

Christopher Steinmetz (BITS)

**German Arms Exports
and Child Soldiers**

Small Arms in the Hands of Children

Cooperation partner

Editor



Brot
für die Welt



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Foreword

Each year, the annual report of the UN Secretary-General on children and armed conflict includes the “List of Shame”. In 2016, this list includes 59 armed groups and armed forces from 14 countries who have recruited children, killed, maimed or abducted them, violated children sexually or attacked schools and hospitals. The main section of the UN report mentions six other countries where children have been abused in a similar fashion.

Is it acceptable to deliver arms to these countries where violent armed conflicts have been raging for years or even decades?

“No” would most likely be the answer of the majority of Germans. According to an Emnid-survey in 2016, 83 % of all Germans are principally against any German arms exports – and surely to countries where children are forced to fight.

“No” is also the answer of the UN Committee on the Right of the Child which monitors the compliance of signatory states with the Convention on the Right of the Child. It has repeatedly issued recommendations for Germany to legally prohibit any export of German arms to countries where child soldiers exist.

“No” would also be the answer based on the German Government’s “Political Principles for the Export of War Weapons and Other Military Equipment” and the EU “Common Position defining common rules governing control of exports of military technology and equipment”. In both documents, human rights violations and armed conflicts are listed as reasons for the denial of arms export licenses – but both criteria are often ignored.

“Yes” is repeatedly the unfortunate answer of the Federal Government, also in recent times. Even small arms, considered to be the deadliest weapons causing the largest share of civilian casualties and also the weapon of choice for child soldiers, are exported to conflict torn countries. This is underlined by the evaluation of the available information on arms exports, many of these from official government sources, conducted in this study. Even armed forces and police, who are responsible for grave violations of children’s rights according to the UN reports, receive German arms.

If human rights and child rights organizations, like the publishers of this study, and also the UN Committee

on the Rights of the Child indicate the serious shortcomings, they repeatedly receive the same reply by the Federal Government: There is no need for action; the German arms export policy is restrictive. This study exposes this claim either as wishful thinking or as a consciously made false testimony since the Federal Government is fully aware of the facts presented here. Rather than downplaying this, the government should put a restrictive arms export policy into practice.

The annual reports on arms exports published by the Federal Government leave no doubt: Never before has Germany exported as many small arms as in 2012 and 2013; never before were so many delivered to “third countries” (outside of EU and NATO), many of them situated in regions of conflict and crisis. Even if the figures have been declining recently, a turnaround is nowhere in sight. In 2016, the value of the licensed small arms exports was 50 % higher than in the previous year, a third of which destined for third countries.

The study shows: The necessary turnaround will not occur without a fundamental reform of German law. The existing legal framework in Germany is full of holes and inadequacies. A new arms exports act is urgently required, incorporating the denial criteria of the Political Principles and the EU Common Position and making them legally binding and enforceable. Furthermore, the group of entities allowed to file a court suit needs to be broadened to ensure that not only arms companies but also associations, victims and representatives of the German Parliament can go to court because of an export license decision.

Such a new arms exports act should be a priority for the Federal Government to ensure that Germany does not continue to share responsibility for the escalation of armed conflicts and the associated grave violations of children’s rights. The export of arms to countries and regions of crisis with armed conflicts or systematic violations of children’s rights and human rights needs to be ruled out categorically. Due to their uncontrollable proliferation, even if delivered to NATO or EU countries, small arms and their ammunition should no longer be exported.

The study also emphasizes the urgent need to raise the minimum age for military recruitment in Germany to 18 and thereby comply with the international 18-years standard instead of undermining this standard by constantly increasing the recruitment numbers of boys and girls (for 2016 a new record of 1,946 was set).

Implementing these measures would strengthen the credibility of Germany's efforts on the diplomatic level to improve the protection of children in armed conflicts and to contribute to the de-escalation of conflicts.

On behalf of the publishers I want to thank all the people and organizations who have supported this study, foremost the author, Christopher Steinmetz, whose dedication and expertise contributed greatly to the success.



Ralf Willinger

terre des hommes Germany
Speaker German Coalition to Stop the Use of Child
Soldiers

Executive Summary

The recruitment and use of child soldiers is rightly considered a flagrant violation of human rights. Despite it having been outlawed internationally, more than 250,000 children are still being abused by armed groups all over the world for destructive purposes and deployed as soldiers in armed conflicts. These children are made into perpetrators while being victims at the same time. They are physically injured and mentally traumatized. Child soldiers belong to the more than 250 million children, who – being the weakest segment of society, are affected the most by conflict and war and have to suffer systematic violation of their inherent rights.

The recruitment and use of child soldiers, as well as war crimes and grave violations of human rights in armed conflict associated with this, should not be regarded as isolated phenomena. The occurrence of this problem is facilitated and sometimes caused by external factors. Security policy considerations, economic and geostrategic interests of foreign companies and governments as well as double standards in regard to the implementation of international norms serve as enabling factors for armed forces, police, militias or insurgents to wage war with and against children.

It is a misconception to believe that the policies in place in Germany ensure the respect for children's rights and comprehensive child protection. While Germany did sign the main international treaties in regard to the protection of children, this doesn't mean that Germany has a clean slate in regard to child soldiers, and couldn't do a lot more for the protection of children in armed conflicts.

This study investigates one key aspect of the child soldier issue: The connection between the abuse of girls and boys as soldiers and German arms export policy. Even though, for more than 20 years, the United Nations have pointed out that the availability of Small Arms and Light Weapons (SALW) does facilitate the recruitment and use of child soldiers, public discourse in Germany has rarely focused on this relationship. The United Nations Committee on the Rights of the Child repeatedly requested Germany to take precautionary measures against the export of arms into regions of conflict. The study shows that this assessment by the UN Committee on the Rights of the Child was correct. Germany needs to urgently reform its arms export policy, especially in regard to small arms and light weapons. For years now, Germany has ranked as one of the

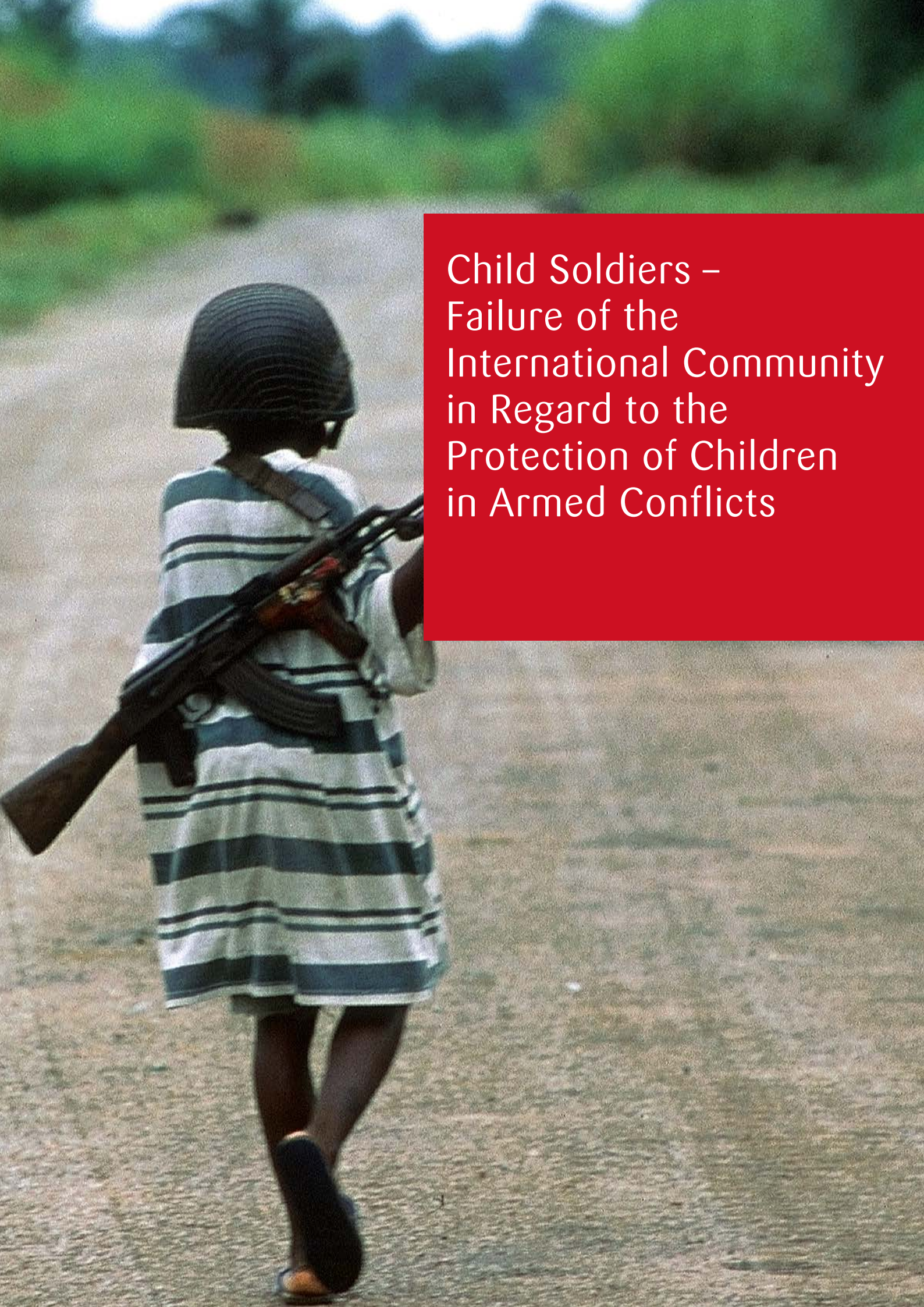
largest exporters of small arms, frequently even listed only second to the USA. The numbers speak for themselves: Since 2002, Germany has licensed the export of small arms worth more than €800 Mio. Contrary to government rhetoric of a “practicing a restrictive arms export policy” substantial amounts of small arms were delivered into areas of conflict and to armed groups fighting there. Even armed non-state actors were supplied with German weapons. Just recently, in 2015, the Federal Government again approved small arms sales, i. e. 4,000 rifles for Iraq and 3,000 submachine guns for the United Arab Emirates. And in 2016, the Federal Government stayed on this track: The whole value of approved export licenses amounted to €47 million – €15 million more than in the previous year.

Even the knowledge that child soldiers are being used in armed conflicts in the recipient states didn't stop the influx of German small arms, as the case studies for Colombia, Syria & Iraq, Philippines, India and Yemen prove. These examples convey an impression of the extent and relevance of German small arms exports. In addition, the decade-long policy of issuing production licenses with almost no strings attached and non-existent end-use controls ensured that large quantities of German-licensed arms produced abroad ended up in conflict regions and in the hands of child soldiers. The Federal Government frequently refers to these licenses as “mistakes of the past”, since many of them were granted between the 1960s and 1980s. But actually licenses kept being granted, e.g. in 1998 for Turkey and 2008 for Saudi-Arabia. The ongoing assembly of German pistols and rifles in the USA, some of them subsequently ending up in Colombia and Iraq, and the commencing production of German assault rifles in Saudi-Arabia show that the Federal Government still pursues a risky and not restrictive arms export policy.

The same holds true for another aspect of the small arms issue which so far has only received scant attention: the licensed production and export of ammunition. The availability of ammunition is an essential prerequisite for the usability of small arms. German companies have contributed to the worldwide build-up of capacities for ammunition production and even today continue to provide the parties of conflict with the necessary ammunition. During the past two years, Iraq alone received more than 25 million rounds of small caliber ammunition. Further substantial exports of ammunition were also recently licensed to countries like Oman and the United Arab Emirates.

Based on the conclusions of this study, the following recommendations, requiring urgent implementation, can be given to the Federal Government,

- ▶ **A fundamental overhaul and standardization of German arms export laws is required.** The non-binding political criteria for the denial of arms exports need to be codified legally. In order to improve public control, new legal provisions should be introduced, extending the circle of entities entitled to file a court case and improving the accountability and transparency in regard to arms exports.
- ▶ **The use of child soldiers and other grave violations of children's rights should be explicitly listed as denial criteria for arms export licenses.** This would prevent any weighting of fundamental children's rights against German foreign security policy interests. Furthermore, this would satisfy the requirements made by the UN Committee on the Rights of the Child.
- ▶ **The export of all small arms according to the UN working definition should be subject to the more restrictive provisions of the War Weapons Control Act.** The artificial differentiation between "civilian" and "military" small arms in the current licensing procedure needs to be terminated. The same holds true for the current special legal handling of export licenses for EU- and NATO-countries.
- ▶ **The cooperation of the German Armed Forces with any armed forces that recruit children or commit systematic and grave violations of children's rights must be categorically ruled out.** This principle should be applied to bilateral military aid as well as in regard to the participation in multilateral military interventions.
- ▶ **The minimum age for recruiting soldiers by the German Armed Forces should be raised to age 18 ("Straight 18").** Only then can Germany act as a credible role model for other armed actors.



Child Soldiers –
Failure of the
International Community
in Regard to the
Protection of Children
in Armed Conflicts

Current armed conflicts are primarily fought on the backs of the people. The killing and displacement of people, the destruction of civilian infrastructure and means of living as well as the humanitarian predicament connected with these acts are at least readily accepted by the armed actors, if not even part of their tactics. Children, as the weakest segment of population, are hit the hardest by strife and violent conflict. The deterioration of medical infrastructure and attacks on schools, the aftermath of displacement and food scarcity affect children particularly hard. Added to this plight are abductions and abuses of children by the parties to the armed conflict, be it as human shields, slaves, soldiers or by means of sexual exploitation. According to UNICEF more than 250 million children are presently affected by armed conflicts.

On paper, the International Community has made considerable progress since World War 2 to extend special protection to children and to task the states to implement and follow these protective provisions. But these efforts are only slowly bearing fruit, frequently stalled by setbacks. Especially the use of children as child soldiers demonstrates the discrepancy between theory and practice. Even though condemned by international law and universally regarded as a violation of human rights, child soldiers are still a common part of the tragic reality of contemporary armed conflicts. Currently, more than 250,000 boys and girls under age 18 are considered employed as soldiers.

There is no single and easy explanation, why this is still the case. The decision of armed groups to recruit and use child soldiers despite being outlawed internationally depends on a variety of specific factors. Nevertheless, some core factors can be identified, which make children an attractive reservoir for state security forces and other armed groups: Children are regarded as cheap and easily manipulable human resources. They have fewer possibilities to claim and exercise their rights, assuming that they are even aware of them. In comparison, children are more vulnerable and defenseless than adults when facing local and state authorities. An additional factor is the easy availability of suitable and cheap weapons. So-called “Small Arms and Light Weapons” (SALW), i. e. pistols, hand grenades, sub-machine guns, automatic rifles but also machine guns and antitank weapons are comparatively cheap and easy to purchase and can be used by children. Without small arms and appropriate ammunition the military

benefits of a large-scale recruitment of children would be severely limited. Already the first report of the UN Secretary-General on Children and Armed Conflict 1998 pointed to the worrying interdependencies between SALW and child soldiers. In light of this, the UN Committee on the Rights of the Child requests the member states to establish legal provisions, ensuring that no arms are exported to countries where child soldiers are used in armed conflicts. With the “Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups” of 2007, more than 100 states have pledged to curb the proliferation of SALW in order to prevent the use of girls and boys under age of 18 from being employed by armed groups, including armed forces.

There is a broad consensus in Germany against the use of child soldiers and the export of small arms to conflict regions. German government policy mirrors this at least partially: Germany has signed and ratified most of the international agreements for the protection of children in armed conflicts during the last 30 years, including the “Paris Principles”. Political and legal provisions for arms exports, especially of SALW, postulate a restrictive licensing. But already a cursory glance at the practice of German defense policy and arms trade raises doubts that the international agreements are matched by government actions, as is often claimed. Germany still recruits children at 17 years of age for military service. In 2015, Germany has even set a new record since the end of the conscription system with more than 1,500 recruited boys and girls. But even more important: Germany is one of the largest arms exporting nations of the world. German SALWs are sold in vast quantities everywhere and are even supplied directly to parties of conflict.

This study analyses the German arms export policy vis-a-vis those countries where child soldiers are recruited and used or where other grave violations of children's rights are committed. The study identifies relevant structural factors which enhance the proliferation of German weapons to these countries. Building on these observations, recommendations will be outlined, which would ensure a more restrictive arms export policy and would allow for a more stringent implementation of the provisions of the international agreements.



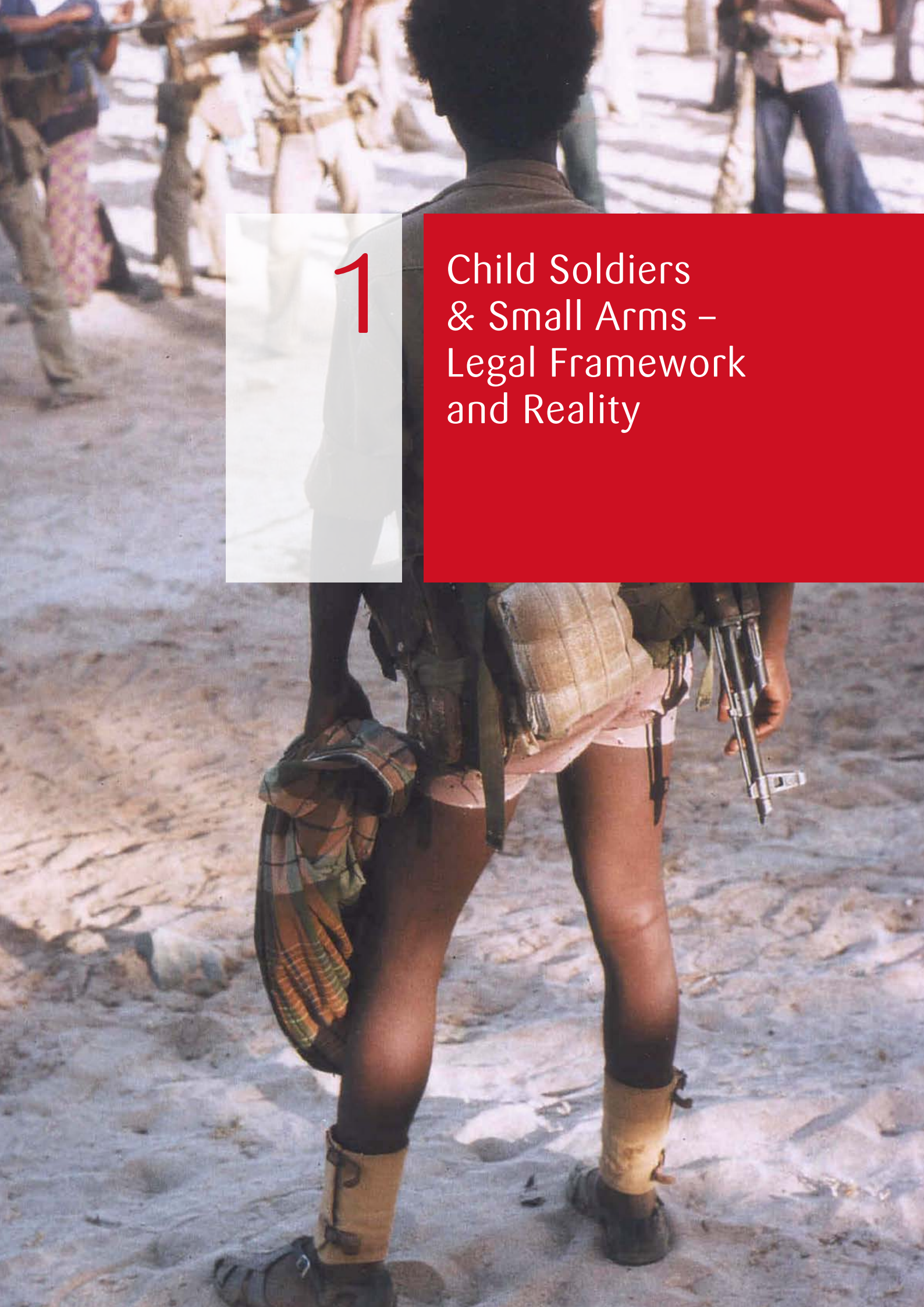
Free Syrian army's young fighters pose in 2013 as they hold positions near the front line.

“Child soldiers”, “small arms” and “arms exports” are common, colloquial terms. Nevertheless, these terms – for the most part – lack a universally accepted political and legal definition. Therefore, the first part of this study will focus on the international efforts in regard to a universal definition of “child soldiers” and “small arms and light weapons”, including the relevant norms, which subsequently can then be applied for Germany. Following this, an overview will be given on the main laws, agreements and regulations relevant for German arms export licensing procedures.

The second part of the study concentrates on an analysis of actual German SALW exports to those countries where child soldiers are being used in armed conflicts or where other grave violations of children's rights were committed. The selection of countries is based on the annual UN reports on children and armed conflict. Based on government documents on German arms exports, an overview will be presented for the total volume of the German SALW trade with those countries. Afterwards, five case studies will be conducted (Colombia, Iraq & Syria, Philippines, India, Yemen), assessing the impact of German small arms in these countries and identifying decisive factors for the proliferation of these weapons there.

Based on the findings of the case studies, the third part of the study will assess the structural factors fostering the proliferation of German small arms. Here, such issues as the long-term effects of licensed production of small arms or the risks stemming from the legal or illegal re-export of German weapons into regions of conflict will be analyzed. In addition, the often neglected issue of the role of ammunition will be dealt with.

The final part of the study will evaluate the previously gathered findings and translate them into specific recommendations for actions, through which the German government can improve the implementation of the international agreements for the protection of children in armed conflicts.



1

Child Soldiers & Small Arms – Legal Framework and Reality

1.1. Child soldiers and the violation of international norms

“I tried to refuse but I couldn’t. I just had to go with them [al-Shabaab]. If you refuse, maybe sometimes they come and kill you or harm you, so I just went with them. One of my friends who was older than me, they came and started with him the same as they did to me and he refused, and they left him but another day they found him on the street and shot him.”¹

Unknown 14-year-old boy from Kenya on recruitment attempts by the al-Shabab-Militias, 29-5-2011

„The recruitment and use of child soldiers is one of the most flagrant violations of international norms“, wrote Peter W. Singer in 2001.² Despite the constant progress in regard to the legal protection of children and the growing global consensus that weapons didn’t belong in children’s hands, child soldiers remain a common sight on the worldwide battlefields. Despite the fact that an increasing number of states abandon the practice of recruiting children, the number of child soldiers remain high. According to the United Nations and NGOs active in this field, there are currently between 250,000 and 300,000 child soldiers under age 18, 40 % of them girls.³

Even though child soldiers are the focus of this study, it is important to point out here that not only the recruitment of children constitutes a violation of children’s rights in armed conflicts. Based on the Security Council Resolution 1539 (2004) the UN Security Council established in Resolution 1612 six grave violations of children’s rights in armed conflicts: Next to the recruit-

ment of children, these are kidnappings and abductions of children, their killing and maiming, sexual violence against children and attacks on schools and hospitals as well as the denial of access to humanitarian aid.⁴ As illustrated in Figure 1, these violations are a common occurrence in armed conflicts where child soldiers are being used. While the focus of the study lies on the interrelationship between small arms exports and the recruitment of children, one must bear in mind, that, in general, these arms deliveries to parties of conflict also provide the instruments for other grave violations of children’s rights, for example, intimidate and force children to commit acts of violence and crime as well as destroying essential infrastructure.

1.1.1. Child soldiers on many battlefields worldwide

The very large number of child soldiers is closely connected to the structural characteristics of current conflicts. The number of interstate wars is continually declining. Instead, the number of violent internal conflicts with the involvement of transnationally active armed non-state-actors is on the rise. This development is mirrored in regard to the occurrence of child soldiers: While the annual report of the UN General-Secretary on “Children and Armed Conflict” for 2002 mentions 23 armed groups which have recruited children, the annual report for 2015 already includes 58 armed groups.⁵ These are primarily armed non-state actors in mainly asymmetric conflicts who are using child soldiers. But many governments also keep recruiting minors to staff the ranks of their forces. This is especially the case where police forces are also involved in counter-insurgency efforts and/or if paramilitary units are fielded in support of the regular forces.

1 Human Rights Watch (2012): No Place for Children. 2012, p.20.

2 Peter W. Singer (2010): Caution – Children At War. Parameters, Winter 2010–11, p.160.

3 <http://www.un.org/youthenvoy/2015/02/4-10-child-soldiers-girls/> (last accessed 4-10-16)

4 UN-Security Council (2004): Resolution 1539. UNO S/RES/1539/2004, UN-Security Council (2005): Resolution 1612. UNO S/RES/1612/2005; also see Office of the Special Representative of the Secretary-General for Children in Armed Conflict: The Six Grave Violations Against Children in Armed Conflict. UNO, Working Paper Nr. 1, 2013.

