infrastructure, IT and transport means, structural changes, as well as development of international co-operation, contributed also to the enhancement in the area of

counteracting and combating illicit trade in SALW at the external border, in the border regions as well as on the whole territory of the country in new forms of mobile control.

In 2006 Border Guard initiated 19 preparatory proceedings concerning violation of provisions of *the Law on arms and ammunition* in which 7 suspects were charged. In 2007 Border Guard initiated 7 preparatory proceedings concerning violation of provisions of *the Law on arms and ammunition* in which 3 suspects were accused.

In 2006 Border Guard detected 41 pieces of firearms, 9 pieces of gas weapon, 8 grenades, 34 pieces of different elements of weapon, 1 pneumatic weapon, 1937 rounds of ammunition of different type, 1 dynamite stick. In 2007 Border Guard detected 3 pieces of firearms, 18 pieces of gas weapon, 3 grenades, 21 rounds of ammunition.

## **8. Brokering**

### General principles:

The brokering activities in SALW are covered by the Law of November 29, 2000 *on foreign trade in goods, technologies and services of strategic importance to the security of the State and to maintaining international peace and security* (Journal of Laws of 2004, No. 229, Item 2315). According to the above mentioned Law brokering services, as well as foreign trade in arms, military equipment and dual use goods, are prohibited by the Polish law unless the company complies with the requirements provided by national law and international agreements. As a consequence a license issued by the trade control authority - Minister of Economy - is required for brokering activities.

Generally, the Law allows for issuing individual, general or global authorisations for brokering in SALW, but practically only individual licenses are granted. Individual rights resulting from brokering licenses are non-transferable. The validity period of individual authorisation for brokering may not be longer than 1 year. The trade control authority may withdraw or change an individual authorization.

### National definition of brokering activities

The Law of November 29, 2000 *on foreign trade in goods, technologies and services of strategic importance to the security of the State and to maintaining international peace and security* defines brokering services as:

*“activities taken up by natural or legal persons and consisting of:*

- a) negotiating, business consulting, and assistance in conclusion of contracts, as well as any form of participation in activities related to export, import, transit or conclusion of any lease, donation, loan, or bailment agreement, as well to any contributions in kind, which may in particular refer to the transfer of items of strategic importance from one country to another,*
- b) purchase, sale or organisation of any transfer, and in particular forwarding, of items of strategic importance from one country to another”.*

### Licensing and record-keeping:

- Only a company that presents a valid certificate confirming implementation of the internal system of control and management of trade related to items of strategic importance (Internal Compliance Program - ICP) is entitled to apply to the Minister of Economy for authorization for foreign trade in arms, military equipment and dual use goods, including authorization for brokering in SALW.
- Application for a brokering authorization should specify:

- Name of the natural or legal person, its registered office and address,
  - Number of an entry in the Register of Entrepreneurs as defined in the Law of August 20, 1997 *National Court Register* (Journal of Laws of 2001, No. 17, Item 209 as amended),
  - Type and scope of the business activity carried out by the natural or legal person,
  - Exporter's or importer's name, his registered office and address,
  - Name of the producer and end-user, their registered offices and addresses,
  - Types of items of strategic importance, brokering services or technical assistance to be traded with foreign partners, their description, value and quantity,
  - Intended use of items of strategic importance by the end user,
  - Country of final destination,
  - Statement of the natural or legal person with a commitment to take any action necessary to deliver items declared in the license to the end user, and to inform a foreign importer that any change of declared end-use of these items or any change of their end user requires a prior approval of the Polish trade control authority.
- Application should be accompanied by the following documents:
- Statement confirming that:
    - the end user does not intend to use munitions to violate or suppress human rights and fundamental freedoms,
    - the delivery of the munitions does not pose a threat to peace or does not otherwise become detrimental to stability of the region,
    - the destination country does not support, facilitate or encourage terrorism or international crime,
    - weapons may not be used for other purposes than satisfaction of reasonable defence and security needs of the recipient country;
  - A copy of the concession to carry out trade in explosives, weapons and ammunition, as well as products and technologies to be used for the military or police purposes, as defined in the above mentioned Law of June 22, 2001 laying down the conditions of business activity related to production and trade in explosives, weapons and ammunition, as well as products and technologies to be used for the military or police purposes;
  - Draft trade agreement;
  - A copy of a valid certificate of Internal Compliance Program;
- License for brokering is issued by the trade control authority – Minister of Economy - based on an opinion of advisory authorities (Minister of Foreign Affairs, Minister of National Defence, Minister of Interior and Administration, Head of the Internal Security Agency, Head of the Foreign Intelligence Agency, Minister of Public Finance and President of the National Atomic Energy Agency), and having determined that all legal requirements have been satisfied. To formulate their opinions advisory authorities have the right to require the applicant to provide any information as may deem necessary to verify data presented in the license application.
- All licenses including those for brokering in SALW are registered in the Tracker electronic licensing system. There is no time limit for keeping such records.