5 See UNO (2003): Report of the Secretary General on children and armed conflict. UN Dok. S/2002/1299, p.14; UNO (2016): Report of the Secretary General on children and armed conflict. UN Dok. S/2016/360, S.39. All in all 51 armed non-state actors and 8 armed forces are listed in the annex of the recent UN report for 2015 as having committed one or more of the six grave violations of children’s rights in armed conflict.

Figure 1: Use of child soldiers (2002–2015)⁶

(in brackets the years, if they differ from the total time-period)

Country	Armed Forces	Police & allied Militias	Opposing Armed Groups	Commitment of other Grave Violations of Children's Rights
Afghanistan (since 2002)	yes (since 2008)	yes (since 2008)	yes	yes
Burundi (2002–2009)	yes (2002–2005)		yes (2002–2006)	yes
CAR (since 2006)	yes	yes (since 2009)	yes	yes
Chad (2005–2013)	yes (2006–2013)	yes (2006–2012)	yes	yes
Colombia (since 2002)	yes (2006–2011)	yes (until 2006)	yes	yes
DR Congo (since 2002)	yes		yes	yes
Ivory Coast (2003–2014)	yes	yes	yes	yes
India (since 2009)		yes (2011–2012)	yes (2009)	yes
Iraq (since 2002)		yes (since 2008)	yes	yes
Israel & Palestine (since 2004)	yes (2006–2012, 2014)		yes (since 2006)	yes
Lebanon (since 2005)			yes	yes
Liberia (2002–2006)	yes		yes	yes
Libya (since 2011)	yes	yes	yes	yes
Mali (since 2012)		yes	yes	yes
Myanmar (since 2002)	yes		yes	yes
Nepal (2002–2011)			yes	yes
Nigeria (since 2013)		yes	yes	yes
Pakistan (since 2009)			yes	yes
Philippines (since 2002)	yes (2009–2012)	yes (2005–2010)	yes	yes
Russia / Chechnya (2002–2004)			yes	yes
Somalia (since 2002)	yes	yes	yes	yes
Sri Lanka (2002–2011)		yes (2005–2010)	yes	yes
South Sudan (since 2011)	yes	yes	yes	yes
Sudan (since 2002)	yes (since 2005)	yes (since 2003)	yes	yes
Syria (since 2011)	yes (2011–2012)	yes	yes	yes
Thailand (since 2006)		yes (since 2010)	yes (since 2009)	yes
Uganda (2003–2009)	yes	yes	yes	yes
Yemen (since 2009)	yes (since 2011)	yes	yes	yes

⁶ Source: Annual Reports of the UN Secretary-General on children and armed conflict. Since the focus of this overview is on the recruitment of child soldiers, the following countries are not listed: During the conflicts in Georgia (2008) and Haiti (2005–2010) no recruitments of child soldiers were documented in the annual reports of the UN. Angola, Guinea-Bissau, Congo and Sierra Leone were already in the final phase of demobilizing child soldiers in 2002 and therefore were not really mentioned in subsequent reports.

Figure 2: Countries where children are used as soldiers in armed conflicts

In at least 20 countries children are used as soldiers in armed conflicts. Responsible for this are non-state armed groups (in 20 countries) and state armed forces (in 8 countries).

Figure: terre des hommes. Source: UN Secretary-General's Annual Report on Children in Armed Conflict, April 2016

Since 2002, the annual UN-reports on “Children and Armed Conflict” have listed a total of 33 countries where the recruitment of child soldiers and/or other violations against children in armed conflicts according to UN Security Council Resolution 1612 was documented. Figure 2 shows that children are currently affected by armed conflicts in at least 20 countries. The majority of these countries were mentioned in many of the previous reports. Due to a lack of reliable information from the various armed groups themselves, it is impossible to identify the exact number of child soldiers in their ranks or the grave violations according to UN Security Council Resolution 1612 committed by these groups.

The reasons and underlying causes leading to the recruitment and use of child soldiers are numerous and almost indistinguishable from one another.⁷ In light of the increasing duration of these conflicts and the ensuing entrenchment one can assume that child soldiers will be continue to be recruited in the future to match the losses. In addition, new non-state actors

keep on joining these conflicts, i. e. for the self-protection of the local population affected by the conflict or because criminal groups attempt to take advantage of the increasing power vacuum once the state monopoly on the use of force is no longer exerted. By including police forces and paramilitary units, militias or private security companies in their counter-insurgency strategy, governments further increase the number of armed actors involved. All of these armed state and non-state actors frequently draw on children to fill their ranks.

An additional factor making the further recruitment of children highly probable is the continued erosion of international law, which has already been weakened substantially by the “Global War on Terror”. The threshold for committing war crimes seems to be lowered continuously on all sides of the conflict. Children accompanying suspected insurgents are considered legitimate military targets or considered as justifiable collateral damage. Radical Islamist groups like ISIS/ISIL are increasingly using children as instruments and weapons by recruiting them for suicide bombings.

All in all, the issue of child soldiers is by no means off the table. On the contrary: the continual erosion of international law due to changes in the character of war conducted by the parties to the conflict increases the urgency for action to protect children in armed conflicts.

⁸ See Rachel Brett / Irma Specht: *Young Soldiers – Why They Chose to Fight*. ILO 2004; Michael Pittwald (2004): *Kindersoldaten und neue Kriege*. Osnabrücker Jahrbuch Frieden und Wissenschaft, pp.207ff.; Ah-Jung Lee (2009): *Understanding and Addressing the Phenomenon of “Child Soldiers”*. Refugee Studies Centre, Working Paper Series Nr. 52. Further information can be found at terres des hommes Deutschland (www.kindersoldaten.de) or Child Soldiers International (www.child-soldiers.org).

1.1.2.

Between morality and reasons of state – Defining child soldiers

“Children represent the future of human civilization and the future of every society. To permit them to be used as pawns in warfare, whether as targets or perpetrators, is to cast a shadow on the future. From generation to generation, violence begets violence, as the abused grow up to become abusers. Children who are thus violated carry the scars of fear and hatred in their hearts and minds. Forced to learn to kill instead of pursuing education, the children of conflict lack the knowledge and skills needed to build their own futures and the futures of their communities.”⁸

Otunnu, Special Representative of the UN General-Secretary on Children and Armed Conflict, 1998.

So far, the International Community has only partially heeded the call of the former UN Special Representative for Children in Armed Conflicts, Olara Otunnu. The struggle for definition of child soldiers is characterized by the conflicting relationship between state security policy interests and the widely shared ethical and moral consensus in these states on improving the protection of children. Governments keep regarding children as an important reserve pool for their armed forces. The system of compulsory military service, still in place in many states, is probably the most well-known practice to collect, recruit and train children for the military. But even states that have abandoned the draft system or – as in the case of Germany – suspended conscription – still want to retain the possibility to recruit minors.

Due to states being the primary actors and subjects in the realm of international law, the international debate on the codification of child protection measures is centered on the dimension of „classic“ interstate conflicts. In comparison, the dimension of internal conflicts has, until today, been neglected, even though the majority of armed conflicts is of a domestic nature and therefore also involve a different set of actors, i. e. police forces and private security companies. The recruitment practices of these armed actors were largely ignored despite the fact that the police in many countries, for instance, recruit youths and instructs them to use firearms, and that police units or militias are also directly involved in the fight against terrorism or insurgencies.

Info-Box 1

Countries legally permitting the recruitment of minors by the armed forces⁹

Algeria, Australia, **Austria**, Azerbaijan, Bangladesh, Barbados, Belorussia, Bolivia, Brazil, **Canada**, Cape Verde, Chile, China, Cuba, Cyprus, Egypt, **Germany**, El Salvador, **France**, **Great Britain**, Guinea-Bissau, **India**, Iran, Israel, **Lebanon**, Malaysia, Mauretania, Mexico, New Zealand, **Netherlands**, North Korea, **Pakistan**, Papua New-Guinea, **Philippines**, Zambia, Sao Tome and Principe, Saudi-Arabia, Seychelles, Singapore, **South Sudan**, Tonga, United Arab Emirates, **USA**, Vietnam

* Bold: NATO and EU countries

** Red: countries, in which child soldiers are used in armed conflicts by at least one conflict party.

Below, is a short overview of the relevant provisions of the international agreements with regard to child soldiers.¹⁰ The starting point is the “Protocol 1 Additional to the Geneva Convention of 12-8-1949 and relating to the Protection of Victims of International Armed Conflicts“ from 1977. Article 77 of the protocol established a first binding definition for the use of child soldiers in international law. The article prohibits the military recruitment and use of children under the age of 15. Training and deployment of youths between age 15 and 17 remains permitted. Based on Protocol 1, the International Criminal Law classifies the recruitment of children under 15 years of age or their use in hostilities as a war crime (Art. 8 para 2b and 2e of the Statutes of Rome, 1998). Since then, it has been possible for the International Criminal Court (ICC) to prosecute individuals who have ordered the recruitment of children under 15 or sent them into combat. So far, the ICC, which was founded in 2002, has conducted five related prosecu-

⁸ UNO (1998): Protection of children affected by armed conflict – Note by the Secretary General. UN General Assembly A/53/482, p.5.

⁹ This country list is based on information kindly provided to the author by Child Soldiers International.

¹⁰ The original versions of the international agreements can be found on the webpage of the UN for children and armed conflict: <https://childrenandarmedconflict.un.org/virtual-library/international-law/>

tions and achieved one conviction for the recruitment of child soldiers.¹¹ Furthermore, some special courts, as in Sierra Leone in 2002, have dealt with these violations. In 2012, the Special Court for Sierra Leone sentenced the former president of Liberia, Charles Taylor, to 50 years in prison because of, among other charges, the recruitment of child soldiers.

In its definition of child soldiers, the Convention on the Rights of the Child (CRC) took a big step forward. The CRC, which was agreed upon in 1989 and entered into force in 1990, belongs to the international human rights treaties with the most ratifications and accessions (2016: 196 states). Due to its universality, the CRC has had a broad political impact. Since this convention is also applicable in times of peace – unlike the Geneva Convention and its Protocols, its provisions also have to be observed in internal conflicts. Art. 1 CRC defines children as all persons under the age of 18 and thereby entitles them to all children's rights. Art. 19 affirmed that the protection from physical (and mental) violence belongs to the most essential children's rights. Nevertheless, Article 38 para 3 CRC, based on Art. 77 of the Protocol 1, continues to permit governments to recruit children older than 15, but calls on the states to recruit the oldest first. Art. 38 para 4 CRC the convention also maintains that all states shall undertake all feasible measures to ensure the protection of all children affected by armed violence.

The “2nd Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict” (OPAC) of 2000 raises the protective standard of the CRC. Based on Article 38 para 3 CRC, special protection is to be extended to all minors until

their adulthood. Art. 1 OPAC obliges the states to ensure that under age recruits of their armed forces don't participate in hostilities. In Art. 3 OPAC, the minimum age for forced recruitment is raised to 18. At the same time, the voluntary recruitment of children above 15 years by state armed forces remains possible under certain conditions. The subsequently agreed catalogue of suggested measures to ensure a “voluntary” recruitment does leave room for interpretations and therefore makes it almost impossible to monitor their implementation.¹² These exceptions to the general minimum-age for recruitment are not available to non-state actors. Art. 4 OPAC categorically rules out any underaged recruitment by these groups. This differentiation between potential parties to a conflict illustrates how the state-biased approach shaped CRC and OPAC.¹³

A further important international agreement in regard to the treatment of child soldiers is the 1999 “Convention on Worst Forms of Child Labor” (Convention No. 182) of the International Labor Organization (ILO). Article 3a of the Convention prohibits the forced recruitment of children below age 18 as one of the worst forms of forced labor. While a voluntary military service is not prohibited, Art. 3d does state that any work, which by its nature or circumstances likely to harm the health, safety or morals of children, is to be treated as the worst form of child labor and therefore prohibited. Undeniably, military services fall into this category and should also be ruled out for all children by the signatory states.

The “Paris Principles and Guidelines on Children, Associated with Armed Forces or Armed Groups” of 2007 was important to clarify and specify the term “child soldier”. 105 countries, including Germany, agreed to treat all children under 18 associated with armed groups as child soldiers, regardless of the specific task they are ordered to carry out. Therefore, child soldiers are not only those who do active military duty but also those who carry out other tasks for state armed forces or other armed groups (like espionage, mine clearance, messenger services, cooking or other supporting tasks), are abducted for sexual services and abused or forcefully recruited. According to this agreement, all of the children affected in this way are entitled to support and protection by the signatory states.

¹¹ For the court cases see <https://childrenandarmedconflict.un.org/our-work/role-of-the-icc/> und <https://www.icc-cpi.int/Pages/Home.aspx>.

¹² For critical comments to the implementation of these measures see Hendrik Cremer (2013): Schattenbericht Kindersoldaten 2013. Deutsches Bündnis Kindersoldaten, p.9ff.

¹³ Despite this short-coming, Art. 4 OPAC offers a chance for dialogue with armed groups on this issue. On this basis, it was possible for the UN to negotiate “action plans” with various armed groups to stop the recruitment of children and arrange for their demobilization, e.g. with the Liberation Tigers of Tamil Eelam (Sri Lanka) or the Moro National Liberation Front (Philippines).

Substantial progress has been achieved in regard to the protection of children in armed conflicts since 1997. At the same time, the contradiction between the postulated goal of extending special protection to all children in armed conflicts and the security policy interests of many states to keep recruiting children for their armed forces has not been resolved. Furthermore, the insistence by states to maintain this option of recruitment makes it more difficult to implement the under-18 recruitment ban for non-state armed groups.

1.1.3.

Germany's obligations and reality

Germany has ratified all the agreements mentioned above – so far, so good.¹⁴ But on one crucial point, which also has been criticized by the UN Committee for the Rights of the Child in 2008 and 2014, the German government refuses to budge: The Bundeswehr continues to recruit minors on a “voluntary” basis. In 2016, 1,946 boys and girls of age 17 were enlisted for the “voluntary military service”, more than ever before.¹⁵ In the army, they receive the same military training as adults and are also housed in the same locations. The only difference to regular military training is that under-aged soldiers are not sent on military missions abroad and are not assigned to guard duties.

By ratifying these agreements, Germany has committed itself to shape its foreign relations in such a fashion as to further improve the protection of children (Art. 7 OPAC). With regard to child soldiers, this means supporting other countries by providing expertise and appropriate funds in order for these countries to stop forced recruitments and train their personnel properly. In this regard, the present German policies concerning bilateral military training aid and the participation in military interventions of the UN, the EU or NATO, pose a dilemma for the Bundeswehr and the government.

Info-Box 2

Campaign “Straight 18”

Referring to the ILO-Convention of 1999, the OPAC of 2000 and the Recommendations of the UN Committee on the Rights of the Child for Germany (2008 and 2014), as well as in line with the demands of the Children's Commission of the German Parliament, the German Coalition to Stop the Use of Child Soldiers (www.kindersoldaten.info) strives to raise the minimum age for military service in Germany to 18 years.¹⁶ It is not only aimed at advancing the protection of children in Germany but also at improving the credibility of German efforts to advance child protection internationally.

At the same time, raising the age-level for recruitments would lead to extending the well established ILO-standards of a minimum age for dangerous and unhealthy jobs to the armed forces. Furthermore, “Straight 18” would deny Armed Forces from the temptation to deploy 17-year olds on military missions because of their previously gained military knowledge. In general, the campaign assumes that protecting children from recruitment also contributes to the prevention of further violations of children's rights in armed conflicts. Last but not least, it aims to protect children from physical and mental traumas ensuing from their participation in armed conflict.

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- ¹⁴ Germany has not joined all international agreements. For instance Germany's signature of the “Safe Schools Declaration” of 2015 for an improvement protection of schools and universities in armed conflicts.
- ¹⁵ UN Committee on the Rights of the Child (2014): Concluding observations on the combined third and fourth periodic reports of Germany. UN-Dok. CRC/C/DEU/CO/3-4, p.14ff.; Deutscher Bundestag (2016a), Drucksache 18/10313, p.36; For more background information see Deutsches Bündnis Kindersoldaten (2016): Minderjährige und Bundeswehr, and Terres des Hommes / GEW (2016): Kinder im Visier.
- ¹⁶ Kommission zur Wahrnehmung der Belange der Kinder (2016): Stellungnahme zum Verhältnis von Jugend und Militär in Deutschland. Deutscher Bundestag, Kommissionsdrucksache 18/16, 21-9-2016, p.9; For the recommendations of the UN Committee see UN Committee on the Rights of the Child (2014), *ibid.*, p.15.

Info-Box 3

Risk factor “Military Training”

In Northern **Afghanistan** the Bundeswehr provided support for and cooperated with the Afghan National Security Forces (ANSF) even though the Bundeswehr was well aware of the ANSF recruiting children. In 2008, the German Ministry of Defense published a feature on the Afghan National Army on its homepage: “The range of ages is broad. The youngest is just 16 years old, the older are already in their mid-thirties and some have already fought with the Northern Alliance against the Taliban.”¹⁸ Even more problematic are the Afghan National Police (ANP) and Afghan local Police (ALP): Both have been included regularly in the so-called “List of Shame” of the annual UN-reports on children and armed conflict. The share of minors in the ALP is estimated to be as high as 10%.¹⁹ Nevertheless, this had no impact on the cooperation of the Bundeswehr with ANP and ALP. Instead, the German government repeatedly denied that children were recruited in Afghanistan. In 2010, the German government incorrectly claimed that the recruitment of children in Afghanistan was prohibited. This was only achieved later in 2015 by a Presidential Decree.²⁰ And it remains to be seen in any case, how much such a decree changes the reality on the ground. In February 2016, a 10-year old ALP-recruit was honored for fending-off a Taliban attack with his AK47.²¹

Somalia: Since 2010 the Bundeswehr has contributed to EUTM Somalia and trained Somali recruits in Uganda (and also in Somalia from 2014). In November 2010, the Somali Prime Minister promised to make certain that no underaged children would be recruited.²² This promise has not been implemented so far. In 2015, more than 200 cases of child recruitment by the Somali government forces were documented.²³ By tightening the checks and introducing medical examinations, the EU tries to ensure that at least the soldiers trained in Uganda aren’t underaged.²⁴ But even if this works, the fact remains, that Germany and the EU support an army that deliberately recruits and deploys child soldiers in an armed conflict.

Vis-a-vis countries recruiting children, the Federal Government navigates a thin line between critical dialogue and indirect support of these children’s rights violations by cooperating militarily. The Federal Government stated in 2010: “Within the framework of training and equipping armed forces, the Federal Government does not support any country which is not in compliance with CRC and OPAC.”¹⁷ In some cases, like the EU Training Mission for Somalia, attempts were made to identify child soldiers in the Somali forces by medical examinations (see Info-Box 3). The effectiveness of such measures is difficult to assess and doesn’t change the fact that, aside from the specific training offered by the EU, the recruitment of children by the armed forces in Somalia continues to be tolerated. The bilateral military training of foreign soldiers in Germany or the home nation poses similar problems: How prominent are awareness-raising efforts concerning the issue of child soldiers in the training courses offered? Can it be ruled out that officers trained in Germany return to their home countries and then command units with under-aged recruits?

¹⁷ Deutscher Bundestag (2010a), Drucksache 17/2998, p.5.

¹⁸ Bundesministerium der Verteidigung (2008): Militärische Grundausbildung in Afghanistan. (published online 2-8-2008).

¹⁹ In 2007 more than 200 children were counted in the ranks of the ANP in Kandahar province, see IRIN (2007): Child Soldiers Operation on Several Fronts. (online), 19-12-2007; Between 2010–2014 the UN documented 560 cases of recruitment of children in Afghanistan. Of these about 25% of the ANSF and militias, see UNAMA (2015): Bearing the Brunt of Conflict in Afghanistan. p.1.

²⁰ Deutscher Bundestag (2010a), s.o., p.6; Child Soldiers International (2015a): Briefing to the All Parliamentary Group on Afghanistan; Lauren Chadwick (2016): Afghan Forces Use Child Soldiers, and the U.S. Still Gives Them Money. Foreign Policy (online), 3-8-2016; UN News Service (2014): Afghanistan plans to stop child soldiers with a ‘road map’. (online) 4-8-2014.

²¹ Spencer Ackermann / Sune Engel Rasmussen (2016): US military attacked for complicity in Afghan child soldiers after boy’s murder. The Guardian, 4-2-2016.

²² Tesfa-Alem Tekle (2010): UN – Somalia’s new PM vows to end child recruitment into army. Sudan Tribune (online), 4-11-2010; UNO (2010): Report of Secretary-General on children and armed conflict in Somalia. UN- Dok. S/2010/577.

²³ UNO (2016), *ibid.*, p.19.

²⁴ Deutscher Bundestag (2010b), Drucksache 17/2372, p.3.

1.2. SALW – Orphans of arms control

In accord with the Paris Principles, Germany committed itself to refraining from supporting any conflict party which violates the children's rights listed in the CRC. Notably, the supply with and access to weapons, especially SALW, is to be restricted: "6.24 States (...) should seek to limit the supply of arms and other support to parties unlawfully recruiting or using children in armed conflict. Control of the availability of small arms and light weapons may be especially important in reducing children's capacity to participate in armed conflict."

The UN Committee on the Rights of the Child has called upon the Federal Government in 2008 and 2014 to introduce a special ban for the sale of weapons if the final destination is a country in which child soldiers are recruited or where they are employed in hostilities.²⁵ In its reply of 2010 the Federal Government declined any need for action. According to the Federal Government, the recommendation of the UN Committee is already served by the "Political Principles for the Export of War Weapons and Other Military Equipment", since this includes an assessment of the human rights situation in the recipient country as part of the licensing procedure.²⁶

Overall, at least three specific requirements for action can be identified for the German government in order to implement UN-recommendations:

- ▶ There is no definitive unequivocal commitment of Germany to not export weapons in countries which use children in armed conflicts. Furthermore, there is ample evidence that the Federal Government keeps granting arms export licenses to these countries, and German arms manufacturers then export the weapons (see examples given in Chapter 2).
- ▶ Presently, it can't be ruled out either bilaterally or in the framework of multilateral military interventions that Germany cooperates militarily with armed forces that recruit children by force and use child soldiers in hostilities.
- ▶ The practice of recruiting underaged children for a voluntary military service in the Bundeswehr creates unnecessary grey areas, i. e. with regard to the "voluntary nature" of the decision and the full comprehension of the implications of a later combat duty by the child.

The death toll from small arms dwarfs that of all other weapons systems – and in most years greatly exceeds the toll of the atomic bombs that devastated Hiroshima and Nagasaki. In terms of the carnage they cause, small arms, indeed, could well be described as "weapons of mass destruction"²⁷

UN General-Secretary Kofi Annan, 2000.

According to current research by the Initiative "Geneva Declaration on Armed Violence and Conflict" Small Arms and Light Weapons (SALW) were responsible for a third of all casualties in armed conflicts between 2007 and 2012.²⁸ But for a long time they were actually treated more like the little orphans of arms control by the international community. Until the 1990s they were overshadowed by large weapons systems, such as tanks, artillery or fighter aircraft. This reflected the emphasis on interstate wars and the East-West confrontation that dominated military and security thinking after World War 2. While NGOs tried to push the issue of SALW-proliferation to be placed on international agenda relatively early on, a change in thinking only occurred under the impression of the bloody civil wars in Yugoslavia, Somalia and Rwanda.

²⁵ UN Committee on the Rights of the Child (2014), *ibid.*, p.14ff.

²⁶ Bundesministerium für Familie, Senioren, Frauen und Jugend (2010): Dritter und Vierter Staatenbericht der BRD zur Umsetzung des Übereinkommens über die Rechte des Kindes. p.24.

²⁷ Kofi Annan (2000): *Wir, die Völker – Die Rolle der Vereinten Nationen im 21. Jahrhundert*. UN-Dok. A/54/2000, p.39.

²⁸ Sekretariat der Geneva Declaration on Armed Violence (2015): *Global Burden of Armed Violence – Every Body Counts*. GDAV Executive Summary, p.2.

1.2.1.

Relevance of small arms for child soldiers and children's rights

The first statements and studies of the United Nations on the issue of child soldiers in the mid-1990s already included references to the special importance of “Small Arms”. The first report for the UN General Assembly stated in 1996: “Involving children as soldiers has been made easier by the proliferation of inexpensive light weapons. Previously, the more dangerous weapons were either heavy or complex, but these guns are so light that children can use them and so simple that they can be stripped and reassembled by a child of 10. The international arms trade has made assault rifles cheap and widely available so the poorest communities now have access to deadly weapons capable of transforming any local conflict into a bloody slaughter.”²⁹

In comparison to other weapon categories, small arms and certain light weapons possess a number of characteristics, which make it attractive for armed forces and other armed groups to equip child soldiers with them:

- ▶ Small Arms and the corresponding ammunition are available in large quantities. The research institute Small Arms Survey estimates that there are 875 Million SALWs in circulation worldwide.³⁰ These weapons and their spare parts are also comparatively easy to acquire illegally.
- ▶ Small Arms are easy to carry. The use of new light materials, e.g. polymer, reduces the weight. The current G36 assault rifle of the Bundeswehr weighs 1kg less than its predecessor G3.
- ▶ Rifles and machine guns remain intimidating if carried by children.

- ▶ In comparison to more complex, large weapon systems (tanks, howitzers), the handling of SALWs is much easier to learn.
- ▶ Due to the high rates of fire and improved penetrating power semi-automatic and automatic weapons can unfold tremendous destructive power.
- ▶ Modern small arms have fewer parts. Therefore maintenance and repair are relatively easy to learn.
- ▶ Pistols and hand grenades can be used by children who are unable to use or carry rifles for a longer time.

1.2.2.

(Opportune) Grey areas – Defining SALW

“My first role was to carry a torch for grownup rebels. Later I was shown how to use hand grenades. Barely within a month or so, I was carrying an AK47 rifle or even a G3.”³¹

Silvester, child soldier from Burundi, 12-years old at the time.

Even though “Small Arms” and “Light Weapons” are common colloquial terms, no universally accepted legal definition exists on the international level. The European Union, OSCE and United Nations use slightly different definitions for SALW (see Appendix 1). In turn, these differences have consequences for the degree of accountability of SALW as well as for the applicable export licensing procedures for them:

- ▶ While the UN and OSCE consider all pistols and revolvers as small arms, the European Union only classifies automatic pistols (submachine guns) as SALW. This means that standard-issue service pistols, mainly used by the police but often also used by armed forces, are excluded.

²⁹ UN General Assembly (1996): Promotion and Protection of the Rights of Children – Note by the Secretary-General. UN-Dok A/51/306, p.14.

³⁰ see homepage of Small Arms Survey: <http://www.smallarmssurvey.org/weapons-and-markets.html> (last visited 7-10-2016)

³¹ Relief Web (2000): The use of children as soldiers in Africa. p.16.

- ▶ Rifles are differentiated in a similar fashion. While the working definition of the UN covers all rifles, the EU-definition is restricted to military semi-automatic and fully automatic rifles. This means that pump-guns, which are increasingly procured by security forces because of their lethality (“stopping power”) at close range, or precision rifles are generally not covered.
- ▶ Contrary to UN, OSCE and EU limit their definitions to SALW, which are explicitly designed for military purposes or introduced by the military. Thereby, the complete segment of “law enforcement firearms” is excluded. The same holds true for the precision rifles or semi-automatic rifles classified and sold as sporting arms.

Particularly the differentiation between civilian and military handguns is antiquated. Distinguishing these firearms along their technical properties (i.e. used ammunition, firepower, add-ons – silencer, targeting and night sights) is becoming increasingly difficult because of the technological developments. Semi-automatic rifles, like the OA15 by Oberland Arms, and pump-guns are likewise suitable for security forces. The so-called precision rifles for huntsmen and sport marksmen can also be used as sniper rifles by armed forces. And then there are the numerous “civilian” semi-automatic versions of fully automatic military rifles, like the SL8, MR556 or MR762A1 sporting arms made by Heckler&Koch (the assault rifles G36, HK416 and HK417 serving as the model). The differentiation between pistols designed for civilian use (incl. law enforcement) and military use is even more difficult. The majority of pistols are being developed for law enforcement agencies, marksmen and the civilian market but are also procured by the armed forces. More importantly though, albeit largely ignored, is the fact that, in many parts of the world, the police and other irregular armed groups do participate in regular combat missions, therefore making their equipment a relevant issue.

Considering this, the working definition for SALW established by the UN in 2001 offers the most sensible starting point for analyzing and assessing the effects of SALW-exports to countries where child soldiers are used in armed conflicts. Contrary to the EU- and OSCE-definition, the UN-definition has global reach and avoids the fictitious differentiation between civilian and military weapons, which, in the past, only opened up unnecessary room for interpretations subsequently used to further the proliferation of German small arms to crisis-prone regions. Furthermore, it wouldn't do justice to the seriousness of the issue at hand, if pistols or civilian semi-automatic rifles were to be excluded from the data collection on weapon deliveries. But the UN working definition for SALW also has two shortcomings:

- ▶ While grenade launchers and grenade pistols are covered by the UN-definition, hand grenades are excluded. This ignores the significance of this type of weapon especially in low-intensity conflicts. These cheap, easy-to-carry and very destructive weapons are often being freely handed to the very youngest of child soldiers (along with pistols): “There were about a hundred of us in the camp and 20 of us were under 18. The youngest was between eight and ten years old. The smaller ones were taught how to use a pistol and how to throw grenades”, reports a 14-year old child soldier from Somalia.³²
- ▶ Important supplements, especially for rifles – like silencers, targeting sights or night-sights, are not covered by the definition, even though these increase the deadliness and possibilities of use of SALW exponentially.

³² Human Rights Watch (2012), *ibid.*, p.30.

Info-Box 4**Hand grenades and anti-personnel mines**

Hand grenades are simple and easy to use and, in respect to their effects, truly vicious weapons. The fragmentation grenade DM51 produced by the company Diel Defence releases 6,500 metal balls, which tear apart any person within a 10–15m radius and cause injuries up to 30m away. A child need only be able to throw the hand grenade in time and far away enough. Since the Federal Government treats these hand grenades as munition, their exports are not separately identified, neither as weapons of war nor as SALWs. Non-lethal hand grenades (stun or flash hand grenades, which immobilize people by noise or light) aren't even classified as military goods in Germany. Therefore, not even a license is needed for their export.³³

In Germany, anti-personnel mines are also treated as ammunition. With the Ottawa Convention of 1997, these weapons have been banned globally. Germany has ratified the Ottawa Convention, however, some of the countries where child soldiers are still recruited and used (e. g. India, Israel, Pakistan), have not. Anti-personnel mines can be placed by children. Therefore, Germany may encounter further problems in complying with legal commitments given the cooperation of the Bundeswehr with security forces from those countries that continue to use anti-personnel mines.

1.2.3.**Export controls – Of small arms and large gaps**

In regard to its arms export policies for SALW, Germany currently applies the less restrictive standards of the European Union: “Rifles without war weapons list number, revolvers, pistols, sniper rifles, inoperative weapons, hunting rifles, sporting pistols and revolvers, sporting rifles, semi-automatic hunting and sporting rifles and other smooth bore weapons” are not covered.³⁴ The Federal Government justifies the non-application of the OSCE-definition of SALW, which would also include pistols, with the only slight differences existing to the EU-definition. In this way, Germany smoothly shirked its duty to treat pistols and their ammunitions as small arms, even though the government admits that “in reality the differences in construction are almost non-existent” between civilian and military pistols.³⁵

These nuances and fine differentiations in regard to SALW have substantial consequences for the licensing practice and reporting on their exports. The lack of a coherent legal framework for arms exports in Germany further complicates the matter.³⁶ Depending on their classification, SALWs are either subject to the War Weapons Control Act (KrWaffKontrG) and the Foreign Trade and Payments Act (AWG) or only the latter. Both laws pursue different intentions. According to the KrWaffKontrG, “everything is prohibited that isn't explicitly permitted”. The AWG on the other hand follows the principle that “everything not explicitly prohibited is permitted”. In addition, some recipients of German weapons are considered more equal than others. Arms exports destined for NATO- and EU-countries are allowed in principle while similar arms exports to other countries are principally denied. The use of the legal term “principally” already points to the fact that numerous exceptions exist, allowing for flexible and opportune decision-making. Particularly in the segment of small arms, companies and governments have ample room to maneuver to keep potential licensing obstacles as small as possible for lucrative deals and promising markets.

³³ Deutscher Bundestag (2015a), Drucksache 18/7181, p.3.

³⁴ Bundesministerium für Wirtschaft und Energie (2016): Bericht der Bundesregierung über ihre Exportpolitik für konventionelle Rüstungsgüter im Jahr 2015, p.24.

³⁵ Deutscher Bundestag (2012a), Drucksache 17/8835, p.9.

³⁶ The laws, regulations and political guidelines concerning the export of arms quoted and referred to in the following chapters can be accessed on the homepage of the Bundesamt für Wirtschaft und Ausfuhrkontrolle (www.bafa.de) or at <http://ruestungsexport-info.de/ruestung-recht.html>.

Exporting weapons of war only in exceptional circumstances and vice-versa

The War Weapons Control Act is the law implementing Article 26 of the Basic Law and follows a more restrictive line on arms exports.³⁷ Companies are not entitled to an export license:

- ▶ According to §6 Art. 2, para 1 KrWaffKontrG, a license is to be denied, “if there is a reason to assume that its granting would militate against the interest of the Federal Republic of Germany in maintaining good relations with other countries”.
- ▶ According to §6 Art. 3, para 1 and 2 KrWaffKontrG “if there is a danger of the war weapons being used for an act detrimental to peace, especially for a war of aggression” and “if there is a reason to assume that the granting of a license would violate the international obligations of the Federal Republic of Germany or endanger their fulfillment”.

But the KrWaffKontrG is only applicable for the subset of all conventional military goods listed in the “Kriegswaffenliste Teil B”. The following SALW goods are covered: Light weapons (portable anti-tank and air-defense weapons), mortars (including barrels and locks), grenade weapons (rifles, pistols, machine guns), hand grenades, as well as machine guns, submachine guns, automatic rifles and semi-automatic rifles constructed for military purposes, including their barrels and locks. Not covered by this list are all other semi-automatic sporting and hunting rifles, sniper rifles, pistols and the corresponding ammunitions, as well as most components for handguns – with the exception of the above mentioned barrels and locks.

The Foreign Trade and Payments Act is the second pillar of German arms trade legislation. The AWG covers the whole spectrum of military goods, from weapons of war to components and dual-use-items to the transfer of arms-related know-how and production tools. Revolver and pistols, sporting and hunting rifles as well as the corresponding munitions are dealt with in the construct of this law and the related Foreign Trade and Payments Regulation (AWV). In principle, an export license is required for all military goods included in the “Ausfuhrliste Teil 1A”. In regard to SALWs, this means: Most handguns and parts thereof are listed in Position ALO001 and all light weapons listed in ALO002 and partially under ALO004. Munitions for SALW ammunition are listed under ALO003. But to complicate matters further, the export of “civilian” sporting and hunting arms primarily falls under the provisions of the EU Firearms Regulation, which again stipulate different procedures for exports (see Info-Box 5).

³⁷ Art. 26 GG: “(1) Acts tending to and undertaken with intent to disturb the peaceful relations between nations, especially to prepare for a war of aggression, shall be unconstitutional. They shall be made a criminal offence.; (2) Weapons designed for warfare may be manufactured, transported or marketed only with the permission of the Federal Government. Details shall be regulated by a federal law”.

Info-Box 5

German Weapons Act and EU Firearms Regulation

The export of “civilian” small arms, which are not specifically constructed for military purposes and not covered by the KrWaffKontrG or are part of arms deals between states, are regulated by the German Weapons Act and the supra-national EU Firearms regulation of 2012.³⁸ The regulation determines that all firearms, which are not weapons of war, can be exported inside the EU without any license. The permission of the importing country suffices. If the final destination of the weapon is outside the EU, an appropriate export license of the then exporting EU-state is required. For these exports of these small arms to non-EU-states, the licensing criteria of the 2008 Common Position of the European Union are not mandatory. Art. 10 para 2 of the EU Firearms Regulation only states that “Member States shall take into account (...) where appropriate: (...) (b) considerations of national foreign and security policy, including those covered by Common Position 2008/944/CFSP”.



- 38** The complete title of the EU Firearms Regulation reads “EU-Regulation No. 258/2012 of 14. March 2012 implementing Article 10 of the United Nations’ Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition”. In Appendix 1 of the EU-Firearms Regulation and Appendix 1, Section 3 of §1 para. 4 WaffG the categories for firearms are listed.
- 39** According to §4 AWG arms exports should only be denied in the following instances: if this served essential German security interests to prevent a disturbance of the peaceful coexistence of nations, to prevent a substantial disturbance of the foreign relations, to implement decisions of the EU-Council or UN-Resolutions or implement obligations of member states of the EU and international agreements approved by German legislative bodies.

The primary goal of the AWG is the promotion of free commerce. The law is designed to ensure that everything can be exported not explicitly prohibited by the Federal Government and thereby implicitly pursues the promotion of foreign trade. The denial criteria for arms exports stipulated in Art. 4 are almost identical to the criteria formulated in §6 KrWaffKontrG with two further supplements in regard to commitments resulting from bilateral agreements and resolutions of the UN and EU.³⁹ But contrary to the KrWaffKontrG, licenses for arms exports are supposed to be denied only as an exception. Therefore, the export license requirements for small arms covered by “Ausfuhrliste Teil 1 A” don’t automatically imply restrictive export standards. Furthermore, if a license application is denied, the company can file a complaint against the decision with the burden of proof shifting to the government on the reasons for the denial.



In Manyani, a Kenyan police officer inspects the G3-rifles of Somali police recruits. The G3 is produced by the German arms manufacturer Heckler & Koch.

The alternate reality of non-binding guidelines

After it became obvious that reality didn't match the general prohibition on exports of weapons of war according to Art. 26 Basic Law and the KrWaffKontrG of 1961, the Federal Government introduced so-called "Political Principles on the Export of War Weapons and other Military Equipment" (in short: Political Principles) in 1971. These Political Principles were last revised in 2000.⁴⁰ Their purpose is to provide guidelines for the administration involved in the licensing process for all arms exports, including SALWs. In 1998, the European Union established a similar "Code of Conduct for Arms Exports" which, in 2008, evolved into a "Common Position defining common rules governing control of exports of military technology and equipment" (EU Council 2008/944/CFSP). These measures and export licensing criteria of the EU Common Position are mirrored for the most part in the Political Principles.⁴¹

⁴⁰ The different versions of the Political Principles can be accessed at www.ruestungsexport-info.de/ruestung-recht/politische-grundsaeetze.html.

⁴¹ Europäische Union (2008): Gemeinsamer Standpunkt 2008/944 GASP des Rates vom 8-12-2008 betreffend gemeinsame Regeln für die Kontrolle der Ausfuhr von Militärtechnologie und Militärgütern. For an overview see Bundeszentrale für politische Bildung (2011): Gemeinsamer Standpunkt der Europäischen Union (EU) für Rüstungsexporte. <http://sicherheitspolitik.bpb.de/militaerische-kapazitaeten-und-mittel/hintergrundtexte-m3/infotext-gemeinsamer-standpunkt-der-europaeischen-union-eu-fuer-ruestungsexporte> (last accessed 17-12-2016).

Info-Box 6

Arms Trade Treaty (ATT)

This international arms control treaty entered into force in 2014 and was also ratified by Germany. Therefore, the ATT should also lead to a policy change in regard to the treatment of SALW in Germany. Art. 5 para 3 ATT calls for all states to resort to the broader UN definition of SALW. This would mean an inclusion of sporting and hunting rifles, pistols and revolvers. Art. 6 ATT commits the Federal Government to not export these weapons if they are used for war crimes – with the use of child soldiers constituting such a crime. Furthermore, Art. 7 para 4 calls upon the Federal Government to also take into consideration in the licensing process if arms exports would promote violence against children. So far, there are no indications that the ATT has had any impact on German arms export policy.

Similar to the German Political Principles, the EU guidelines are also not legally binding.

The Federal Government frequently refers to the Political Principles as proof of its restrictive arms export policy, especially in regard to SALWs. The “General Principles” of the Political Principles emphasize the role of human rights in export licensing decisions. They are supposed to be given special consideration. Principally, no license should be granted if there are reasonable grounds to suspect that these military goods will be used for internal repression or other systematic human rights violations. In addition, a number of other criteria should also be evaluated, though these only apply to arms exports to “other third countries” – meaning: not EU-, NATO- or NATO-equivalent countries (Australia, Japan, New Zealand, Switzerland).

- ▶ The export of weapons of war is only to be approved as an exception if special foreign policy or security policy interests call for this.
- ▶ Export of weapons of war and other military equipment will not be approved for countries involved in internal or external conflicts or where an outbreak or escalation of the situation through these arms can be expected.

- ▶ Export decisions shall include an assessment if the sustainable development of the country is burdened by excessive arms expenditures.
- ▶ The behavior of the recipient country in regard to the support and promotion of terrorism, the compliance with obligations of international law and the assumption of obligations in the area of arms control should be taken into account.
- ▶ Arms exports should not lead to the build-up of additional, export-oriented capacities in Germany.
- ▶ The end-use of German military goods needs to be definitely determined. This provision is applicable to all countries. But in regard to EU and NATO countries it is generally assumed that their export regulations are equally restrictive as the German regulations. Therefore lesser demands are made.

Since 2000, the Political Principles have been supplemented by four additional measures especially relevant for SALW exports:

- ▶ Since 2003, the Federal Government has committed itself to license the export weapons of war – including those small arms covered by the German definition – in principle (thus with exceptions!) only to government entities.
- ▶ Since 2003, the Federal Government has applied the principle of “New for Old”. This measure was incorporated into the Foreign Trade and Payments Regulations in §21 para 4 in 2013. Accordingly, sales contracts should be designed to ensure that the recipient of the newly delivered weapons will destroy those weapons subsequently discarded. In 2015, this principle was promoted to material criteria. SALW-exports to EU-, NATO- and NATO-equivalent countries are exempt from this. Therefore France, which will receive more than 100,000 assault rifles from Heckler&Koch in the next couple of years, doesn’t necessarily have to destroy the matching amount of old assault rifles. Instead, they could be handed over or sold to other interested parties. In addition, “New for Old” only applies to those small arms, which are classified as weapons of war in Germany, and since 2015, has also included sniper rifles and pump-guns. Pistols are not covered.

- ▶ The 2015, formulated “Principles of the Federal Government for the Issue of Licenses for the Export of Small and Light Weapons, Related Ammunition and Corresponding Manufacturing Equipment to Third Countries” (Small Arms Principles) introduce a number of important improvements for SALW export controls:
 - ▶ The Term “Small Arms” is extended to include pump-guns and sniper rifles. Private end-users in third countries will principally not receive a license to buy these.
 - ▶ Principally, no export licenses will be granted for the export of components and technologies to “other third countries” which would open a new production line for small arms or their ammunition in these countries. It remains to be seen though what “new” means in this case and if a previous licensed producer of older German SALW indirectly remains entitled to produce slightly modernized versions in the future, e.g. by replacing the G3 licensed production with the G36 licensed production.
 - ▶ The declaration of end-use must also include a commitment that small arms and munitions will not be transferred inside the country of destination without the approval of the Federal Government.
- ▶ In the same year, “Post Shipment Controls” were introduced, thereby creating a possible instrument for end-use monitoring for the first time. This measure, though, will only be applied with the consent of the recipient states and only for future arms sales. During a two-year pilot phase, appropriate end-use control measures will be introduced for SALWs and certain other firearms, such as pistols, revolvers and sniper rifles. These on-site control measures have been incorporated into §21 para 5 of the Foreign Trade and Payments Regulation, but again they don’t apply for EU-, NATO- and NATO-equivalent countries – some of the most important customers for German SALW.

Paradox of German SALW export controls: Thick layered net with many holes

On paper, it seems that there is a tight and multi-layered net of legal and political measures in place for the control of SALW exports. Furthermore, new impetus was provided in 2015 with the Small Arms Principles, the improvements in regard to the application of the principle “New for Old” and the post-shipment controls. But at the same time, the Federal Government admitted with these reforms that – contrary to its public rhetoric of the past, the supposedly restrictive German export policy did have big loopholes and serious deficits.

The Political Principles are not legally binding but only guidelines for the government administration. In regard to the specific licensing decisions, only the KrWaffKontrG and the AWG are legally relevant. Both of these laws lack a comprehensive classification and definition of SALW. The War Weapons Control Act doesn’t cover all small arms related goods: pistols, and sniper rifles as well as other rifles, developed officially for civilian purposes, and the majority of components are not included. A denial of their exports is therefore only possible under the very narrow conditions of the AWG or the EU Firearms regulation (see Info-Box 5).

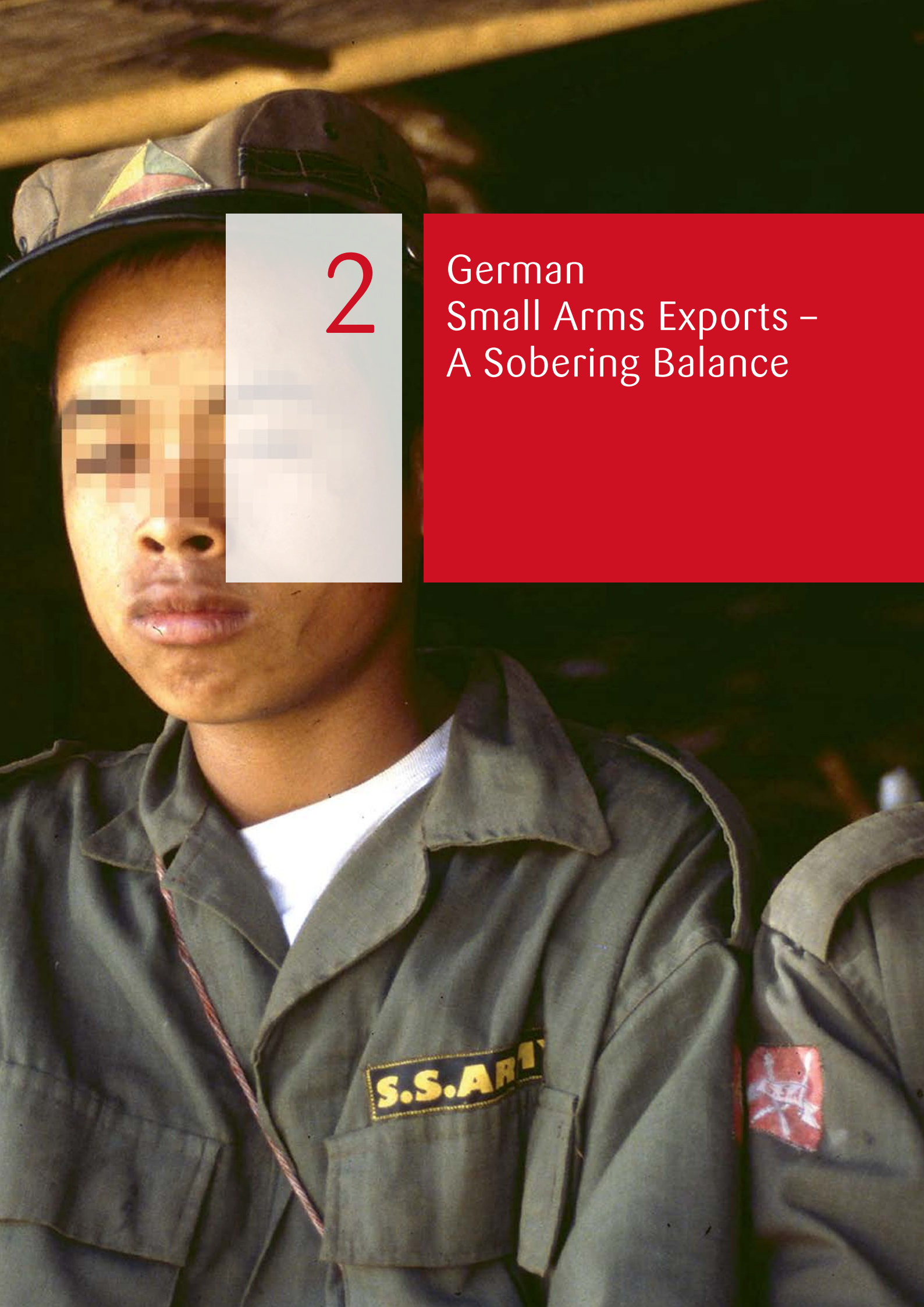
The Political Principles underline that “in principle” doesn’t mean “always”.⁴² EU-, NATO- and NATO-equivalent countries receive special treatment in regard to arms exports, which is contrary to the legal provisions. The War Weapons Control Act doesn’t include a differentiation between groups of countries. Nevertheless, the Political Principles stipulate that exports of weapons of war to these privileged country groups can only be denied in exceptional circumstances. De facto, the Political Principles favor security policy interests and economic-industrial considerations in the decision-making process in comparison to the likely consequences of arms exports for the peaceful coexistence of nations (KrWaffKontrG §6 and AWG §4) or for human rights.

⁴² For a commentary on the meaning of the term “in principle” in German arms export policy see Otfried Nassauer (2011): Grundsätzlich restriktiv – gelegentlich sehr freizügig: Deutsche Rüstungsexportgenehmigungen. BITS (online), 9-12-2011.