Registration and authorization:

Companies are required by law to obtain written individual authorization (license) for each brokering transaction.

- Any company that presents a valid certificate of Internal Compliance Program may apply for authorization for brokering.

- Poland keeps a register of all companies that are entitled to apply to the Minister of Economy for authorization for trade in items of strategic importance, including brokering in SALW.
- When considering applications for brokering licenses, information contained in the Tracker electronic licensing system (such as status of ICP Certificate, records of previous activities and additional information on applying companies) is taken into account.

#### Enforcement

The law provides for penal provisions of up to 10 years of imprisonment and financial penalties of up to 50 000 Euro for breaking requirements of Law of 29 November 2000 *on foreign trade in goods, technologies and services of strategic importance to the security of the State and to maintaining international peace and security*.

#### 9. Arms embargo

The legal basis of the Polish arms embargoes policy is determined by the Law of November 29, 2000 *on foreign trade in goods, technologies and services of strategic importance for the security of the state, and also for maintenance of international peace and security, and on amending certain laws*.

Pursuant to article 6 paragraph 6 of that Law, the Council of Ministers defines by ordinance a list of countries to which exports of goods of strategic importance is prohibited or restricted. Article 6 paragraph 6 determines also the guidelines to be considered while drawing up such a list. These include:

- defence or security reasons,
- international obligations of Poland stemming from international agreements, including those on non-proliferation and control of goods of strategic importance.

On November 23, 2004 the Council of Ministers issued the *Ordinance concerning the imposition of prohibition and restrictions on sales of goods of strategic importance for state security* (The Journal of Laws No. 255, Item 2557 as amended) defining a list of states to which arms exports are prohibited or restricted. **On August 1, 2007 the Ordinance was amended** and updated in accordance with Polish international obligations stemming from membership in UN and EU.

Poland also fully implements OSCE arms embargoes. However, due to the politically binding character of these sanctions, they are not included in the above mentioned ordinance.

#### 10. Stockpile management and security

No changes have been introduced to the legislation and procedures concerning stockpile management and security.

#### 11. Collection and disposal

No changes have been introduced to the legislation and procedures concerning collection and disposal of small arms and light weapon.

## B) Regional and global level

In 2006 and 2007 representatives of Poland actively participated in a number of international conferences, courses, seminars and projects devoted to SALW problems, organised by the UN, OSCE, EU, NATO and other international organisations. Among the activities are:

- participation in the First Review Conference of the UN Programme of Action on SALW and in the works of the Group of Governmental Experts on the Illicit Brokering of SALW. The Polish delegation was also active within the Wassenaar Arrangement, including new working group for SALW and MANPADS transport and brokering established in 2006;
- a lecture of the Ministry of National Defence on international initiatives related to SALW during the NATO course on Arms Control Implementation in Oberammergau. Representatives of this Ministry also participated in different workshops dealing with standards of storage and control of SALW and munitions warehouses;
- contribution in 2006 with a total of 276.333 USD to the NATO/PfP/NAMSA Trust Funds. This includes 60.000 USD for the first phase of the project (co-founded by the EU), aimed at eliminating of 1.5 million SALW and 133.000 tons of munitions in Ukraine (Another 60.000 USD was donated for the professional reconversion of former armed forces personnel in Ukraine, and 30.000 USD to Serbia and Montenegro for the same goal. Additionally, a sum of 66.333 USD was allocated for reintegration of former military personnel in Bosnia and Herzegovina);
- participation in the work of the Governmental Group of Experts to Consider Further Steps to Enhance International Cooperation in Preventing, Combating and Eradicating the Illicit Brokering in Small Arms and Light Weapons, which concluded its work in June 2007;
- participation in the informal meeting in Geneva on transfer control principles for small arms and light weapons convened in August 2007;
- continuation of weapons collection activities by the Polish Armed Forces participating in peacekeeping operations. In 2007 Polish Military Contingent EUFOR in Bosnia and Herzegovina collected 124 pieces of long weapons, 2 pistols, 7 antitank grenade launchers, 6 launchers M80 and RPG, 651 pieces of grenades (including 69 mortar grenades and 80 pieces of rifle grenades) and 20759 pieces of different types of ammunition;
- participation of 15 seconded national experts in the ESDP mission EUBAM Moldova/Ukraine, which by strengthening border and customs controls capacities contributes to the prevention, combat and eradication of SALW trafficking.

### Information exchange

Poland submitted reports on the implementation of provisions of the Program of Action on Prevention and Elimination of Illicit Trade of Small Arms and Light Weapons in All its Aspects in 2003, 2005 and 2006.