Finally, it is necessary to point out another potential loophole in the AWG in regard to end-use controls. Under certain conditions, it is possible for military components to be re-exported without further German approval. Components shipped for instance, to company subsidiaries or other industrial partners abroad and then integrated into complex weapons system, can lose their status as an independent commodity and subsequently be freely exported by the integrating company. This is possible if the assumed value of the components does not amount to more than 20 % of the total value of the new product if integrated in USA, Australia, Japan, New Zealand or Switzerland, or 10 % for all other countries.⁴³ This even extends to components for war weapons. Once integrated into other weapons systems, they can potentially lose their “property” as war weapons and thus only be subject to the legal export regulations of the country where the integration occurs.

The claim made by the Federal Government in response to the recommendations of the UN Committee on the Rights of the Child and to public critique that the Political Principles contain sufficient provisions to prevent arms deliveries to countries in which child soldiers are used in armed conflicts does not correspond to reality.

43 Bundesamt für Ausfuhrkontrolle (2002): Bekanntmachung über die Endverbleibsdokumente nach §17 Abs. 2 AWV. 12-2-2002, p.7. According to the BAFA “Bekanntmachung über Endverbleibsdokumente nach §21 Abs. 6” of 31-3-2016 the former rule of 2002 remains applicable. Also see Deutscher Bundestag (2010c), Drucksache 17/3861, p.8f.



2

German
Small Arms Exports –
A Sobering Balance

For decades, Germany has been one of the top arms exporting nations of the world. Accordingly, large quantities of SALWs are delivered to many countries (see Appendix 3 for an overview of German companies active in the SALW segment). The previous chapter highlighted the large gaps existing in the structure of German policy on arms exports – especially in regard to SALWs. This part of the study analyses the practical application and consequences of the laws and guidelines. The starting point is the evaluation of the available official statistical sources on arms exports to countries listed in the UN annual reports on “Children and Armed conflict”. Subsequently, five case studies will be presented to illustrate the scope and venues where German weapons end up in these conflicts and potentially in the hands of child soldiers.

2.1. Murky waters – Statistics on German arms exports

There are a number of government official sources that contain large amounts of data. But due to different classifications used, it is impossible to extract a coherent picture.⁴⁴ These sources are:

- ▶ The annual “Report of the Federal Government on Its Policy on Exports of Conventional Military Equipment”: this report focuses on the licensing and not the actual exports of arms. In regard to SALW exports, only the granted export licenses to third countries, including their ammunition, are actually listed (see Appendix 3). But again, only figures on SALW licenses for arms covered by the War Weapons Control Act and only for third countries are provided. SALW licenses for EU-, NATO- and NATO-equivalent countries are not included. For other small arms, like pistols or semi-automatic rifles pistols, which – if at all – only need an AWG license, no data is given (see Info-Box 7).
- ▶ Annual Reports to the UN Registry on Conventional Arms (UNROCA): Since 2006, many states have reported actual SALW deliveries to UNROCA. But again, the reports of the Federal Government don’t include pistols or “non-military”-classified semi-automatic weapons since they are not covered by the EU definition.
- ▶ The annual official Commercial Trade Database of the Federal Statistical Office (DESTATIS) for actual exports of items covered by Chapter 93 “Arms and Ammunition, Parts and Accessories thereof”: In principle, this collection includes data on the export of all firearms and light weapons as well as the appropriate ammunition. But the commodity categories only permit a very broad distinction between weapon types and ammunition (see Info-Box 7). For many military weapons (like machine guns or submachine guns), no data is made available by Germany.

⁴⁴ For a collection of annual reports on arms exports, including UNROCA, see <http://ruestungsexport-info.de/zahlen-fakten.html> or www.unroca.org and www.bmwi.de. DESTATIS-figures for the years since 2006 can be researched at www.destatis.de.

For the investigation of German SALW exports to countries, where child soldiers are used, numbers for actual exports are more important than granted export licenses, since with the latter it remains unclear if the transactions actually occurred. Therefore, this analysis will primarily draw upon the figures provided by UNROCA and DESTATIS. Nevertheless, granted licenses will be referred to as supplementary information because each granted license is nevertheless a political statement about the willingness of the Federal Government to endorse an arms deal.

All in all though, these sources need to be handled with care. Contradictory or fragmentary definitions, a lack of comparability of the statistics and, even more so, the lack of reporting requirements preclude any possibility of a precise identification of arms exports. The figures provided can only serve as an indication about the scale of arms exports but do not picture reality.

2.2. Small arms exports on a large scale

“While fighting on the front lines I have seen many types of arms used by the different groups, but none of them were homemade. AK47, LMG, G3, FN FAL, GPMG, RPG, Mark 4, hand grenades, bombs etc.”⁴⁷

Michael Davies, former child soldiers from Sierra Leone.

Official information on SALW-exports is spread thin and doesn't permit a comprehensive and coherent presentation. Nevertheless, the evaluation of the annual reports to UNROCA and DESTATIS at least allow for some general conclusions to be drawn on German trade with small arms and light weapons as well as the corresponding munitions:

Info-Box 7

Comments on available data for exports

- ▶ A precise identification and allocation of export licenses issued for all firearms (i.e. including pistols) or light weapons is only possible as an exception to the rule – indeed, this seems to be intended by the Federal Government.⁴⁵ SALW licenses for these weapons, components, ammunition and production gear is distributed among 9 of the 22 positions of the Ausfuhrliste Teil 1A.⁴⁶ Most of these positions also include licenses for other military goods, which have nothing to do with SALW. Therefore, the significance of the published figures is severely limited.
- ▶ The sub-categories of DESTATIS Chapter 93 selected for the analysis are based on the systematics of the Small Arms Survey. The following categories will be included: 9302 (pistols & revolver), 930320 & 930330 (sporting & hunting rifles), 930510 (parts and accessories for pistols), 930520 (parts and accessories for rifles), 930621 und 930629 (munition for rifles and parts thereof), 93063010 (munition and parts for pistols & revolver”), 93063030 & 93063090 (other parts for munition).
- ▶ Other important components and add-ons, like night sights or rifle scopes, can fall under EU Dual-Use Regulation. Since there is no statistical information available on the export of these goods, they are largely left aside in this study.

⁴⁵ See Deutscher Bundestag (1998), Drucksache 13/10104, p.15: “§ 30 des Verwaltungsverfahrensgesetzes in Verbindung mit § 203 des Strafgesetzbuches zwingen im Einzelfall zur Geheimhaltung von Daten über Exportvorgänge (Schutz von Betriebs- und Geschäftsgeheimnissen, Statistikgeheimnis), wenn aus den bekanntgegebenen Daten Rückschlüsse auf einzelne Geschäfte einer konkreten Firma gezogen werden können”.

⁴⁶ For an analysis of German SALW-export license policy the following positions of the Ausfuhrliste Teil 1A need to be considered: (Handfeuerwaffen), A0002 (Mittel- und Großkalibrige Waffen), A0003 (Munition für Klein-, Mittel- und Großkalibrige Waffen), A0004 (Bomben, Torpedos und Flugkörper), A0016 (unfertige Erzeugnisse für die Herstellung der oben genannten Waffen und Munition), A0017 (Verschiedene Ausrüstungsgegenstände, Materialien und Bibliotheken), A0018 (Herstellungsausrüstung), A0020 (Software), A0021 (Technologie). With the exception of A0001 the values given for other positions can also include licenses for completely unrelated weapons.

⁴⁷ At an event of the Deutsches Bündnis Kindersoldaten on Red Hand Day 2014 in Berlin.

Figure 3: SALW exported by Germany (2006–2015)

No.	Small Arms
16,040	Revolver & Pistols ⁴⁸
85,065	Rifles & Carbines
71,969	Submachine Guns
170,448	Assault Rifles
7,896	Light Machine Guns

No.	Light Weapons
69,877	Handheld Underbarrel and Mounted Grenade Launchers
60	Portable Anti-tank Guns
44,764	Recoilless Rifles
623	Portable Anti-tank Missile Launchers and Rocket Systems
194	Mortars
1	Heavy Machine Guns

- ▶ According to Germany's annual reports, exports of firearms (A0001) totaling € 2.8 billion were licensed. Of these, around € 738 million worth were granted for small arms exports (according to the narrow EU-definition).
- ▶ Between 2002 and 2015 the Federal Government issued licenses for SALW ammunition exports (again according to the narrow EU-definition) valued at € 423 Mio. Around € 49 Mio. of these were for non-EU and non-NATO-states.
- ▶ Between 2006–2015 the Federal Government reported the following SALW-exports to UNROCA; (see Figure 3).
- ▶ The evaluation of the export data provided by DESTATIS for the arms listed in Chapter 93 between 2002–2015 shows that the following numbers of firearms were exported:
 - ▶ ca. 4.7 Mio. revolvers & pistols as well as at least 1,600 tons of parts thereof
 - ▶ ca. 1.6 Mio. sporting and hunting rifles as well as at least 3,000 tons of parts thereof.
- ▶ More than 89,000 tons of ammunition (and parts thereof) for pistols and rifles were exported according to DESTATIS, adding up to a value of € 985 Mio.

In the end, it is insignificant which SALW-definition is applied: Despite the proclaimed "restrictive arms export policy" and the increasing international efforts to limit the proliferation of small arms, Germany undeniably has exported a large quantity of these weapons. In 2016, the Federal Government continued in this fashion. Small arms exports worth € 47 million were licensed, almost € 14.5 million more than in 2015. A third of this was for exports destined to countries outside NATO and EU.⁴⁹ It seems that the government policy in regard to defining small arms is more careful and restrictive than their export licensing policy.

⁴⁸ The reporting of the export of pistols to Iraq from German army reserves constitutes an exception. Otherwise the government sticks to its strategy of not including pistols in their small arms related reporting.

⁴⁹ BMWi (2017): Vorläufige Zahlen für 2016 – Rüstungsexportgenehmigungen sinken um eine Milliarde. BMWi, Press Release, 20-1-2017.

The following table attempts to break down the limited available data on SALW exports for those countries, which are mentioned in the annual UN reports on children and armed conflict:

The data collection provides a split picture: on the one hand, the figures for SALW exports to these countries, given the narrow EU-definition, are in the lower ranges – especially in comparison to German deliveries to EU- and NATO-countries. Substantial shipments of more than 10,000 weapons, e.g. to India or Iraq, are the exception.⁵⁰ On the other hand, it can't be denied that the Federal Government did export a broad spectrum of SALWs (from pistols to anti-tank rocket launchers) to countries where child soldiers are used by at least one side of a conflict or where another of the six grave violations of children's rights is committed, despite Germany's international obligations and the provisions of the Political Principles. Many countries such as Thailand, India, Lebanon or Pakistan, have received substantial amounts of ammunition as well. The DESTATIS figures also show that a large share of actual SALW exports is not covered by the narrow EU-definition.

Info-Box 8

German Kalashnikovs for the world

When trying to assess the scope of German SALW exports, it is also important to keep in mind the small arms manufactured in the German Democratic Republic (GDR) and subsequently either directly exported to or later transferred from the stockpiles of the Nationale Volksarmee (NVA) after the end of the Cold War.

In the 1960's the GDR began with the serial production of the AK47 assault rifles. Since then other Russian weapons, like the RPG-7 (anti-tank rocket propelled grenade launcher) or the AK47-variants (MPi-KM/MPi-KM72 and AK74) and matching munitions were also produced in license. These weapons were exported to numerous African and Asian countries, for instance to both sides of the Iraq-Iran war.⁵¹

With the collapse of the Warsaw Treaty Organization (WTO), hundreds of thousands SALW from NVA stockpiles began to flood the international arms markets. Instead of demilitarizing this arsenal, the Federal Government decided to use them for nurturing the bilateral relations with other states through military aid. Greece and Turkey did receive the lion share of arms, but other states, i. e. Egypt and Indonesia, were also served. The largest share of SALWs was handed over to Turkey between 1992 and 1994: 5,000 RPG7 rocket-propelled grenade launchers with 200,000 grenades, 300,000 Kalashnikov rifles with 83 Mio. rounds as well as more than 2,500 machine guns. In return, Turkey had to commit itself to not re-export these weapons without the consent of the Federal Government.⁵² Nevertheless, East-German weapons have surfaced in Colombia, Somalia or Sudan and continue, even today, to pop-up in the hands of armed groups in Iraq and in Syria.

50 Again this demonstrates the unreliability and inconsistency of the official figures: In the case of Iraq the Federal Government reported the export of 16,040 pistols to Iraq. The German Parliament (Bundestag) was told, that only 8,040 pistols were delivered.

51 Petra Opitz (1991): Rüstungsproduktion und Rüstungsexport der DDR. Berghof-Stiftung für Konfliktforschung, Arbeitspapier Nr. 45, 1991, p.17.

52 Otfried Nassauer (1995): An Army Surplus – The NVA's Heritage. In: Edward J. Laurance / Herbert Wulf (Hrsg.): Coping with Surplus Weapons – A Priority for Conversion Research. BICC Research Brief Nr.3/1995, p.37ff.; Deutscher Bundestag (1992a), Drucksache 12/2158, p.2.

Figure 4: Small arms delivered to countries where child soldiers are being used

Country		UNROCA (2006–2015)		DESTATIS (2002–2015)
Afghanistan	17	Assault Rifles	6	Pistols & Revolver
	62	Assault Rifles (UN)	39	Rifles
	–	–	8.4t	Rifle ammunition & parts thereof
	–	–	5.2t	Pistol ammunition & parts
Burundi	–	–	–	–
Central African Republic	50	Submachine Guns (UN)	5.8t	Rifle ammunition & parts thereof
	80	Assault Rifles (UN)	3.8t	Pistol ammunition & parts
Chad	10	Submachine Guns (UN)	–	–
	5	Assault Rifles (UN)	–	–
Colombia	–	–	1,468	Pistols & Revolver
	–	–	625	Rifles
	–	–	9.6t	Rifle ammunition & parts thereof
DR Congo	–	–	186	Pistols & Revolver
	–	–	35	Rifles
	–	–	7.6t	Pistol ammunition & parts
	–	–	8.7t	Rifle ammunition & parts thereof
India	54	Rifles	1,046	Pistols & Revolver
	16,030	Submachine Guns	1,069	Rifles
	427	Assault Rifles	168t	Rifle ammunition & parts thereof
	–	–	11.4t	Pistol ammunition & parts
Iraq	16,040	Pistols	11,029	Pistols & Revolver
	20,105	Assault Rifles	38t	Rifle ammunition & parts thereof
	10	Light Machine Guns	2.2t	Pistol ammunition & parts
	30	Anti-tank missile system	–	–
	240	Recoilless Rifles	–	–
	513	Anti-tank rocket launcher	–	–
Israel & Palestine	2	Rifles	234	Pistols & Revolver
	2	Submachine Guns	126	Rifles
	1	Anti-tank missile system	28.5t	Rifle ammunition & parts thereof
	–	–	1.8t	Pistol ammunition & parts
Ivory Coast	–	–	5t	Pistol ammunition & parts
Lebanon	31	Submachine Guns (UN)	6,325	Pistols & Revolver
	112	Submachine Guns	4,147	Rifles
	40	Assault Rifles (UN)	25.1t	Rifle ammunition & parts thereof
	553	Assault Rifles	2t	Pistol ammunition & parts
	40	Light Machine Gun	–	–
Liberia	–	–	1.5t	Pistol ammunition & parts
	–	–	2.6t	Rifle ammunition & parts thereof
Libya	10	Submachine Guns (UN)	3	Pistols
	20	Assault Rifles (UN)	8	Rifles
	–	–	0.6t	Rifle ammunition & parts thereof
	–	–	0.1t	Pistol ammunition & parts
Mali	25	Submachine Guns (UN)	50	Pistols & Revolver
	110	Assault Rifles (UN)	4.2t	Rifle ammunition & parts thereof
Myanmar	–	–	20	Pistols
Nigeria	–	–	4t	Rifle ammunition & parts thereof
	–	–	3t	Pistol ammunition & parts

Country		UNROCA (2006–2015)		DESTATIS (2002–2015)
Pakistan	-	-	2,315	Pistols & Revolver
	-	-	2,279	Rifles
	-	-	20.9t	Rifle ammunition & parts thereof
	-	-	0.5t	Pistol ammunition & parts
Philippines	10	Rifles	4,373	Pistols & Revolver
	480	Submachine Guns	893	Rifles
	790	Assault Rifles	11.1t	Rifle ammunition & parts thereof
	6	Light Machine Gun	-	-
	31	Grenade Launcher	-	-
Sierra Leone	-	-	3	Rifles
	-	-	1.4t	Rifle ammunition & parts thereof
Sri Lanka	-	-	154	Pistols & Revolver
	-	-	316	Rifles
	-	-	6.8t	Rifle ammunition & parts thereof
	-	-	0.5t	Pistol ammunition & parts
Sudan & South Sudan	-	-	1,130	Pistols & Revolver
	-	-	102	Rifles
	-	-	1.2t	Rifle ammunition & parts thereof
Syria	-	-	147	Pistols & Revolver
	-	-	30	Rifles
	-	-	2.2t	Rifle ammunition & parts thereof
Thailand	89	Submachine Guns	9,513	Pistols & Revolver
	10	Assault Rifles	4,160	Rifles
	-	-	307.3t	Rifle ammunition & parts thereof
	-	-	0.1t	Pistol ammunition & parts
Uganda	9	Submachine Guns (UN)	0.4t	Pistol ammunition & parts
	5	Assault Rifles (UN)	0.3t	Rifle ammunition & parts thereof
Yemen	14	Submachine Guns (UN)	15	Pistols & Revolver
	10	Assault Rifles (UN)	9	Rifles
	-	-	36.3t	Rifle ammunition & parts thereof

2.3. German small arms and child soldiers – Five case studies

“They bring the people they catch, guerrillas and robbers, to the training course. My squad had to kill three people. After the first one was killed, the commander told me that the next day I’d have to do the killing. I was stunned and appalled. I had to do it publicly, in front of the whole company, fifty people. I had to shoot him in the head.”⁵³

Óscar, age 15, member of the Autodefensas Unidas de Colombia (AUC).

The arms trade statistics contradict the impression evoked by the Federal Government vis-a-vis the UN Committee for the Rights of Child that Germany has taken sufficient precautionary measures to prevent the export of SALWs to countries where child soldiers are being used. The following five case studies take a closer look at the proliferation of German SALWs in specific countries (Colombia, Iraq&Syria, Philippines, India, Yemen). They will allow for some of the factors to be identified which contribute to the spread of these weapons in such conflicts up to the present day. But again (and similar to the overview on the arms trade statistics), due to the opaque nature of arms trade, the facts presented here should be treated with caution. They serve as indicators for the scale of German arms trade but do not necessarily reflect reality on the ground.

In order to maintain the focus on child soldiers and German small arms exports and avoid distractions, the various case studies don’t include deal with the complex conflict history, the lines of conflict and the motivation of the armed actors.

2.3.1. Colombia

“I learned how to use a compass, how to attack a police post, how to carry out an ambush, and the handling of weapons. By the end I was using an AK-47, a Galil, an R-15, mortars, pineapple grenades, M-26 grenades, and taticos (multiple grenade launchers).”⁵⁴

Ramiro, joined the FARC guerilla at 15 years.

The peace deal, negotiated and signed in November 2016 after year-long talks between the Colombian government and representatives of the largest guerilla group in Colombia, Fuerzas Armadas Revolucionares de Colombia (FARC), improves the chances for finally ending the 60-year-long civil war. This conflict shaped at least two whole generations and led to more than one million casualties and millions of displaced and indirect victims of war. Especially in the 1990s, the intensity and reach of the conflict increased. A crucial role in this was played by the Autodefensas Unidas de Colombia (AUC): The umbrella association of various already existing paramilitary groups was established in 1997 and initiated a new wave of attacks against the FARC and suspected sympathizers and supporters with consent and support of the Colombian government and armed forces. Furthermore, the USA began to intervene directly in the civil war in the framework of its “War on Drugs” (Plan Colombia). Together with military advisors and private security companies, large numbers of arms were delivered for Colombia’s fight against organized crime, but also used for fighting the guerilla groups.

Of bees and bells

Child soldiers are a common sight in the Colombian civil war. The FARC, the Ejército de Liberación Nacional (ELN) but also the AUC recruit children. The FARC referred to their child soldiers cynically as “abejitas” (bees), the AUC called them “campanitas” (little bells). An evaluation of the annual UN reports on children and armed conflicts as well as reports by Colombian NGO’s allow the conclusion that about 25 % of the FARC and ELN were underaged and their share in armed units reached up to 40 % of the fighters – a considerable percentage even being under the age of 15. An evaluation of a questionnaire of 10,732 demobilized fighters of FARC and ELN shows that more than half of them were recruited as minors. For the AUC, the figures were a little under 40 %.⁵⁵ Estimates show that 11,000 to 18,000

53 Human Rights Watch (2003): You’ll Learn Not To Cry – Child Combatants in Colombia. p.64.

54 HRW (2003), *ibid.*, S.62.

55 Natalia Springer (2012): Como Corderos Entre Lobos. Springer Consulting Services, pp.27&30; Evan Fagan / Evan Owens (2016): The FARC and Child Soldiers – A Question of Reintegration. Insight Crime, 25-5-2016; Weltbank (2008): Colombia Peace Programmatic 1 – Demobilization and Reinsertion of Ex-Combatants in Colombia. Weltbank Bericht Nr. 39222-CO/2008, p.33.

boys and girls under age 18 were constantly employed by non-state armed actors in Colombia.

The armed forces of Colombia also recruited children during the civil war. According to information provided by the government, they were used as spys and informants. The use of child soldiers on all sides of the conflict was no secret, but to the contrary, well documented. Each foreign government with a functioning diplomatic service had to be aware of this. Likewise, it was known that also other violations of children's rights, outlawed by the CRC and documented according to UN Security Council Resolution 1612, were a daily occurrence: children were maimed, tortured, sexually abused and abducted. Schools and hospitals were regularly attacked by the parties to the conflict, especially by the military, or used as outposts.

German weapons – a solid base for civil war

Until the 1990s, German small arms has been part of the standard-issue equipment of the Colombian armed forces and were used in the civil war. The weapons of the company Heckler&Koch (H&K) provided the basis for the ability of the Colombian Army to wage internal warfare. In the 1960s, H&K began to supply G3 assault rifles and matching ammunition to Colombia. Between 1967 and 1975, around 55,000 G3 assault rifles were delivered, as well as 3,121 submachine guns MP5 and 1,500 HK21 machine guns.⁵⁶ Dynamit Nobel, Metallwerk Elisenhütte Nassau (MEN) and the Industriewerke Karlsruhe (IWKA) supplied more than 110 million pieces of ammunition. Due to the war-induced diminishing of the stockpiles, the Colombian government had a growing interest in setting up production and maintenance facilities in Colombia. With consent of the Federal Government, the state-owned arms manufacturer Industria Militar (INDUMIL) received a license from H&K (sometime between the end of the 1960s and the beginning of the 1970s) for the production of G3 assault rifles, MP5 SMGs and HK21 machine guns, with some parts supplied directly from Germany.⁵⁷ With the aid of the German state-owned Fritz Werner GmbH, a facility for the production of the needed ammunition was built. For H&K, as well as the Federal Government, the advantages of such an approach were obvious: “Through delivery of components of the present license

application Colombia will become independent from ammunition imports, which is in line with our aims to prevent deliveries falling under KWKG to countries like Colombia.”⁵⁸ The transfer of know-how was regarded as advantageous since Germany wouldn't be confronted with undesired new license applications in the future. Towards the end of the 1980s, the cooperation in the small arms segment seemed to have come to an end. In connection with plans by the Colombian government to procure a successor model for the G3 assault rifle, Germany signaled its concern regarding the ability to ensure a reliable supply for rifle parts.⁵⁹ As a consequence, the Colombian government decided to license production of the Israeli Galil assault rifle instead.

Not only did the Colombian Armed Forces use German weapons. Both, the MP5 and G3 assault rifle ended up in the hands of FARC and ELN as captured loot or by illegal sales. There were also attempts to purchase these weapons on the international market: in 1998, 1,000 G3 rifles and 250 HK21 machine guns destined for the FARC were confiscated in Jamaica.⁶⁰ In at least one case, G3 assault rifles, respectively their 5.56mm HK33 variant, were smuggled into the country, originally belonging to the Peruvian National Guard. From Ecuador, substantial amounts of small arms (among them HK33) were smuggled into the country or bought semi-legally from private security companies.⁶¹ The illegal arms trade to Colombia remains on a high level even today. Between 2010 and 2013 more than 150,000 small arms were confiscated at the borders.⁶²

56 Nicolás Urrutia / Miguel Ortega / Gustavo Andrade (2009): Arms Tracing in Colombia. Fundacion Ideas Para La Paz, p.7; Roman Deckert (2007): Una Historia de la Violencia – Deutsche Waffen in Kolumbien. DAKS, Kleinwaffen Newsletter, August 2007, p.2.

57 There is no definite evidence that INDUMIL used the license for production of the G3 rifle. See Urrutia (2009), p.43.

58 Deckert (2007), *ibid.*, p.2.

59 Urrutia (2009), *ibid.*, p.43.

60 Ivelaw L. Griffith (1997): Illicit Arms Trafficking, Corruption, and Governance in the Caribbean. In: Dickson Journal of International Law, Nr. 3/1997, p.488.

61 UNODC (2006): Violence, Crime and Illegal Arms Trafficking in Colombia. p.39; Kim Cragin / Bruce Hoffman (2003): Arms Trafficking and Colombia. RAND Report MR-1468, p.19; Katherine Aguirre / Robert Muggah / Jorge A. Restrepo / Michael Spagat (2006): Colombia's Hydra. In: Small Arms Survey 2006, Chapter 9, p.8

62 UNODC (2015): Study on Firearms. S.15f.

But also weapons from East German production were used in the Colombian civil war. FARC and ELN wanted to introduce variants of the Russian AK47 assault rifle as standard-issue equipment. One of the reasons was the easier availability and lower price of appropriate ammunition on the illegal markets.⁶³ Via a detour through Peru, both insurgency groups managed to smuggle more than 10,000 weapons of this type into the country in 1999. This arms deal was arranged with the aid of the Peruvian arms dealer Vladimiro Montesino. With the CIA's knowledge, around 50,000 weapons of East German origin and at least partially produced in license there were supposed to be delivered via Jordan to Peru. Of this package, Montesino diverged a share of 10,000 rifles to Colombian rebels.⁶⁴

Similar types of weapons could be found in the stockpiles of the paramilitary AUC. Among others, MPiKM from East German production ended up in their arsenals as loot from FARC and ELN. The paramilitary death squads also used G3 assault rifles.⁶⁵ Some weapons were also acquired by AUC through illegal re-exports. One example was MP5 SMGs, which originally were delivered from Great Britain to the Yugoslav Police during the civil war in Bosnia.⁶⁶ Data collected during the demobilization of AUC units revealed that the share of German manufactured weapons amounted to 5%.⁶⁷

German pistols always present

In the shadow of the rifle deliveries, German pistols also found their way to Colombia in large quantities. The company Carl Walther GmbH in Ulm, today belonging to the PW Group, sold substantial amounts of pistols to Colombia. A rare investigation of legal weapon licenses for the capital Bogota in 2009 revealed for example, that more than 21,000 Walther pistols (around 25% of all registered pistols) were in the hands of individuals.⁶⁸ The Colombian arms manufacturer INDUMIL still offers the Walther P99 pistol for sale. It remains unclear though how these pistols entered the country. Nothing is known about a licensed production in Colombia and according to the Federal Government no export license for these P99, which were produced since 1996, were issued to Colombia.⁶⁹ Since 2014, German state prosecutors have been conducting investigations against the Carl Walther GmbH for potential violation of German export regulations.

Up until now, German pistols have remained highly sought after for the Colombian Armed Forces. During the last ten years, many pistols from the German company Sig Sauer GmbH in Eckernförde were imported as well – probably not directly from Germany but via the USA. Most likely, the U.S. subsidiary Sig Sauer Inc. assembled parts imported from Germany and then sold them, probably financed by the U.S. Foreign Military Sales Program, to Colombia. Already in 2006, the U.S. government signed contracts with Sig Sauer Inc. on the production of more than 65,000 pistols and 500 SSG3000 sniper rifles worth more than 26.8 Mio. USD. In the two following years, pistols worth 6.4 Mio. USD were delivered. The U.S. government reported in October 2008 that Colombian “Jungla” companies, which conduct operations against FARC and the organized drug trade, received 300 Sig Sauer pistols and 800

63 Urrutia (2009), S.18.

64 Pablo Morales (2008): Colombia and Brazil: Deadly Diversions. NACLA Report on the Americas, S.34f.; UNODC (2006), *ibid.*, p.26ff, Urrutia (2009), *ibid.*, p.16ff.; Jeremy McDermott (2004): Colombia struggles to counter arms smuggling. In: Jane's Intelligence Review, 18-11-2004.

65 El Pais (2007): Policia decomisa arsenal de las “Aguilas Negras”. 8-6-2007.

66 Urrutia (2009), *ibid.*, p.32 und Der Spiegel Nr. 18/1992, p.86.

67 Urrutia (2009), *ibid.*, p.30. It can be assumed that parallel to demobilisation efforts modern firearms are stored in hidden weapon caches or sold to other parties.

68 Katherine Aguirre / Oscar Becerra/ Simon Mesay/ Jorge A. Restrepo (2009): Assessing the Effect of Policy Interventions on Small Arms Demand in Bogota, Colombia. CERAC Documents, p.15.

69 Deutscher Bundestag (2014a), Drucksache 18/2238, p.13; Jürgen Grässlin /Daniel Harrich / Danuta Harrich-Zandberg (2015): Netzwerk des Todes. p.46ff.

70 Grässlin (2015), *ibid.*, p.57–59; Volkmar Kabisch / Frederik Obermaier / Bastian Obermayer (2014): Scharfschützengewehre fürs Bürgerkriegsland. Süddeutsche Zeitung, 9-8-2014; U.S. Department of Defense (2009): Report to Congress on Department of Defense Sales of Significant Military Equipment to Foreign Entities Fiscal Year 2008; U.S. Botschaft in Kolumbien (2008): NAS Monthly Report for August. Wikileaks Public Library of US Diplomacy (online), 13-10-2008.

magazines.⁷⁰ For the time period of 2009–2012, the U.S. made arrangements for an even larger arms procurement program. It envisioned the procurement of more than 300,000 Sig Sauer pistols of the variants SP2022, P226 and P228 by the U.S. Army with a total contract value of between 306–350 Mio. USD. From the outset of this program, all sides were aware that at least a share of these weapons will be handed to other countries, financed by US military aid. It remains unclear how many pistols were actually procured in the end. But it is certain that in 2009, two deliveries to Colombia were arranged, totalling 103,000 pistols and valued at 46 Mio. USD.⁷¹ Throughout this, the German government wasn't informed on these sales either by the company or the U.S. government – probably because an export license by Germany was considered unlikely. Sig Sauer only applied for an export license for pistol parts to the U.S. as a final destination. Therefore, the prosecutor's office has begun in 2014 to conduct preliminary investigations against the company.

Learning from mistakes?

German SALW-exports to Colombia are a telling example of the long-term effects of a careless arms export policy. Until the 1980s, the German government permitted Heckler & Koch to supply Colombia with large amounts of rifles, machine guns and submachine guns. In addition, there were even production licenses granted for weapons and ammunition despite the on-going civil war. The German Foreign Ministry even explicitly stated in 1973: *“At the moment the [constitutional order] is being disrupted in some parts of the country by armed gangs or subversive groups, and the armed forces have to increasingly deal with the restitution of the constitutional normality. Equipping them with weapons suited for this task is therefore a paramount task at the moment”*.⁷²

Insufficient controls and a lack of interest by the Federal Government, where German weapons would end up, has repeatedly ensured the resupply of the conflict parties in the Colombian civil war – up to the present. By the 1990s, at the latest, all parties to the conflict and thereby also the child soldiers in the ranks of FARC, ELN and AUC, were fighting at least to a certain extent with German weapons.

Since the beginning of the 1990s, the Federal Government has been more careful concerning direct small arms exports to Colombia. During the last ten years, no export licenses for small arms (according to the EU-definition) or their ammunition seem to have been issued. As to export licenses for manufacturing equipment, raw materials or technological know-how, it can't be discerned from the available information if these had any connection to small arms. The evaluation of the DESTATIS figures on “civilian” firearms produces a similar result: All in all, only a small number of “civilian” pistols and revolvers (1,468), and sporting and hunting rifles (625) were exported to Colombia.

The case of Colombia also illustrates that the official statistics aren't very reliable. Germany didn't report any small arms reports for Colombia to UNROCA between 2006 and 2008. Colombia, though, reported for 2007 the import of pistols and revolvers as well as rifles and carbines from Germany – without further explanation of the types or figures. A similar case can be identified with the DESTATIS figures: According to Colombian reports to the UN statistics office COMTRADE, about twice as many pistols have been imported from Germany since 2002 than were reported to DESTATIS as exports to Colombia.⁷³ These contradictions fit the picture of the extensive but in large parts inscrutable proliferation of German pistols in Colombia. Furthermore, the deliveries of Walther and Sig Sauer pistols to Colombia show how the exclusion of pistols from the German definition of small arms ensures that a sub-

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- 71** Defense Industry Daily (2009): 9mm SIGs for the World – 2009–2015. Defense Industry Daily (online) 15-9-2009; Sig Sauer Inc. (2009): SIG SAUER, Inc. Secures a \$306 Million Pistol Contract by the U.S. Army's Materiel Command. Pressemitteilung, 3-4-2009; U.S. Department of Defense (2010): Report to Congress on Department of Defense Sales of Significant Military Equipment to Foreign Entities – Fiscal Year 2009.
- 72** Archiv des Auswärtiges Amt (1973): Schreiben des Auswärtiges Amtes vom 6-2-1973. Politisches Archiv des Auswärtigen Amtes, Band 86, Zwischenarchiv 117161.
- 73** In 2005, Colombia reported to UN COMTRADE the import of 1,387 Pistolen & Revolver worth almost 0.5 Mio. USD while DESTATIS did not list any exports either for 2004 or 2005. The evaluation of the UN COMTRADE Data was conducted via the internet-portal of the Norwegian Initiative on Small Arms Transfers (NISAT): nisat.prio.org.

stantial share of German small arms exports to conflict regions and armed conflicts with child soldiers remain in the dark.

In light of the German commitments through the CRC and OPAC, ATT and the Political Principles, the German government should refrain from future small arms export licenses for Colombia and should undertake more efforts to prevent similar exports via third countries. The Colombian referendum of September 2016 showed that the peace process is still very fragile. Such political processes can still fail if one side comes to the conclusion that their interests aren't being adequately considered or if they consider their chances for a military success to be higher. Weapon deliveries or even the promise of such could already tip the balance in favor of the latter course of action. At the same time, the danger remains that radical factions split-off from the peace-oriented leadership of the armed groups and continue to wage war. The dissolution of the AUC should be taken as a warning. Parallel to the AUC-demobilization efforts, so-called *Bandas Criminales* began to spread within Colombia. These groups recruited fighters from the pool of demobilized AUC-personnel, used parts of the AUC stockpiles and utilized old networks to acquire more weapons. The number of their fighters is currently estimated to be between 4,600 and 8,000, with the share of children in their ranks estimated to be 50%.⁷⁴

2.3.2. Syria and Iraq

“We woke up at 5 a.m. to pray and then have breakfast. Then we had a military lesson on how to use weapons, then a religious lesson, then noon prayer, then lessons on how to make and use hand bombs and mines.”⁷⁵

Omar, who joined Jabhat al-Nusra at 14 years.

In 2011, in the context of the Arab Spring, a civil war erupted in Syria which escalated inside of four years to become one of the bloodiest conflicts in the world and also rekindled the war in Iraq. Next to the Free Syrian Army (FSA) and the Islamic Front (IF), the Islamic State in Iraq and in Syria (ISIS/ISIL) and the Kurdish alliance between the Syrian Self-Defense Forces (YPG), the Turkish PKK and Iraqi Peshmerga all are fighting against the Syrian government. All parties to the conflict receive military and financial aid from abroad – mainly from Qatar, Russia, Saudi-Arabia, Turkey, USA and UAE, but also from Germany. Accordingly, a flood of weapons is pouring into Syria and neighboring Iraq. The civil wars in both countries are increasingly interconnected, in terms of the armed groups fighting as well as foreign supporters.

⁷⁴ International Crisis Group (2012): Dismantling Colombias New Illegal Armed Groups. Latin America Report Nr. 41/2012, p.1; Springer (2012), *ibid.*, p.30.; Andy Webb-Vidal (2009): Back from the dead – New criminal groups emerge in Colombia. *Jane's Intelligence Review* 17-4-2009.

⁷⁵ Human Rights Watch (2014b): *Maybe We'll Live, Maybe We'll Die*. p.26.

Child soldiers on all sides

The whole population, especially women and children, are caught helplessly in the middle of the warring factions and are victimized by the growing arbitrariness of the war. In Syria, as well as in Iraq, schools and hospitals are being shot at. Children are deliberately attacked and mutilated. Meanwhile, there is also no doubt left that youths are recruited by the insurgent groups.⁷⁶ Especially the Syrian-Iraqi ISIL draws on children on a large scale. According to reports, ISIL for instance abducted more than 1,000 children of the Yazide community and forcefully recruited them. Additionally it is very troubling, that children are increasingly instrumentalized as suicide-bombers. But also the Free Syrian Army and Islamic Front, respectively their strongest factions Al-Nusrah (now Jabhat Fatah al-Sham and Jaysh Al Islam), are recruiting minors. An important supply pool for the armed groups is the growing refugee camps in Jordan, Lebanon and Turkey.⁷⁷

The Kurdish militias of the PKK look back on a long tradition of recruiting children. Already since the 1990s children have been used in the fight against Turkey's armed forces. According to the UN, the PKK even recruited children in Iraq.⁷⁸ Also the Syrian Self-Protection Forces have evidently recruited and armed children. It was only due to international pressure that the YPG-command announced in 2013 that it would refrain from using children in combat roles. In 2014, the minimum age for military service was raised to 18. Nevertheless, armed children are still deployed to man checkpoints or conduct patrols.⁷⁹ The Peshmerga stopped the forced recruitment of children in 2002. But there were some indications that children were permitted to join the group on a voluntary basis.⁸⁰ It is not known whether there are still children in the ranks of the Peshmerga today.

In Iraq, various Sunni and Shia militias have also recruited and used children as well. At the moment, especially the so called Popular Mobilisation Forces (PMF), formed in 2014, seem to recruit and train children for their military operations in Northern Iraq. Even though this practice is publicly known, the PMF was officially integrated as a separate military organization into the Iraqi security forces.⁸¹

⁷⁶ See annual UN reports for 2013 (UN-Dok. S/2013/245, p.34), 2014 (UN Dok. S/2014/339, p.30) und 2016 (UN Dok. S/2016/360, p.11f. and p.23f.) as well as UNO (2015a): Report on children and armed conflict in Iraq 2015. UN-Dok. S/2015/852, p.10; Human Rights Watch (2014b), *ibid.*, p.13ff.

⁷⁷ Tone Sommerfelt / Mark B. Taylor (2015): The big dilemma of small soldiers – Recruiting children to the war in Syria. Norwegian Refugee Foundation; Marina Eleftheriadou (2015): The dawn of the “refugee-warriors” – rebel recruitment among the Syrian refugee, in: Middle East Bulletin Nr.1/2015, p.9ff.

⁷⁸ Peter Singer mentions 3,000 child soldiers with the PKK, see Singer (2010), s.o., S.19; UNO (2016), s.o., S.11.

⁷⁹ See Human Rights Watch (2014c): Under Kurdish-Rule – Abuses in PYD-Run Enclaves of Syria. p.45f.; KurdWatch (2015): Forcible recruitments and the deployment of child soldiers by the Democratic Union Party in Syria. KurdWatch Report Nr. 10/2015; as well as the UN annual reports for 2013–2015, *ibid.*

⁸⁰ See anecdotal account of Anna Badkhan (2003): 7 year kurds – I like war. San Francisco Chronicle; 6-4-2003.

⁸¹ For the recruitment of more than 200 children see Associated Press (2015): Iraqi Militias Train Young Teen To Face The Threat of Islamic State. 28-7-2015; UNO (2016), *ibid.*, p.11; UNO (2015a), *ibid.*; Roggio, Bill / Toumaj, Amir (2016): Iraq's prime minister establishes Popular Mobilization Front as a permanent “independent military formation”. Long War Journal, 28-7-2016.

Many roads lead into conflict

Reliable information on the equipment of the conflict parties in Syria or Iraq, permitting a systematic evaluation, don't exist. Only isolated information with varying specificity and reliability is available. This also holds true for the deliveries and use of German weapons by the conflict parties. Quantitatively, German arms exports into the region have only played a negligent role until recently. For decades, Russia has been the main suppliers of weapons to the Syrian Army. The Free Syrian Army and Islamic Front were equipped with weapons by Saudi-Arabia, UAE, Qatar, Turkey and the USA.⁸² In general, the massive tide of weapon pouring into these conflicts serves as a telling example how ruthlessly the international arms trade fuels conflicts and atrocities on a large scale and how this also carries small arms into the hands of conflict parties.

Particularly through the merger of the Iraqi ISI with the Syrian, ISL German weapons entered Syria. The regional proliferation of SALW was aided massively by whole Iraqi units deserting to ISI and the plundering of Iraqi weapon stocks. German SALWs were captured and ended up in the hands of ISIS, the FSA and Kurdish forces. One example is the unknown quantities of Walther P99 pistols, shipped to the Iraqi police forces in 2004 (mentioned below). Another example is the large number of MILAN anti-tank missile systems, delivered to Iraq and Syria by the German-French company Euro-missile in the 1980s.⁸³ These weapons are now in stock for the Syrian Army, but also with ISIS and FSA. Meanwhile, also G36 assault rifles are reported to be wielded by ISIS, though it remains unclear if they were manufactured in Germany or Saudi-Arabia.⁸⁴ Some armed groups also gained possession of older German DM41 hand grenades.⁸⁵ And again Syrian and Iraqi armed groups also field AK47 rifles from GDR licensed production (around 8% of the confiscated AK47) as well as older ammunition from the East German company VEB Mechanische Werkstätten Königswerttha.⁸⁶ It remains unclear how these ended up in Syria. They could be remnants of the GDR arms sales during the Iraq-Iran war or could stem from the arms previously handed over to Turkey in the 1990s (see Info-Box 8).

While direct German arms sales to Syria remain an exception, weapon deliveries to Iraq have increased to comparatively high levels since 2003. Each year since then, exports of small arms have licensed, although at first many were licences in connection with the UN Assistance Mission to Iraq (UNAMI). It is striking to note the large quantities of German pistols delivered to Iraq, either directly from Germany or by detour through Poland and the USA:

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- 82** For the countries of origin and the trade routes see Lawrence Marzouk / Ivan Angelovski / Miranda Patrucic (2016): Making a Killing – the 1.2 Billion Arms Pipeline to Middle East. BIRN, 27.6.16; Pieter D. Wezeman (2013): Arms Transfers to Syria. SIPRI Jahrbuch 2013, p.269ff.
- 83** During the 1980s the German-French company Euromissile delivered at least 4,000–4,500 MILAN-Systems to Iraq and probably a similar quantity to Syria.
- 84** Amnesty International (2015): Taking Stock – The Arming of the Islamic State. Dezember 2015, p.12.
- 85** See Thomas Wiegold (2014): Deutsche Waffen in der Hand der ISIS – Nicht von der Bundeswehr. www.augengeradeaus.de, 21-10-2014; Deutscher Bundestag (2014b), Drucksache 18/3115.
- 86** Conflict Armament Research (2015): Islamic State Weapons in Kobane. April 2015. p.28; N.R. Jenzen-Jones (2014): Following the Headstamp Trail. Small Arms Survey, Working Paper Nr. 18/2014, p.24.

Figure 5: German military aid for the Regional Government of Iraqi-Kurdistan agreed between 2014–2016⁸⁹

Volume	Weapon	Volume	Ammunition for the respective weapons
8,040	Walther P1 Pistols	1.13 Mio.	Munition
12,080	G3 assault rifles	12.4 Mio.	Munition (partially also for MG3 since similar munition)
12,080	G36 assault rifles	14 Mio.	Munition
50	MG3 machine guns	1.5 Mio.	Munition
62	MILAN anti-tank missile system	1,200	Missiles
400	Panzerfaust 3	4,900	Munition
43	Heavy RPGs	800	Training ammunition
20,000	Hand grenades DM51	1,060	Munition

- ▶ Already in 2004/2005, shortly after the conquering of Iraq by the U.S.-led coalition, more than 10,000 “civilian” pistols were exported to Iraq according to DESTATIS.
- ▶ Between 3,000 and 6,000 Walther P99 Pistols were license produced by the Polish company Radom as FB P99 and delivered to Iraqi security forces.⁸⁷
- ▶ The U.S. government provided the provisional government of Iraq with more than 1,100 Walther P99 pistols in 2004. In addition more than 5,000 Sig Sauer P2022 pistols have been exported, since 2005 via the U.S. subsidiary to the Iraqi police, financed by the Tank Automotive Command of the U.S. Army (TACOM). Furthermore, 518 HK MP5 were purchased by the Iraqi Ministry of Interior from the U.S. between 2003 and 2006.⁸⁸

Then in 2014, the Federal Government actually broke with a long-standing taboo: for the first time Germany began to officially and pro-actively equip non-NATO forces in an ongoing conflict. More so: Despite UN- and EU arms embargos being in place, Germany supplied these weapons to an armed non-state actor: the Peshmerga. While they are considered to be the military arm of the Regional Government of Iraqi-Kurdistan, the latter is not an internationally recognized state. Between August 2014 and December 2015, the German government approved three deliveries of military equipment from Bundeswehr stock piles.

Proliferation of German SALW guaranteed

Arms exports to Peshmerga and the presence of various German SALWs in Syria and Iraq reveal how opportunistic the claims of the German government are; that such weapons will only be given to reliable state allies in third countries – if at all. The Peshmerga, even though obviously a conflict party and furthermore a non-state actor, have become one of the largest recipients of German SALWs overnight.

⁸⁷ Jane's Defence Weekly (2004): Polish Bumar enters Iraqi Market. 1-11-2004; US-Embassy Turkey (2006): Turkey worried about PKK arms smuggling from Iraq. Wikileaks Public Library of US Diplomacy (online), 19-4-2006.

⁸⁸ Special Inspector General for Iraq Reconstruction (2006): Iraqi Security Forces – Weapons Provided by U.S. Department of Defense Using the Iraqi Relief and Reconstruction Fund. SIGIR Report 06-033, 6-10-2006, S.4; Georg Mascolo / Volkmar Kabisch / Christian Baars (2014): Gingen Tausende Pistolen Illegal an den Irak. NDR, 10-9-2014.

⁸⁹ Three military aid deliveries were agreed upon by the German government (August 2014, February 2015, December 2015), which was completed in 2016. See: BMVg (2014): Unterstützung der Regierung der Autonomen Region Irakisch-Kurdistan bei der Versorgung der Flüchtlinge und beim Kampf gegen den Islamischen Staat im Nordirak. Informationspapier, 31-8-2014; BMVg (2015): Fortsetzung der deutschen Unterstützungsleistungen für den Irak im Kampf gegen ISIS. Informationspapier, 5-2-2015; Thomas Wiegold (2015): Neues Waffenpaket für den Kampf gegen ISIS – 4,000 G36 für die Peshmerga. AugenGeradeaus (online), 17-12-2015.

Furthermore, the arms exports come with only marginal strings attached. The Regional Government of Iraq-Kurdistan only had to assure that these weapons be exclusively used by the Peshmerga.⁹⁰ The Federal Government has no means to monitor this. The Post-Ship-ment Controls, announced in March 2015, (a month after the second weapon delivery was decided), are not applicable in this case. If one calls into mind that there are still World War 2 Mauser K98 carbines used in Syria and Iraq, not much imagination is needed to predict a long career for the recently delivered German assault rifles, pistols, anti-tank missiles and RPGs on the battlefields of the Middle East. With the 2014/2015 agreed military aid package, the Federal Government is laying the ground for the stockpiling and later use of German weapons in the region for decades to come.

This arms deal violates crucial criteria of the Political Principles: Weapons are exported to a non-state actor in an embargoed country. This contradicts the provisions of the Political Guidelines which explicitly state in Section III, No. 5: “No licenses will be granted for the export of war weapons and other military equipment related to war weapons to countries involved in armed conflict or where armed conflict is imminent”. In addition, the Federal Government didn’t make any special efforts to ensure that the German weapons stay with the Peshmerga. In light of the military cooperation between the Peshmerga and the Kurdish Syrian Self-Protection Forces (YPG) a substantial risk for the spread of these SALWs exists. Furthermore, these arms exports contribute to the long-term destabilization of

this region of conflict. But setting this aside, there can be no doubt that children are recruited in Syria and Iraq by non-state actors. This constitutes a war crime and a clear breach of the CRC and OPAC. Therefore, arms exports to these countries stand in direct contradiction to the human rights provisions of the Political Principles, which oblige the Federal Government to make the human rights situation a decisive factor in the export licensing process for arms deals.

2.3.3. Philippines

“There was no formal training. If we were needed in combat, we were just told to shoot.”⁹¹

16-year old Philippine child soldier, recruited by the NPA at 14 years.

Since the end of the 1960s, numerous violent conflicts have been smoldering in the Philippines, having caused more than hundred thousand casualties. Armed non-state actors, like the Islamic Moro Islamic Liberation Fron (MILF), the Maoist New Peoples Army (NPA) and the Islamist Abu Sayyaf Group (ASG), which resorts primarily to terrorist attacks, fight against the Philippine Armed Forces (PAF), the Philippine National Police as well as various state-associated militias: the Civilian Armed Forces Geographical Units (CAFGU), so-called Police Auxiliary Units (PAU) and Civilian Volunteer Organisations (CVO).⁹²

Underaged militias and insurgents

The Philippines signed the CRC in 1990 and implemented it with a number of decrees and acts. Nevertheless, children are reportedly still being used by government-associated militias. But aside from individual cases, there exists few reliable information to permit a sound estimate on the number of children in the CAFGU and CVO. What is known though is that, contrary to their original design as purely local defence forces, both militias are being employed under the command of the PAF in forward operations against insurgents.⁹³

⁹⁰ Deutscher Bundestag (2016b), Drucksache 18/7211, p.34f.

⁹¹ UNICEF (2002): Adult Wars, Child Soldiers. p.38.

⁹² See for an overview on the armed groups Cate Buchanan (Hrsg.) (2011): *Armed Violence in Mindanao – Militia and private armies*. Centre for Humanitarian Dialogue, pp.14–22; Diana Rodriguez (Hrsg.) (2010): *Primed and Purposeful – Armed Groups and Human Security Efforts in the Philippines*. In: *Small Arms Survey 2010*, p.185.

⁹³ Cate Buchanan (2011), s.o.; *Child Soldiers International (2012): Louder than Words*. p.30.

In 2008, the UN estimated the share of child soldiers to be 10%–30% of the approximately 11,000 MILF fighters.⁹⁴ Both MILF and UN agreed, in 2009, on an action plan, in which MILF committed itself to stop the future recruitment of children. But one MILF commander did concede, in 2015, that some children might still be active in various local branches. In 2015, the NPA was also reported to still have child soldiers in their ranks. The Philippine government assumes that as many as 340 child soldiers are active for the NPA, which is estimated to have a total strength of 4,500.⁹⁵ Almost nothing is known about the actual share of children in the ranks of Abu Sayyaf. But in light of the frequent abductions of children by this group, it is assumed that at least some of them have been pressured into military service.

German small arms in small numbers

The USA has treated the Philippines as its “backyard” already long before its “Global War on Terror”, which also included targeting Abu Sayyaf. Therefore, both countries look back on a long tradition of arms cooperation. The majority of Philippine SALWs are of U.S. origin. In addition, the Philippines have substantial national production capacities for small-caliber small arms and ammunition. Nevertheless, the German arms industry also profited from the civil war and insecurity in the Philippines.

During the Marco dictatorship in the 1970s, the Philippines embarked on a massive armaments program for the Philippine Armed Forces. Heckler&Koch offered to grant the state-owned company Government Arsenal a license for G3 production.⁹⁶ It remains uncertain if this license was actually used since the Philippine government decided to purchase enormous quantities of M16 rifles from the USA at about the same time. On the other hand, G3 assault rifles are still listed in the arsenals of the Philippine Armed Forces.⁹⁷ Its successor model, the G36 assault rifle, was also purchased – albeit only in smaller quantities (377 rifles).⁹⁸

The non-state armed groups field similar weapons to the state security forces. Looting of government stockpiles was the most important venue for MILF and NPA to acquire new weapons – a practice referred to as “Agaw Armas” (“snatch a firearm”).⁹⁹ Furthermore, MILF also smuggled small arms and ammunition into

the country, mainly through Malaysia. The NPA received some of its weapons from Vietnam. Among the smuggled goods, in the 1980s and 1990s, were also German small arms. With the support of Libya, G3 assault rifles from licensed production in Pakistan ended up with the Abu Sayyaf Group. The MILF too is reported to have received HK33 assault rifles and MP5 submachine guns via Pakistan and Libya.¹⁰⁰

An additional factor for the proliferation of small arms on the Philippines is the deep rooted corruption and clientelism within the government. Weapons from police stocks are being sold repeatedly. Neither the import certificates from influential families or private security companies nor their arms licenses were checked.¹⁰¹ After a massacre of 57 people in Maguindanao province in 2009 more than 1,200 weapons were confiscated at the house of the local governors, among them even a HK11 machine gun. Only for a small share valid documentation of ownership could be presented. Other family members owned MP7 submachine guns and UMP40s of Heckler&Koch. These stockpiles were meant to equip the 2,000 members of the local CVO, which officially had the task to protect the community but in reality were used by the governor’s family as a private army and for combatting the MILF.¹⁰²

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- 94** UNO (2008): Report on Children in Armed Conflict in Philippines. UN-Dok. S/2008/272, p.5.
- 95** IRIN (2015): Philippines strives to end recruitment of child soldiers. (online) 20-5-2015.
- 96** David Capie (2002): Small arms production and transfers in Southeast Asia. Canberra Papers on Strategy and Defence Nr. 146, p.69.
- 97** Capie (2002), *ibid.*, p.67.
- 98** Roman Deckert (2008a): Rice Not Guns. DAKS-Newsletter 30-4-2008; Deutscher Bundestag (2015b), Drucksache 18/4044, p.16.
- 99** Raymund Jose G. Quilop (2010): Small Arms and Light Weapons in the Philippines, in: Rodriguez, *ibid.*, p.242; Jennifer Santiago Oreta (Hrsg.) (2011): Gun Proliferation & Violence. Ateneo Manila University, p.12.
- 100** Capie (2002), *ibid.*, pp.54,75,101f.
- 101** Oreta (2011), *ibid.*, p.12, Capie (2002), *ibid.*, p.76f.
- 102** See for example Ed Lingao (2010): Ampatuans used public office to amass mostly illegal guns. PCIJ, 3-2-2010; Ed Lingao (2011): Ampatuans tried to secure amnesty for cache of guns. PCIJ 22-11-2011; Cate Buchanan (2011), *ibid.*, pp.22,33,37.



Two young boys man a guard post in Myanmar (Burma). The Burmese Armed Forces and several armed opposition groups abuse children and youth as soldiers.

The evaluation of the annual reports on German arms exports and other statistical sources shows that, despite the ongoing Philippine civil war, exports of weapons were licensed by the German government. Primarily exports of small arms, light weapons and their ammunition and technology were authorized. Since 2004, the Federal Government has licensed the export of 800 assault rifles, 480 submachine guns, 31 grenade launcher pistols and 6 light machine guns. In addition, various parts for these weapons, such as for 7,700 parts for rifles, were licensed. Furthermore, at least 150,000 rounds for submachine guns and 130,000 rounds for rifles were licensed for export. If one looks at the DESTATIS figures, more than 11 tons of rifle ammunition and parts thereof as well as 4,300 “civilian” pistols and almost 900 “civilian” rifles and carbines have been exported since 2002.

Small arms in wrong hands

The Federal Government did continually license small arms exports to the Philippines even though it was obvious that internal armed conflicts were being waged. This can only mean that the Federal Government has a peculiar interpretation of the passages of the Political Principles, which rule out arms exports to third countries under these conditions. In the case of the Philippines, it is irrelevant if the German weapons were destined for the armed forces or the police – especially until the end of the 1990s with the police under the command of the Ministry of Defence until 1998. Army, police and militias join forces for military operations. In many cases the militias of CAGU and CVO even conduct operations against MILF, NPA or ASG on their own. This situation offers a high probability that, sooner or later, German small arms will end up in the hands of all the groups using child soldiers, either directly handed to the militias or by captured or acquired through illegal arms deals by MILF, NPA and ASG.

As already observed in the case of Colombia, a close watch has to be kept on the activities of German small arms manufacturers in the U.S. The semi-automatic rifle M400, developed by the U.S. subsidiary Sig Sauer Inc for the civilian market, is also offered in a military version in the U.S. In July 2016, the Philippines decided to purchase around 27,000 of these rifles and introduce them as “Basic Assault Rifles” for the police. So far, this deal has not been finalized – not due to human rights concerns but because of the general tensions between the USA and Philippines on the future military relationship.¹⁰³

Even though President Duterte is negotiating with MILF and NPA the conditions of a peace deal, Germany should refrain from selling arms to that country.¹⁰⁴ The president left no doubt that he wants to wage his “War on Drugs” with military means. For this, he wants to extend the powers of the security forces and initiate a new armaments program. In addition, Duterte is an advocat of “extra-legal killings” – which constitute a clear violation of human rights and international law, which has already caused many casualties during his time as mayor of Davaos – many youths and street children among them. Within the first three months as president, Dutertes “War on Drugs” led to more than 2,500 deaths.¹⁰⁵ In this light, any sale of German weapons to Philippine security forces would be in contradiction to the criteria listed in the Political Principles calling for respect for and compliance with human rights and international law.

2.3.4. India

“Children were trained in the use of firearms according to their height and build: If a boy is tall, he was given six round rifles generally used by the police and if he is short, he would be given smaller arms.”¹⁰⁶

Thimbu Oraon, began fighting for Maoist groups at 15 years.

Germany considers India as one of the important strategic partners of its foreign and security policy in Asia. This might be the reason for the decision to ignore the numerous internal conflicts of that country. The Indian government prefers to refer to these as violent incidents of civilian unrest, even though these conflicts have been waged for decades and claim many thousand victims each year. The most renowned armed conflicts are being fought in the provinces Jammu and Cashmere in northwest India bordering Pakistan. But also in the northeast, in the “Seven Sister States” Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, there have been ongoing conflicts for many decades.¹⁰⁷ Another region of conflict in the East is close to the Bangladesh border and involves the Indian states of Andhra Pradesh, Bihar, Chattisgarh, Jharkand, Madhy Pradeh, Maharashtra, Odisha, Uttar Pradesh and West Bengal. Here, more than 40 armed Naxalite groups are fighting the central government.

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- 103** Ryan Maass (2016): Duterte changes his mind, OKs U.S. assault rifle deal for Philippine police. Reuters (online), 15-11-2016; Percecto T. Raymundo / Jelly F. Musico (2016): It will be a loss for US if firearms deal won't push through: Dela Rosa. Philippines News Agency, 2-11-2016; Police Magazine (2011): Sig Sauer introduces M400 Carbine. (online) 30-9-2011.
- 104** The former government had already signed a peace agreement with MILF in 2014. But it hasn't been fully implemented yet. At the moment the new government is also negotiating with the NPA on a peace agreement.
- 105** Amanda Taub (2016): How Countries Like the Philippines Fall into Vigilante Violence. New York Times, 11-9-2016.
- 106** Child Soldiers International (2016): Lost Childhood – Caught in armed violence in Jharkand. p.22.
- 107** For an overview on these conflicts see Ajai Sahni (2002): Survey of Conflicts & Resolution in India's Northeast. South Asia Terrorism Portal (online); Asian Centre for Human Rights (2013): Indian Child Soldiers; Rahul Bedi (2002): India struggles to contain separatist violence in Tripura. In: Jane's Intelligence Review, 9-9-2002.

Many armed conflicts = many child soldiers?

Child soldiers are being used by all sides of the conflicts. In 2013, the Asian Centre for Human Rights estimated that about 500 child soldiers were fighting in Jammu & Cashmere and 2,500 in the eastern and northeastern parts of India.¹⁰⁸ Due to the compartmentalized structure of the armed groups and the limited access of observers to them, these figures can safely be considered too low.

In Jammu & Cashmere, an increase in numbers of youths from the Indian-Pakistani border region joining the armed groups can be observed during the last years. In the areas of operations of the Naxalites in the East, forced recruitment in the tribal areas has been reported for years. In 2014, the UN estimated 2,500 children serving in the ranks of armed groups.¹⁰⁹ In the north-eastern conflict region of the “Seven Sisters States”, various armed groups keep on recruiting children as well. In 2014, the Manipur Alliance of Child rights documented the recruitment of more than 180 children in Manipur.¹¹⁰

On the government side, child soldiers are primarily used by paramilitary police units and militias, like the Special Police Officers (SPO). For the fight against the Naxalites in the state of Chattisgarh, the police made special efforts to recruit youths from the so-called Self-Protection Organisation Salwa Judum. At times, more than 4,000 children were reported to be part of the SPO. In 2012/2013, the Indian state of West Bengal announced the recruitment of 5,000 children as SPOs for the fight against the Naxalites.¹¹¹ In some instances, children are also recruited for regular police service, officially only as for non-armed duty. In some cases though, they are assigned to heavily armed police units deployed in counter-insurgency operations. In Manipur, there were repeatedly documented cases of children being recruited for the Assam Rifles, one of the oldest Indian paramilitary units serving the Ministry of Interior.¹¹²

But the armed opposition groups and Indian security forces also commit other violations of child rights on a regular basis in each of the three conflict regions. Particularly in the Northeast, the Indian government forces regularly conducted military sweeps and destroyed whole villages. Children were forcefully displaced, abducted, abused and attacked. This arbitrary and illegal conduct is encouraged by the Armed Forces Special Powers Act, which grants the security forces immunity from prosecution.¹¹³

¹⁰⁸ ACHR (2013), *ibid.*, p.3.

¹⁰⁹ UNO (2015b): Report on Children and Armed Conflict. UN-Dok. S/2015/409, p.38; Human Rights Watch (2008): *Dangerous Duty – Children and the Chhattisgarh Conflict*. p.21ff.; Child Soldiers International (2016), p.12. The Naxalite groups usually recruit children between 6 and 12 years of age. They are trained in so-called Bal Sangams as messengers and spies as well as in pole fighting. After turning 12 they are sent to other groups where they are trained in the use of regular weapons.

¹¹⁰ Hueiyen News Service (2014): 180 recruited as Child Soldiers. (online) 11-7-2014; siehe folgende Quellen für weiterführende Informationen Raju Kumar Narzary (2014): *Impact of Conflict on Children in Assam and Manipur States of India*. The Northeast Research & Social Work Networking, terre des hommes p.8ff,17f.; Rajeev Bhattacharyya (2011): *The Child Guerrillas of the Northeast*. India Defence Review (online), 15-11-2011; ACHR (2013), *ibid.*, p.12.

¹¹¹ See Child Soldiers International (2013a): *India – Shadow Report to the Committee on the Rights of the Child*. p.7.

¹¹² ACHR (2013), *ibid.*, pp.2&8; Narzary (2014), *ibid.*, pp.20,22.

¹¹³ Vgl. Narzary (2014), *ibid.*, p.21ff., p.27ff.

¹¹⁴ India Armed Violence Assessment (2012): *A Heavy Hand – the Use of Force by India’s Police*. IAVA Issue Brief Nr. 3/2012.

Arming the Indian Police

The continuing instability in the aforementioned provinces contributes to the proliferation of small arms in India which in return fueled the conflicts even further. The Indian government undertook substantial efforts to up-arm the police. Paramilitary units were set up in each federal state. In some Indian states, like Bihar, they are frequently even referred to as military police. Furthermore, heavily armed Police Reserve Forces and militias were set up in the conflict affected districts.¹¹⁴ According to estimates of the Indian Armed Violence Assessment project (IAVA), more than 5.6 Mio. small arms are stockpiled by the state: 2.6 with the armed

forces, 1.7 with regular police units and 1.3 with paramilitary units.¹¹⁵ The majority of these firearms are produced in India, but especially German submachine guns have been continually procured since the 1980s. The Special Protection Group and Border Security Force are equipped with MP5 and older sniper rifles SP66 and MSG90.¹¹⁶

Especially during the last decade, the numbers of German small arms has increased. The National Security Guard, used for counter-terrorism, ordered around 16,000 MP5 in 2012 and purchased 675 sniper rifles SG551 from Sig Sauer.¹¹⁷ In 2015, the Indian Ordnance Factory Board was reported to have developed an Indian version of the MP5 by reverse engineering.¹¹⁸ In 2012, the Indian state of Uttar Pradesh began to equip its police with MP5 for the fight against Naxalites. The likewise affected state of Maharastra similarly provided its elite unit Force One with these weapons.¹¹⁹ In 2011, the Indian state of Manipur planned to equip the newly created Lokhtak Protection Force with at least 775 MP5 for the fight against the local armed groups.¹²⁰ It remains unclear if this has been implemented and from where the SMGs were bought, because, interestingly enough, the local government announced, that the MP5 will be purchased from the USA, even though officially Heckler&Koch doesn't produce MP5s there.

Since 2002, the Federal Government has licensed SALW exports, including ammunition, to India each year. Among them were licenses for more than 18,000 submachine guns and 27,000 parts for them as well as 475 assault rifles and 1,800 parts for them. Other rifles, grenade pistols, RPGs, night sights and targeting sights were also licensed, along with at least 350,000 rounds of ammunition.¹²¹ The figures reported to UNROCA between 2006 and 2015 amounted to 427 assault rifles and 16,030 submachine guns, the largest share of them (12,000) probably for the National Security Guard. In the segment of "civilian" firearms, more than 1,000 revolvers and pistols and more than 1,000 rifles have been exported since 2002. But it mainly seems that ammunition was supplied: more than 160 tons of ammunition for rifles and 11 tons of ammunition for pistols. In 2009, the German Federal Security Council approved

the export of ammunition production equipment by the Fritz Werner GmbH.¹²² In the near future, other lucrative contracts might be in store for German companies. The Indian government is thinking about tenders for at least 65,000 assault rifles and 4,000 light machine guns. In the beginning of December 2016, a number of small arms companies, among them Blaser Jagdwaffen GmbH, Sig Sauer and the French partner of Krauss-Maffei Wegmann, Nexter, were asked to make a price offer for the delivery of 5,000 sniper rifles.¹²³

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- 115** India Armed Violence Assessment (2014): Small Arms of the Indian State. IAVA Issue Brief Nr. 4/2014, p.2.
- 116** Sangeeta Saxena (2013): CRPF fights its toughest battle in anti-naxal operations. India Strategic (online); Between 2008–2011 1,576 MP5 were purchased, see Monish Gulati (2012): Indian Central Armed Police Forces (CAPF) – Missions and Modernisation. SSRN-Datenbank, p.9.
- 117** IAVA (2014), *ibid.*, p.3.
- 118** see "Unnamed – India's Ordnance Factory Board 'ANAMIKA' MP5", <http://www.thefirearmblog.com/blog/2016/06/16/of/25.8.16>.
- 119** Times of India (2012): Govt promises to equip police with latest weapons firearms. (online) 3-7-2012; Prakash Katoch (2013): Equipping Cutting Edge Infantry, in: Indian Defence Review, Nr. 4/2013.
- 120** HNS (2009): Police Commandos to be armed with German guns. (online) 5-12-2009; Sangai Express (2011): Cdos to get more lethal weapons. (online) 20-2-2011.
- 121** In 2015 Germany licensed the export of ammunition for sporting and hunting rifles, for pistols and revolvers as well as for howitzers worth 50 Mio. €. But it is not possible to calculate the exact share for the rifles, pistols and ammunitions.
- 122** Deutscher Bundestag (2015c), Drucksache 18/4194, p.15.
- 123** Vivek Raghuvanshi (2016): India Hunts Overseas for Sniper Rifles. Defense News (online), 14-12-2016.

“Strategic Partnership” instead of principles

German arms exports to India illustrate the lesser status of the Political Principles in regard to arms deals with so-called strategic partners. Given the total volume of arms export licenses of more than one billion Euros between 1999 and 2015, India is by far the largest recipient of German arms in South Asia. As a strategic partner and potentially lucrative market, India can rely on German export license approvals, even if the small arms are then used in internal conflicts, for human rights violations or contribute to the general escalation of conflict. Furthermore, other relevant contradictions to the criteria of the Political Principles, like the explosive border conflict with Pakistan over Cashmere or the fact that India still has nuclear weapons, refuses to sign the NPT and negotiate with the international community on their dismantling, are being ignored in favor of the strategic partnership.

2.3.5. Yemen (and the Saudi military intervention)

“It is better for me to work for YR25,000 [US\$110] a month than stay home without anything to do.”¹²⁴

Walid, age 15, child soldier of the First Armoured Division of the Yemen Army.

Since the reunification of Yemen 1990, the country hasn't settled down. Armed power struggles between different tribes, increasing terrorist activity of Al Qaida and the escalation of religious violence between Sunnis and Shias have shaped the last 20 years. The seizure of power by the Shia Al-Houthi militias in 2015, after more than ten years of civil war, set the stage for the next escalation and internationalization of the ongoing civil war primarily fought along the north-south divide. Particularly the USA and Saudi-Arabia stepped up their military support for the toppled former government and their loyal tribes. For the fight against the Houthi, Saudi-Arabia mobilized a broad military alliance in the Gulf Cooperation Council. Jordan, Qatar and UAE participated in air strikes. Saudi Arabia even began to deploy ground troops.

Child soldiers a common sight

During the past 10 years, the civil war has claimed many civilian casualties and displaced more than two million people making them refugees in their own country. Just the recent Saudi intervention of March 2015 alone killed more than 35,000 people.¹²⁵ This conflict, no exception to others, child soldiers can be found on all sides. During the “Yemenite Spring” of 2011, which led to the toppling of the government, the First Armoured Division used children to man checkpoints and guard demonstrations.¹²⁶ The Republican Guard too, which now for the most part fight alongside the Houthi, have used and still use children. The same holds true for the paramilitary Central Security Forces (now renamed in Special Security Forces) of the Ministry of the Interior. A 19 year-old soldier reported that he was recruited by the First Armoured Division in 2009 at 12 years old.¹²⁷

The picture is no different on the Houthi side. Estimates assume that around 30 % of the Houthi fighters are children, the majority being between 12 and 17 years of age. The United Nations has verified the recruitment of more than 250 children in 2013/2014 alone – some as young as six years! They were not only employed at check-

¹²⁴ IRIN (2011): Conflict generating more soldiers. (online) 20-7-2011

¹²⁵ Control Arms (2016): Dealing in Double Standards – How arms sales to Saudi Arabia are causing human suffering in Yemen. ATT Monitor, Case Study Nr. 2, p.2.

¹²⁶ Child Soldiers International (2013b): Yemen. p.6,10; IRIN (2011), ibid.

¹²⁷ Yemen Times (2012): Child rights organisations silent on child military recruitment. (online) 16-4-2012; CSI (2013b), ibid., p.2; Child Soldiers International (2013a), ibid., p.98; Huffington Post (2016): How Children are forced to the front lines of the Yemeni war. (online) 23-1-2016.

Figure 6: Export licenses for Jordan, Saudi-Arabia and United Arab Emirates (UAE) 2002–2015

	Jordan	Saudi-Arabia	UAE
Rifles (KWL)	2,027 7,030 parts	37,224 1.6 Mio. parts	2,364 9,746 parts
Rifle munition	0.52 Mio. rounds	40 Mio. rounds 20 Mio. parts	1.1 Mio. rounds 21.5 Mio. parts
SMGs	2,622 39,202 parts	4,812 0.3 Mio. parts	5,300 7,417 parts
SMG Munition	5.1 Mio. rounds	1.2 Mio. rounds	0.83 Mio. rounds
MGs	10 10 parts	899 995 parts	
MG-Munition		2 Mio. rounds	2,000 rounds

points but also in forward operations.¹²⁸ Al Qaida and their aligned tribal militias also recruit minors. According to UN reports more than 50 children were recruited in 2013. In addition, all the child soldiers of other tribal militias need to be considered. But for them the estimates are even more unreliable than for Al Qaida and Houthi. The UN assumed, in 2010 – before the recent escalation – that the share of underaged children in these militias was 50 %.¹²⁹

Children are targeted by all factions in this conflict. Schools and hospitals are being attacked. The Saudi-led coalition is accused of grave violations against UN Security Council Resolution 1612. According to the UN, Saudi Arabia was responsible for more than 60 % of the child casualties in Yemen in 2015. Only due to Saudi pressure was the country taken off the “list of shame” of the UN report on children in armed conflicts for 2015.¹³⁰

Small Arms in Yemen – an involuntary German-Saudi coproduction with a future?

Yemen did receive German military aid and training in the 1960s and 1970s, and then again after reunification in the 1990s. But arms exports weren't part of these arrangements. During the last two decades, almost no small arms have been exported to Yemen. An exception were the licenses for small arms exports worth one million Euros and small arms ammunition worth 3.3 Million Euros between 1999 and 2003, in the build-up phase just before the military escalation of the conflict between president Saleh and the Houthi in 2004. But it remains unclear if and how much of these military goods were really exported.

Nevertheless, it seems that a large quantity of German small arms still ended up in Yemen. One factor certainly was Yemen's gun culture: the country is considered one with the highest ratio of weapons per capita.¹³¹ Added to this is the strategic location of the country at the entrance to the Red Sea which makes it an ideal hub for the legal and illegal arms trade with Africa. For instance, the conflict parties of the Somali Civil War regularly arranged their resupply via Yemen and could rely on the support of the Yemen government. Despite an UN embargo, President Saleh agreed to supply the Transitional Government of Somalia with G3 assault rifles.¹³² Until today, the G3 assault rifles have been widely used by the armed forces of Yemen and the various local militias.¹³³

- 128** Priyanka Gupta (2015): The Child Soldiers of Yemen. Al-Jazeera, 4-3-2015; UNO (2015b), *ibid.*, p.35; Human Rights Watch (2015): Yemen – Houthis Send Children Into Battle.
- 129** Child Soldiers International (2013b), *ibid.*, p.11.
- 130** Colum Lynch (2016): U.N. Chief Says Saudi Air War Taking Heavy Toll on Yemeni Children. The Cable (online), 2-8-2016; Georg Schwarte (2016): Skandal um “Liste der Schande”. tagesschau.de (online), 8-6-2016.
- 131** Derek Miller (2009): Demand, Stockpiles, and Social Controls – Small Arms in Yemen. Small Arms Survey, Occasional Paper Nr. 9/2009, p.28. According to estimates around 6–9 million small arms are assumed to have been in private hands in 2009.
- 132** UNO (2005): Letter dated 5 October 2005 from the Chairman of the Security Council Committee established pursuant to resolution 751 (1992) concerning Somalia addressed to the President of the Security Council. UN-Dok. S/2005/625, p.13.
- 133** Edward C. Ezell (1988): Small Arms of the World. Harrisburg (2. Auflage), p.445.

Currently though, the largest threat for the proliferation of German small arms in Yemen comes from the Saudi-led military coalition. The Saudi Royal Family has been financing the arms purchases of the former Yemen government for many years. With the start of the Saudi intervention in the civil war many anti-Houthi groups were even supplied directly with Saudi weapons.¹³⁴ Many of these weapons are either of German origin or have been license produced in Saudi Arabia. In 2015, the Saudi Air Force for instance supplied anti-Houthi tribal militias with G3 assault rifles in larger quantities via air-drops.¹³⁵

For decades, Saudi Arabia has been one of the better customers of the German arms industry. Already in 1960s, Saudi Arabia received a license for the production of G3 assault rifles. In the 1980s, a license for production of MP5 submachine guns followed. And even though the Federal Government indirectly admits that the licensed production of G3 in Iran and Pakistan had very negative consequences, Saudi Arabia even received a new production license for the successor model G36: The decisive factors were – as before – “foreign and security policy considerations of the Federal Government”.¹³⁶ Until 2014, more than 20,501 sets of G36 were delivered, as well as 1.2 million parts for these rifles, worth more than 27 million Euros. In addition, Saudi-Arabia has received ten thousands of complete G36 directly from Germany since 2000. The total amount remains unclear though. Since 2006, Germany reported to UNROCA the export of 36,000 G36 rifles. The German Parliament was told by the government in 2015 that 46,300 export licenses had been granted. But more importantly: according to the Federal Government there is no limit set for G36 production in Saudi Arabia.¹³⁷

With Jordan and UAE, two other important recipients of German small arms are also involved in the military intervention in Yemen. Since 2002, substantial SALW and ammunition exports have been licensed for these countries:

With these amounts of deadly small arms and the continuing tensions in this region, it is only a question of time until further German small arms end up in the hands of Yemen’s armed forces or as captured weapons in the hands of the opposition groups. In 2015, there was already first evidence of G36 assault rifles being wielded by Houthis.¹³⁸ Besides, the Houthi did already acquire access to a vast share of the weapons previously supplied by the USA and Saudi Arabia while conquering the capital in 2015 and integrating the Republican Guard.

Licensed production for unreliable partners

The proliferation of German SALWs in Yemen can’t be traced back to direct arms exports from Germany. However, Germany’s deliveries to neighboring states and other countries like Iran which are responsible for the fact that German weapons are presently being used in Yemen’s civil war. Similar to the above case studies, the case of Saudi Arabia and Yemen demonstrates that the Federal Government is willing to accept the long-term risks of SALW proliferation in a crisis region for short-term political and economic gains. For decades, weapons were supplied to Arabian states in this volatile conflict region. Even though the Political Principles determine that weapons of war should not be exported to “third countries” involved in armed violence, small arms continued to be exported to the three Arab countries mentioned above in 2015: more than 3,000 SMG and 500 assault rifles. Especially the (militarily) interventionist policy of Saudi-Arabia during the last years gives ample reasons to fear that the previously delivered weapons to Saudi Arabia will be used in other conflicts in the near future.

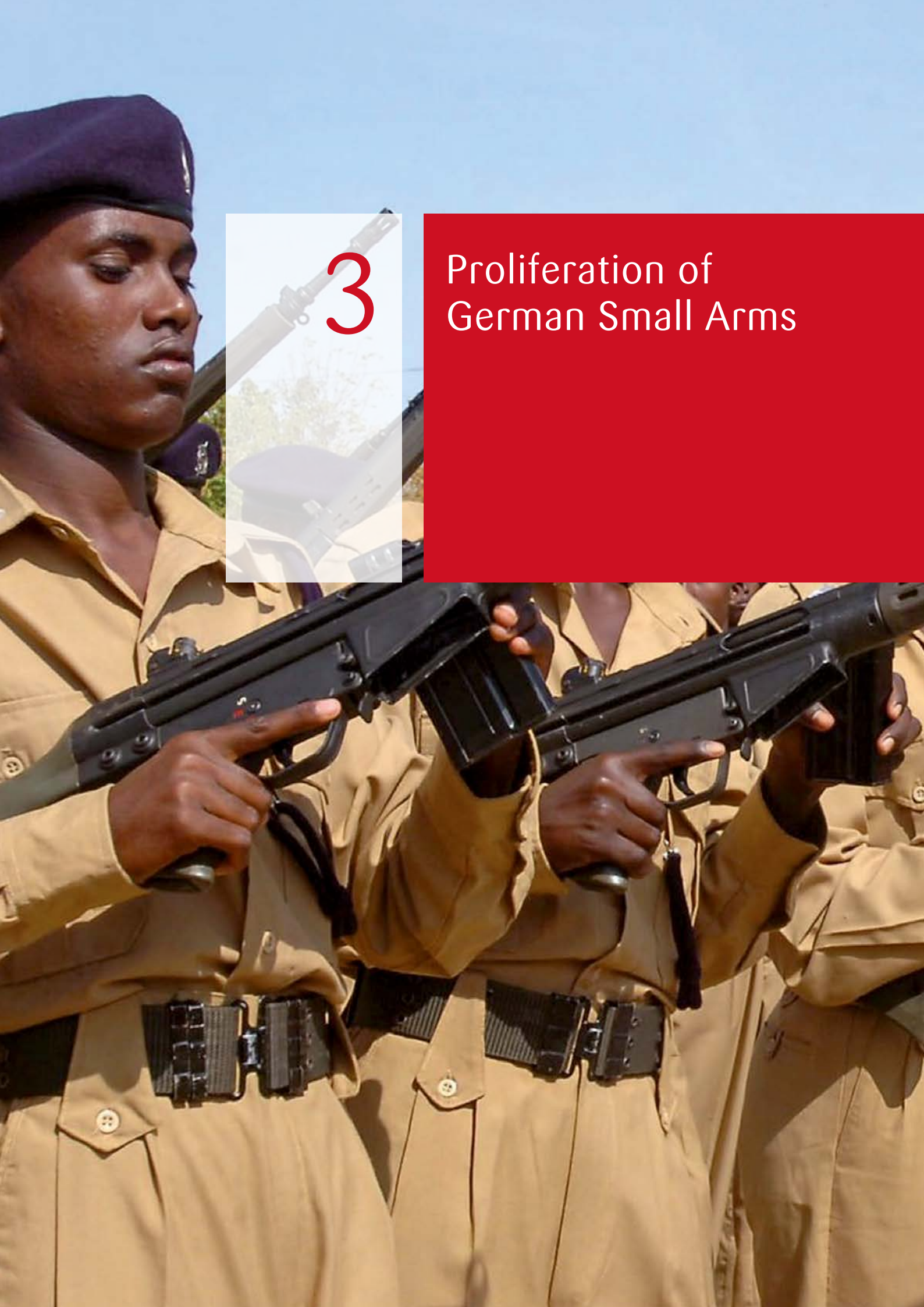
134 Sarah Phillips (2011): Yemen and the 2011 Arab Uprisings. Adelphi Series, p.130.

135 Spiegel Online (2015): Bundesregierung verlangt Aufklärung von Saudi-Arabien. (online) 12-6-2015.

136 Deutscher Bundestag (2011), Drucksache 17/7926, p.8.

137 Deutscher Bundestag (2015d), Drucksache 18/6525, p.1f.; Deutscher Bundestag (2011), *ibid.*, pp.5,8; Deutscher Bundestag (2014c), Drucksache 18/2075, p.2ff; Deutscher Bundestag (2015b), *ibid.*, p.16.

138 Michael Smallwood (2015): North American anti-materiel rifles with Houthi forces in Yemen. ARES The Hoplite (online), 19-11-2015. At a meeting with representati



3

Proliferation of
German Small Arms

“The G3 is a very popular weapon. You can bury it, hit it, shake it – and it still functions. The people prefer German arms since these are better and stronger. They have more power. They destroy more.”¹³⁹

Ishmael Beah, former child soldier from Sierra Leone.

The country examples have demonstrated that German weapons are still finding their way into the hands of child soldiers. Thus legal direct arms exports continue to keep playing an important role. But the case studies have also revealed other factors which need to be considered when dealing with the proliferation of German small arms to countries where child soldiers are used and where other grave violations of the rights of children are committed.

Export licensing decisions made by previous German governments during the past decades are responsible for the fact that child soldiers fight with German firearms or are killed by them, even today. Particularly licensed production of arms established the structural preconditions for the availability of these weapons in present-day conflicts. Licensed production furthermore supported the build-up of small arms production capacities in general in those states. In the end, the export of the small arms produced in those countries has proven to become impossible to control.

Another factor is the re-export of German weapons or weapons produced with German components by those states to armed groups in conflict. Short-term foreign and security policy considerations were given more weight than end-use controls and an assessment of the long-term impact of such deals. Countries originally deemed “safe destinations”, like Iran and Pakistan, have later proven less reliable. In regard to arms deals with some allies, like Great Britain, Germany even voluntarily forfeited setting any standards for end-use standards. The proliferation risk was considered a secondary issue.

One factor often ignored is the ammunition. The reliable supply of adequate ammunition is one of the decisive factors in the decision-making process on which SALWs to procure. Not without reason were production licenses for firearms often coupled with agreements on production facilities for ammunition in the past. Until now, neither the export of production facilities and technology nor the direct sale of ammunition has received due attention.

3.1. Licensed production – Basis for uncontrolled proliferation

As early as the 1960s, German arms companies began to produce weapons and ammunition abroad. It was a win-win constellation of government and industry. The arms companies and equipment manufacturers profited from long-term supply contracts for single components. It improved their planning security because of the then reduced licensing obstacles for exporting spare parts and components. The Federal Government, on the other hand, used these deals to cultivate their foreign relations. In the 1960s, such deals were also used as incentives to make sure that the buying countries would not officially recognize the GDR. But foremost, issuing such licenses enabled the Federal Government to shed its responsibility for what might be done with these weapons in the future. Even more importantly: one didn't have to deal with the growing number of export applications for single arms and ammunition deals. A quote from a correspondence of the Auswärtige Amt on a proposed arms deal with India and Pakistan illustrates this: **“Furthermore, this corresponds with our present posture in regard to India and Pakistan to license the export of manufactured components for ongoing production in these countries, since the manufacturing support for weapons in the concerned countries relieves us of our responsibility to deny license applications for the export of complete weapons there according to our fundamental position.”¹⁴⁰**

¹³⁹ At a meeting with representatives of the Deutschen Bündnis Kindersoldaten 2012 in Berlin.

¹⁴⁰ Archiv des Auswärtigen Amtes (1966): Schreiben des Auswärtigen Amtes vom 28-6-1966. Politisches Archiv des Auswärtigen Amtes, Band 57.

Export licenses for technical documents, manufacturing equipment and spare parts for weapon and ammunition production were easier to attain for the companies than those for complete weapons. The German involvement was less visible and, in addition, the German government could refer other interested customers, to which it didn't want to openly deliver weapons, to these countries already license producing German weapons.

3.1.1. Assault rifles and submachine guns for the world

Particularly the G3 assault rifle and the submachine gun MP5 of Heckler&Koch provide infamous examples of the proliferation of German small arms.¹⁴¹ The liberal licensing policy of the Federal Government, mainly in the 1960s and 1970s, provided the foundation for the wide-spread use of the G3 on battlefields even today as well as for the G3 to become synonymous for the evil of small arms, together with the Soviet AK47 and U.S. M16 assault rifles.

The country, studies in chapter 2, have illustrated where this liberal course leads to. Licensed productions of G3 assault rifles and MP5 submachine guns in Iran, Pakistan and Saudi Arabia were responsible for the spread of these weapons to Yemen and Philippines. But also these weapons found their way to armed conflicts from other countries as the examples illustrate:

- ▶ Portuguese G3 assault rifles were used in large-scale during the civil war in East Timor.¹⁴²
- ▶ Uganda acquired G3 assault rifles via France. Because of political concerns of the German government, the French company Manufacture Nationale d'Armes des St.Etienne produced and assembled the weapons.¹⁴³
- ▶ During the civil war in Sudan, construction sets for G3 rifles were delivered from Saudi-Arabia and Great Britain. In 1991/92, more than 50,000 assault rifles were supposedly exported from Iran for the regime in Khartoum.¹⁴⁴
- ▶ Kenya has been fielding the G3 assault rifle as a standard-issue weapon of the armed forces even though Germany didn't export any weapons to Kenya. The assault rifles and submachine guns were instead assembled in Great Britain and then shipped to Kenya. Later on, either Iran or Pakistan followed Great Britain as main suppliers of G3 assault rifles.¹⁴⁵
- ▶ In the middle of the 1970's, about 4,000 HK33E rifles, license produced in Thailand, supposedly were sold to Chile. In the 1990s, these rifles were then resold to Ecuador.¹⁴⁶

141 Next to the assault rifles and SMGs from Heckler&Koch other production licenses were given by Heckler&Koch and Rheinmetall until the 1970s for other SALW. Some examples are licenses for HK21 light machine guns to Greece, Colombia, Mexico, Norway, Portugal and Thailand. The MG3 machine gun was licensed among others to Greece, Iran, Pakistan, Turkey and Italy. In Italy the MG3 or MG42/59 was produced by three companies (Beretta, Frachi und Whitehead Moto) and exported among others to Chile, Mozambique and Nigeria. More than 1,000 MG42/59 were supposedly delivered by Italy to Saudi-Arabia. See the corresponding entries in Jane's Infantry Weapons 2002 (online); Spiegel Nr. 33/1980, p.28.

142 see Griffith (1997), *ibid.*, p.488f. and Deutscher Bundestag (1989a), Drucksache 11/4026, p.10, Deutscher Bundestag (1989b), Drucksache 11/5399, p.5; Small Arms Survey (2008): Dealing with the kilat – An historical overview of small arms availability and arms control in Timor-Leste. Timor-Leste Armed Violence Assessment Issue Brief, Nr.1/2008.

143 Roman Deckert (2008b): morden mit in aller Welt – Deutsche Kleinwaffen ohne Grenzen. *iz3w*, Nr. 308/2008.

144 Roman Deckert (2005): Deutsches Kriegsgerät im Sudan. Deutsches Aktionsbündnis Kleinwaffen Stoppen, DAKS-Newsletter, 12/2005, p.2; Between 1959–1965 Sudan also received up to 30,000 G3 assault rifles directly from Germany.

145 Roman Deckert (2008c): Kenia – Krise und Kleinwaffen, in: DAKS-Newsletter Nr.1/2008, p.3f.; Deutscher Bundestag (2011), *ibid.*, p.7.

146 Bureau of East Asian and Pacific Affairs (1975): Thai-manufactured HK33 rifles to Chile. Public Library of US Diplomacy, Wikileaks.org, 12-9-1975; Roman Deckert (2008d): HK33 Einsatz in Ekuador. DAKS-Newsletter 3/2008, p.3.

- ▶ In 2007, Pakistan Ordnance Factory and Vietnam agreed on the sale of Pakistani manufactured MP5 (referred to as SMG-PK9mm). This deal also shows that the MP5 remains en vogue even 40 years after its introduction.¹⁴⁷ In addition, Pakistan is reported to have exported the MP5 to Kenya, South Africa and the Philippines.¹⁴⁸
- ▶ During the Indonesian military intervention in East Timor, the Turkish company MKEK, having a MP5 production line, supplied the Indonesian Armed Forces with these SMGs.¹⁴⁹

In many of these cases, arrangements were also made in regard to end-use as part of the negotiations. But the terms of end-use agreements seem to have been handled very differently. With Pakistan and Iran, no such clauses were included in the G3-deals. In a similar fashion, Great Britain, one of the largest arms exporting nations at that time, was also not asked to guarantee the end-use of G3 and MP5 assembled by Royal Ordnance. Instead, the German government only stated: “The Federal Government was convinced that the British license-taker will exercise its right to export

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- 147** Rahul Bedi (2007): Despite India’s Protests, Vietnam buys arms from Pakistan. *Hindustan Times*, 17-8-2007.
- 148** amnesty international (2003): A Catalogue of Failures – G8 Arms Exports and Human Rights Violations. p.55.
- 149** Oxfam (1998): Out of Control – the loopholes in UK controls on trade of arms. S.16; Frida Berrigan / Michelle Ciarrocco (2000): Profiling the Small Arms Industry. World Policy Arms Trade Resource Center.
- 150** Deutscher Bundestag (1992b), Drucksache 12/3041, p.3.
- 151** It remains unclear if Turkey kept this promise. The same holds true in regard to the production output. The figures vary between 300,000–500,000 rifles. Furthermore, it can’t be asserted when Turkey stopped producing the G3 and what happened to the surplus weapons. There are speculations that Turkey continued to produce G3 assault rifles for export, see Geneva Institute fo Graduate International Studies (2002): Small Arms Survey 2002 – Counting the Human Cost. GIGIS, 2002, p.50.
- 152** Figures 7 and 8 are based on an evaluation of the following documents, which, albeit, contain contradictory information, i. e.: Archiv des Auswärtigen Amtes (1975: Schreiben von Heckler&Koch vom 22-10-1975. Band 117 47; Deutscher Bundestag (1990), Drucksache 11/6537; Deutscher Bundestag (1992b), Drucksache 12/3041; Deutscher Bundestag (2011), Drucksache 17/7926; DAKS (2010): Lizenzlexikon Heckler&Koch – G3 und HK33, in: DAKS Kleinwaffen-Newsletter, Nr. 10, 10/2010; p.5; Jürgen Grässlin (2011): Versteck dich, wenn sie schießen. 2011, p.365.

Figure 7:
Overview of licensed production of G3 (HK33)¹⁵²
 (in grey = unclear if a license was granted or if the license was used)

Brazil	G3 (1976) HK33 (Option before 1975)
Canada	HK33 (Option before 1975)
Colombia	G3
France	G3 (1970) HK33
Greece	G3 (1977) HK33E
Great Britain	HK33 (vor 1975)
Iran	G3 (1967)
Malaysia	G3 HK33
Mexico	G3 (1979)
Myanmar	G3 (1969)
Norway	G3 (1967)
Philippines	G3
Portugal	G3 (1961)
Saudi-Arabia	G3 (1969)
Sweden	G3 (1964) – als AK4
Thailand	HK 33E (1971)
Turkey	G3 (1967) HK33E (1998)

under due observation of the British export regulations”.¹⁵⁰ This basically meant that Great Britain could do whatever it desired. That a very different approach was possible even then is illustrated by the extensive – and finally successful – diplomatic efforts between the mid-1960s and mid-1970s to make Portugal guarantee the end-use license produced small arms in Portugal. Since the 1990s, the Federal Government seems to have pursued a more careful course of action in this regard, as the example of Turkey shows: Contrary to the G3 production license granted in 1967, Turkey had to commit itself in 1998 to license produce the HK33E rifle only for its own purposes.¹⁵¹

Figure 8:
Overview of licensed production of MP5 (HK53)

(in grey = unclear if a license was granted or if the license was used)

Colombia	MP5
Pakistan	MP5 (1983)
Greece	MP5 HK53E (1990)
Portugal	MP5 (Option nicht genutzt)
Great Britain	MP5 (1972)
Saudi-Arabia	MP5 (1985)
Mexico	MP5 (1979)
Turkey	MP5 (1983)

Nevertheless, aside from the above examples of German arms exports from licensed production, it is impossible to determine the true extent of worldwide distribution of G3 assault rifles and MP5 submachine guns. According to information provided by the German government, the G3 assault rifles had been exported to more than 80 countries before 1988 and the MP5 to more than 60 countries.¹⁵³ Since then, though, the G3 has been replaced by other rifles as the standard-issue weapon in many armed forces, such as in Colombia and Myanmar in the 1990s. But then again, in some cases the G3 has been given to other armed groups after its withdrawal from service, one recent example of the Saudi deliveries to Yemen, or were sold on the international arms market.

3.1.2. Fritz Werner's deadly plants

The sale of production licenses was frequently coupled to agreements for the construction of production facilities. Both companies manufacturing the G3 rifle, Heckler&Koch and Rheinmetall, cooperated in this regard with the company of Fritz Werner.¹⁵⁴ In regard to potential foreign deals (especially between the 1960s–1980s), it was helpful that Fritz Werner actually belonged to the state-owned Deutsche Industrieanlagen GmbH (DIAG). This meant that the Federal Government approved export licenses for production equipment and know-how which were made by its state-owned companies. For the customers, the advantage was that they could purchase an all-in-one package which included the license, production facility, training and technical advisors. Often, further industrial facilities for the production of the munitions needed for the license produced weapons were delivered as well. In Iran, Colombia, Myanmar, Pakistan and Turkey, the company Fritz Werner set up the facilities to produce rifles and ammunition. Independent of these all-in-one packages, Fritz Werner also provided machines, know-how and technical expertise for setting up production facilities to other customers: In 1964 it erected a facility for Nigeria's Defence Industry Corporation of Nigeria (DICON), designed to manufacture 5,000 rifles and 18,000 submachine guns per year. During the Nigerian Civil War between 1967 and 1970, production rate even tripled.¹⁵⁵ Iran and Iraq received numerous machines and tools for the manufacturing of small arms in the

¹⁵³ Deutscher Bundestag (1989b), p.2; Jürgen Grässlin (2002): Kleine Waffen – globaler Einsatz, in: antimilitarismus information Nr. 11/2002, p.69.

¹⁵⁴ See Otfried Nassauer (2015): Rheinmetall statt Heckler&Koch. BITS (online), 3-9-2015. Rheinmetall stopped producing G3 assault rifles towards the end of the 1960s.

¹⁵⁵ See Defence Industries Corporation of Nigeria (DICON) at <http://dicon.gov.ng/aboutus.html> (zuletzt aufgerufen 14-10-16). In the mid-1970s Fritz Werner then received a follow-on contract to modernize the plant. Other German companies, like Dynamit Nobel, acted as subcontractors. See Archiv des Auswärtigen Amtes (1975b): Fernschreiben Fritz Werner Industrieausrüstungen GmbH vom 15-8-1975 an das Auswärtige Amt, in: Politisches Archiv, Band 90, Politisches Archiv Zwischenarchiv 117165; und Archiv des Auswärtigen Amtes (1976): Sachstandsbericht zur Deutschen Rüstungsexportpolitik gegenüber Nigeria des Auswärtigen Amtes vom 15-7-1976, in: Politisches Archiv, Band 90, Politisches Archiv Zwischenarchiv 117165.

Info-Box 9

Fritz Werner in Myanmar

The country has been burdened by armed conflicts for a long time. For the last decades, all sides to the conflict have been using child soldiers. In 2002, about 70,000 child soldiers were estimated to be part of armed groups. This reality hasn't changed until now.¹⁵⁸

Thanks to Rheinmetall and Fritz Werner the G3 assault rifle became the standard-issue rifle of the Myanmar Armed Forces as early as the 1960s. But even before this, Fritz Werner was involved in setting-up production capacities for the BA52 submachine gun and building ammunition plants since 1953. Then, in the early 1960s, Germany and Myanmar agreed on the delivery of at least 22,000 G3 assault rifles, 22 tons of ammunition and 800 MG42 machine guns from Rheinmetall. In 1969 Fritz Werner began with the construction of a production facility for manufacturing the G3 rifles in Myanmar itself. Seven years later, in 1976, a follow-on contract was handed to the company for the modernising these facilities.¹⁵⁹ It remains unknown how many rifles were produced in Myanmar and if and how many of them were exported. Officially, Germany didn't approve any further arms exports to Myanmar after 1988 because of the internal developments.¹⁶⁰ But perhaps these also weren't needed anymore by the government of Myanmar since autonomous arms production capacities were then already in place.

1980s: Iran received G3 production facilities and ammunition plants, Iraq received machines for the production of barrels and handgrips for RPGs.¹⁵⁶

Today, Fritz Werner is part of Rheinmetall Industrial Engineering (RIE), a 50:50 Joint Venture between Rheinmetall Defence and the Investment Holding MPC. The company continues to provide other countries with facilities for the construction of weapons and ammunition. Between 2008 and 2010, the company did export manufacturing equipment for ammunition to Egypt, India and Turkey. Saudi-Arabia received various equipment for SSMGs/MG and rifle production as well as various types of ammunition, among others for MGs and Canons.¹⁵⁷

3.1.3. Licensed production – Opening Pandora's Box

Until the end of the 1990s, German policy in regard to licensed production did contribute in a decisive way to the long-term proliferation of German small arms. Connected with this was a partially intended and partially tolerated loss of control in regard to German arms technology. The government didn't ask for production quotas, the end-use wasn't monitored. By granting these production licenses, the German government kept these states well-disposed, satisfied German company interests; and could wash its hands in that matter in front vis-a-vis the public.

¹⁵⁶ Spiegel, Nr.3/1987, pp.43,48.

¹⁵⁷ The licenses for Fritz Werner deals were partially also contracted to MAN Ferrostaal GmbH, MAN Ferrostaal Industrieanlagen GmbH. For these export licenses see Deutscher Bundestag (2015c), *ibid.*.

¹⁵⁸ Human Rights Watch (2002): *My Gun Was As Tall As Me – Child Soldiers in Burma*.S.3; for current report see *Child Soldiers International (2015b): Under the radar – ongoing recruitment and use of children by the Myanmar army*; Ralf Willinger (2014): *Tödlicher Drill – Kindersoldaten in Myanmar*. In: Ute Köster / Phuong Le Trong / Christina Grein (Hrsg.): *Handbuch Myanmar*. Horlemann Verlag, pp.339ff.

¹⁵⁹ Deckert (2008b), s.o.; Deckert (2007), s.o.

¹⁶⁰ Deutscher Bundestag (1991), Drucksache 12/1181, p.6; Towards the end of the 1980s this cooperation for SALW production was terminated. Since continuous supplies from Germany were considered unreliable the regime decided to instead cooperate with Israel, see V.Kenneth (2016): *Burmese Small Arms Development*. *Small Arms Review (online)*, ohne Datum (zuletzt aufgerufen 6.6.2016). For other activities of Fritz Werner see Arthur Revel (2007): *Deutsch-myanmarische Beziehungen vor und nach 1988 – viel verloren, wenig gewonnen*. Friedrich-Ebert-Stiftung, p.10ff.

During the past years, the Federal Government has come to regard licensed production more critically. Accordingly, the export of technology and the granting of licensed in order to establish new arms production lines abroad have in principle been denied since 2001.¹⁶¹ This was reaffirmed by the “Small Arms Principles” of 2015 (see Chapter 2.1). But – as almost always – loopholes exist since, in legal terms, “in principle” doesn’t mean “always”. Furthermore, room for interpretation remains as to what is actually meant by a “new” production line. In addition, as an exception, the export of technology and production equipment for small arms and ammunition can be permitted if certain key components of the produced weapon, requiring an export license, are not produced on site and need to be imported from Germany.¹⁶²

Saudi-Arabia became the first beneficiary of this exception to the rule. In 2008, Saudi Military Industries Corporation was granted the permission to produce Heckler&Kochs G36 assault rifle right in the middle of the Middle East crisis region.¹⁶³ Heckler & Koch and MAN Ferrostaal AG contributed actively by providing addition technical know-how and engineers.¹⁶⁴ The impact of this licensed production on regional stability and proliferation of small arms can’t even be foreseen at the moment. Since the Mid-1990s, Saudi-Arabia has increasingly become a destabilizing factor in the region. Part of the Saudi elite supports Al-Qaida. A wide array of like-minded religiously motivated armed groups receive support and money from inside Saudi-Arabia, be it Syria, Yemen, Israel and Palestine, Lebanon or Iraq. The regime intervenes in neighboring states using German weapons, as for example in Bahrain in 2011. At the moment, Saudi-Arabia has become the main force in Yemen’s civil war und has committed grave violations of children rights there (see Chapter 2.3.5).

A second long-term effect of licensed production, which often includes support for the set-up of the production facilities, is the improvement of the arms technological base in these countries. German blueprints and assistance in setting up production lines foster the development of independent capacities to engineer and produce new weapons. After the dwindling down of the G3 production, the regime in Myanmar developed new rifle models M11 and M12 with only some aid by Fritz Werner.¹⁶⁵ After years of licensed production of the MP5, Pakistan has been able to develop its own variant of the MP5, the SMG-PK 9mm, and offer these for exports.

A further potential loophole is illustrated by the case of Mexican production of a rifle similar to the G36 design. Officially, this rifle is referred to as FX05 and has been developed indigenously since 2006. Many technical details though match those of the G36. This doesn’t come as a surprise. Heckler&Koch was involved in the development of the G3 successor model for the Mexican Ministry of Defence from the start. The joint project was only called off because the Mexican government didn’t want to pay 62 Mio. Euros for H&K licenses.¹⁶⁶ On the other hand, Mexico still needed the German expertise, and Heckler&Koch didn’t want to forfeit making investments entirely. In addition, both sides were aware of the danger that the German government might not approve an official licensed production. There are some indications that the Mexican Armed Forces and Heckler&Koch found a different solution: Heckler&Koch wouldn’t sue Mexico for patent infringements for certain technologies necessary for the production of the FX05. In return the Mexican government would order more than 10,000 G36 from Heckler&Koch and also pay the company to provide technical support for the development and set-up of a production line for the FX05.¹⁶⁷

¹⁶¹ Deutscher Bundestag (2011), *ibid.*, p.6.

¹⁶² Deutscher Bundestag (2011), *ibid.*, p.2.

¹⁶³ Before this, only the Spanish subsidiary of the U.S. company General Dynamics Land Systems, Santa Barbera Sistemas, did receive a production license fo the G36 assault rifle at the end of the 1990s. In 2002 production started there. A total of 300,000 assault rifles were to be produced for the Spanish Army.

¹⁶⁴ Vgl. Deutscher Bundestag (2015c), *ibid.*

¹⁶⁵ see Kenneth (2016), *ibid.*

¹⁶⁶ Grässlin (2015), *ibid.*, p.222ff.

¹⁶⁷ Grässlin (2015), *ibid.*, pp.222–230.

3.2. German small arms – Final destination unknown?

Next to the licensed production the re-export through third states is a further reason for the proliferation of German SALWs in conflict regions. On-site end-use monitoring after completion of arms deals wasn't even considered an option until recently. Usually, it was sufficient for Germany if a statement of end-use was presented that German weapons would remain within the country and would not be resold. Instruments and standardized procedures to monitor this simple promise didn't exist. These were only introduced with the "Post-Shipment-Control"-measures of 2015. But even with these instruments now in place, the implementation of such measures is voluntary for the customer.

The examples of the pistol exports via the US to Colombia and Iraq given in chapter 2 show that German companies repeatedly made use of the option to relocate the final assembly of its weapons to partners or subsidiaries abroad. Primarily, they hope to gain advantages in future tenders for procurement contracts because of the value-added effects of producing in these countries. But this also has a very practical positive side-effect, especially if the Federal Government signals concerns in the preliminary stage of the licensing process. The company can then use this venue for arms exports to customers to whom a license probably won't be granted in Germany. One example of this rerouting of arms deliveries was the decision of Carl Walther GmbH to produce pistols in Poland: In 2003/2004 Carl Walther and the Polish company Radom agreed to jointly assemble the P99 pistols in Poland as FB P99. Probably part of the deal from the onset was that the pistols won't be designated exclusively for the Polish security forces but also re-exported to Iraqi security forces. Until 2006, at least 3,000–6,000 pistols were delivered to the Iraqi police.¹⁶⁸

Even more challenging than the export of parts for final assembly abroad, is the tracing of transfers of know-how or components if these are repeatedly exported and imported within the company structure to subsidiaries across border, then processed and subsequently resold to third parties. Since 2007, the German small arms manufacturer Merkel Sportwaffen GmbH has been owned by Caracal International from the UAE. Merkel produces among other things the barrels for the Caracal F 0.4 S&W Cal. pistol. These German components are then exported either to the headquarters in UAE or to another subsidiary in the USA where they are then assembled and finally sold. Customers of this pistol are a number of armed forces and police in Arab countries.¹⁶⁹

3.2.1. Heckler&Koch – Doing it the British Way

In 1970, the British Ministry of Defence and Heckler & Koch agreed on the licensed production of G3 assault rifles by the Royal Small Arms Factory (RSAF) in Enfield. The agreement was supplemented in 1972 and 1977 and extended towards the licensed production of MP5s. Enfield assembled the weapons for Heckler&Koch UK, established in 1973, and primarily acting as the trading house.¹⁷⁰ The RSAF was frequently chosen as an alternative to arms exports from the headquarters in Germany, i. e. to Kenya or Sierra Leone. In Sierra Leone, the G3 became the main armament – alongside the AK47 – during the civil war lasting from 1991 to 2002.¹⁷¹ As a consequence of the purchase of Heckler&Koch by British Aerospace in 1991, the company was incorporated into the small arms and ammunition manufacturer Royal Ordnance and took over the Nottingham Small Arms Facility (NSAF). During this time, single parts continued to be imported from Germany for assembly in Nottingham, and then to be exported again. In this fashion, MP5s also reached Yugoslavia in the middle of the Bosnian civil war.

¹⁶⁸ U.S. Embassy (2006): Turkey worried about PKKs smuggling arms from Iraq. Public Library of U.S. Diplomacy, Wikileaks.org, 19-4-2006; Jane's Defence Weekly (2004): Polish Bumar Enters Iraqi Market. 1-11-2004.

¹⁶⁹ Pierangelo Tendras (2013): Caracal F im Kaliber 0.4 Smith & Wesson. All4shooters.com (online), 2-6-2013.

¹⁷⁰ Small Arms Survey (2002): A sick or dying industry? p.48.

¹⁷¹ Eric G. Berman (2000): Re-Armament in Sierra Leone – One Year After the Lomé Peace Agreement. Small Arms Survey, Occasional Paper Nr. 1, S.20; amnesty international (2003), *ibid.*, p.63.

Figure 9: License applications by H&K in Great Britain 2010–2015¹⁷³

	Number of Licenses	2010	2011	2012	2013	2014	2015
Afghanistan	2	0	1	1	0	0	0
Jordan	24	2	5	4	5	1	5
Kuwait	12	1	0	4	3	3	1
Oman	42	3	3	11	7	8	10
Qatar	21	2	5	2	8	2	2

Another example is the failed arms deal with Nepal. In 2000/2001, with a civil war on its hands, the Nepalese government was interested in buying up to 65,000 G36 assault rifles. As a first measure, Nepal wanted to procure several thousand rifles. When it became obvious that Germany would deny such an export deal due to public pressure because of the ongoing civil war, Heckler&Koch quickly applied for an export license for 6,780 rifles in Great Britain, which was then granted.¹⁷² In the end, it remains unclear if and how many rifles were exported. But even if this deal didn't manifest itself, it nevertheless illustrates how useful such foreign subsidiaries can be.

After the sale of Heckler&Koch to the managing directors of the company in 2002, the German arms manufacturer kept the British subsidiary for final assembly purposes for use in future export deals. While it isn't possible to present precise information on the subsequent exports via Great Britain, the following data indicates that Heckler&Koch still exports small arms (and ammunition) via Great Britain to regions of conflict.

Whether these arms deals really happened and which specific small arms or components were actually exported, can't be established due to the lack of transparency of the British reports on arms exports. It is interesting enough to note that while Great Britain doesn't really have another manufacturer of submachine guns other than Heckler&Koch, NSAF UNROCA reports that, between 2006 and 2015, more than 35,200 submachine guns were exported. Almost all countries for which Heckler&Koch did apply for an export license in Great Britain were also listed as recipients of submachine guns from Great Britain: Jordan with 65 SMGs, Qatar with 141 SMGs, Kuwait with 500 SMGs, Oman with 1,396 SMGs. It is possible to assume that Heckler&Koch weapons were also among these deliveries.

3.2.2.

USA – Paradise for small arms exports

Any analysis of the proliferation risks of German SALWs and ammunition via re-exports can't bypass the role of the USA. The U.S. is by far the largest buyer of German military goods. The annual value of granted export licenses to the U.S. ranges between 400 and 900 million USD annually on a regular basis. During the last 16 years, these licenses have added up to 16.7 billion USD. The share of small arms exports though is more difficult to determine. Since 2006, the UNROCA figures have given a first impression: 6 rifles/carbines, 5,562 SMGs, 18,669 assault rifles and 55,198 grenade launchers. Furthermore, a wide range of German weapons, from pistols to grenade launchers, can be identified in the stockpiles of U.S. armed forces and other security forces:

¹⁷² Foreign & Commonwealth Office (2002): United Kingdoms Strategic Export Controls – Annual Report 2001. FCO, S.222; Campaign Against Arms Trade (2003): Fanning the Flames – How UK Arms Sales Fuel Conflict. S.4; amnesty international (2004): Undermining Global Security. p.4f.; amnesty international (2003), *ibid.*, p.48f.

¹⁷³ These numbers are based on the data provided by the Campaign Against Arms Trade on license applications by british companies: <https://www.caat.org.uk/resources/company-licence-appls>



Child Soldier of the rebel group RUF with Kalashnikow at a checkpoint near Makeni, Sierra Leone, 1999

- ▶ from Heckler&Koch the Mark 23 USSOCOM Pistol, the USP Pistol, the P2000 Pistol, the AG36 grenade launcher as well as the MP5/10 SMG and various other assault rifles and sniper rifles. In 2012, 6,500 M27 assault rifles, a variant of the HK416, were manufactured for the U.S. Marine Corps. In 2016, the company received a contract for the production of 3,643 sniper rifles for the armed forces.¹⁷⁴
- ▶ from Sig Sauer the pistol types P220, P226 (MK25), P228 (MK11), P229, P245.

A gigantic defense budget of more than 500 billion USD and a large domestic civilian market for small arms make the USA an El Dorado for German small arms manufacturers. One important advantage for foreign manufacturers is that semi-automatic rifles are generally legal and popular in the domestic market. In addition, the U.S. is by far the largest exporting nation of military goods – including small arms (according to the UN-Definition). In 2013, the U.S. licensed the export of small arms worth more than 1.1 billion USD.¹⁷⁵ While the U.S. export regulations are considered very strict, especially in concerning the re-export of weapon systems including U.S. components, these rules are applied more leniently if the exports are destined for allied countries, especially in connection with joined military interventions or counter-insurgency efforts. One example for this is the military aid for Afghanistan. Even though the Child Soldiers Prevention Act of 2008 prohibits the shipment of certain military goods to countries where Child Soldiers are used, Afghanistan continues receiving massive military aid.

A number of German companies of the small arms segment have established subsidiaries in the USA or formed Joint Ventures there:

- ▶ Sig Sauer GmbH (L&O Holding GmbH) produces at its subsidiary Sig Sauer Inc. (until 2013 in Exeter, now in Newington, New Hampshire) the whole spectrum of firearms, from pistol and shotguns to fully automatic rifles.
- ▶ The U.S. subsidiary Heckler&Koch Defense also produces in Newington, New Hampshire, at Wilcox Industries products developed specifically for the U.S. market, like the HK45 pistol, but also versions of German weapons. In addition, it is responsible for the assembly of weapon parts imported from the company headquarters.

¹⁷⁴ Robert Bruce (2012): M27, from BAR to IAR – how the Marines finally got their automatic infantry rifle, in: *Small Arms Defense Journal*, 10/2012, S.50ff; Heckler&Koch (2016): *Presse Release 16-4-2016*.

¹⁷⁵ *Small Arms Survey* (2016): *Trade Update 2016 – Transfers and Transparency*. *Small Arms Survey*, S.24.

- ▶ The Carl Walther GmbH, belonging to the PW Group, cooperated with the U.S. company Smith&Wesson until 2012. Carl Walther supplied the frame and mechanics of its pistols and Smith&Wesson manufactured the barrels and did the final assembly. This production-sharing agreement seems to have extended to the P99, P22 and PK380 pistols. After the termination of the cooperation, Carl Walther announced its intention to continue its operations in the U.S. as Walther Arms Inc., based in Fort Smith, Arkansas, and later plan to set up independent production facilities together with another subsidiary of the PW Group, Umarex.¹⁷⁶

Foremost Sig Sauer Inc has continuously and substantially raised its output for pistols and rifles. In 2009, around 111,000 pistols were manufactured. In 2013, five-times as many were produced (555,000). In the same time period, the annual production of rifles increased from 8,000 to 120,000. The figures for Heckler &Koch are lower. The company only recently began manufacture pistols and rifles in New Hampshire. In 2013, the company reached the highest output with 17,000 pistols and 5,600 rifles. The firearms, produced by both companies, solely destined for the U.S. market though. Between 2009 and 2014, Sig Sauer exported more than 135,000 pistols and 12,000 rifles from the U.S. to other countries.¹⁷⁷

Similar to the attempted G36 export via Great Britain to Nepal, there exists a very high risk of circumventing possible German denials via the USA. After the Federal Government apparently denied an export license of 500 Sig Sauer SP2022 pistols for the police in Jharkhand, India, the company quickly reacted and applied for an export license in the U.S.¹⁷⁸ In this case though, it remains unclear if the U.S. government approved the license.

3.2.3.

Re-exporting – End-use in conflicts guaranteed

The export of SALWs, their components or related know-how to supposedly reliable allies or strategic partners carries substantial proliferations risks. These cultivate their own close relations with other countries and often enough pursue different goals with their arms export policy that are not in line with the aims of German foreign policy.

Under present conditions, it is impossible to guarantee an effective end-use. There are no legal instruments in place to sanction end-use violations. The new Post-Ship-ment-Controls don't change a thing, even more so since they are only applied on a voluntary basis. The only real sanction option available to the German government is to not license future exports to that country until the end-use of German military goods can be guaranteed. However, this implementation of sanctions is not prescribed by law, but rather only part of the deliberation process of the government. To the knowledge of the author, this measure has not yet been thus applied by the Federal Government.

¹⁷⁶ Walther Arms Inc. (2012): Walther Arms located in Fort Smith and Umarex USA Expands Operations. Pressemitteilung, 29-11-2012; Daniel Zimmermann (2012): Walther splits with Smith&Wesson, www.truthaboutguns.com (online), 2-6-2012.

¹⁷⁷ See annual reports for 2009–2014 of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives: Annual Firearms Manufacturing and Export Report.

¹⁷⁸ U.S. State Department (2008): Blue Lantern Level 3 – Pre-license end-use check on License 050125018. Wikileaks Public Library of US Diplomacy (online), 2-10-2008; Spiegel Nr. 30/2014, p.39.

Since it is only possible to prosecute natural persons in Germany and not companies (unlike legal systems in other countries, e.g. the USA), the possibility of levying sanctions against German small arms manufacturers on a national level is also severely limited. German companies that knowingly conducted a re-export deal through a third state can only be subjected to a reliability check for a potential violation of the AWG. It is very difficult to prove that a company acted knowingly or intentionally in contradiction to the law.

Presently the public prosecutor's office is investigating the companies Carl Walther GmbH and Sig Sauer GmbH because of their Colombian deals. As a maximum penalty, each company only faces a fine because of a regulatory offence, again because in these cases only individuals not companies can be prosecuted. This is illustrated by another case of illegal arms trade of Carl Walther. Between 2003 and 2005, the company shipped at least 200 pistols via Switzerland to Guatemala illegally and without a German export license. In the end, only the employees directly involved (by then already fired by the company) received suspended prison sentences.¹⁷⁹

3.3.

Ammunition – Prerequisite for conflict

In 2007, the European Union correctly observed: "Arms have often been disassociated from their ammunition. In particular with regard to small arms and light weapons, a number of important agreements have been adopted in recent years, while the issue of their ammunition has often been neglected."¹⁸⁰ Neither the UN Action Program nor the EU and OSCE definitions contain explicit reference to ammunition. This comes as a surprise since the supply with munitions is one of the decisive factors for the proliferation and utility of SALWs. Without ammunition, an assault rifle is nothing more than a club. It is remarkable that, in instances where ammunition did become an issue, the primary focus was put on the safe storage and accounting for munitions. The legal and illegal trade played only a minor role.

Particularly non-state actors feel the pressure to only use small arms for which they can also acquire the necessary ammunition on the international market, since they usually don't have access to ammunition plants or capacities to set up their own production. According to estimates of the Geneva-based Small Arms Survey, about half of the worldwide expenditures of 4.2 billion USD for SALW-related goods in 2012 were made for ammunition.¹⁸¹ How important the munitions-supply issue is for armed groups is illustrated by an older UN-survey for Colombia. According to UNODC, the FARC spent one third of its funds for the purchase of ammunition and grenades in 2003 compared to only 5 % for weapon purchases.¹⁸²

3.3.1.

Munition for millions

For decades, German arms companies have been leading exporters of ammunition. Between 2002 and 2015, export licenses worth more than 4.9 billion Euro were granted for munitions of all types of calibers. Of these, at least 407.3 Mio. Euro consisted of small arms according to the definition used by the Federal Government, i.e. ammunition for pistols and "civilian" rifles are not included. The DESTATIS numbers, who primarily (but not exclusively) cover the export of firearms ammunition and parts thereof, point to a much larger share: between 2002 and 2015, almost one billion Euro worth of ammunition and parts thereof were exported. Many countries with internal conflict where child soldiers are used or where grave violations of children's rights were

¹⁷⁹ Schwäbische Zeitung (2006): Waffen Walther entlässt Mitarbeiter. Schwäbische Zeitung, 2-3-2006.

¹⁸⁰ EU (2007): European Union Common Reply to UN Resolution A/61/72 „Problems arising from the accumulation of conventional ammunition stockpiles in surplus“, 2-4-2007, p.2.

¹⁸¹ <http://www.smallarmssurvey.org/de/weapons-and-markets/transfers/authorized-trade.html> (zuletzt aufgerufen 20-10-2016).

¹⁸² UNDOC (2006), *ibid*, p.41; Peru served as the main supply source. After the production of 7,62x39mm ammunition was halted there in 2001, FARC purchased at least six million rounds from a Ukrainian company, channelled through another company in California/USA. Jeremy McDermott (2004), *ibid.*, p.8.

committed, imported substantial amounts of ammunition or even complete ammunition plants from Germany (see chapter 2.2). For instance, Nepal received more than one ton of ammunition during its civil war in 1996. Between 1999 and 2002, Germany licensed the export of manufacturing equipment for small-caliber munition as well as a ballistic measurement station for Nepal, totaling 2.7 Mio Euro.¹⁸³

In 2011, the global market share of ammunition produced in Germany was estimated to be around 7% for medium and large calibers, in the small caliber segment even 10%.¹⁸⁴ One of the largest German manufacturers of ammunition is the Metallwerk Elisenhütte Nassau (MEN). The plant, opened by Fritz Werner Ausrüstungsanlagen GmbH in 1957, was bought by the Brazilian arms company Companhia Brasileira de Cartuchos (CBC) in 2010. Since the takeover, the annual rate of production has been increased from 80 to 150 Mio. rounds a year.¹⁸⁵ The Brazilian company is considered to be one of the largest munition manufacturers of the world and pursues a strict export-oriented growth strategy.¹⁸⁶ This in turn poses the risk that now, after the takeover, relevant technologies and know-how are transferred to the company headquarters in Sao Paulo and then used to establish new export-oriented production lines for German-type ammunition. Already in 2009, in preparation of the takeover, at least one such licenses for know-how transfer was granted to CBC.¹⁸⁷ So if ammunitions exports from Germany are not permitted, at some point in the future, Sao Paulo could step in.

Dynamit Nobel AG is Germany's second large munitions manufacturer in the small arms segment. Since 2002, the company has belonged to the Swiss arms conglomerate RUAG and has been integrated into the RUAG Ammotec branch. Next to facilities in Fürth (Germany) and Thun (Switzerland) RUAG Ammotec has also, in the meantime, acquired or set up production sites in Austria, Sweden, Hungary and the USA. RUAG Ammotec is only one of five companies in the world that have a licenses for the production of 4.6mm munition for the most recent German SMG-version MP7 of Heckler&Koch. In 2014, for instance, 80,000 rounds were exported to the UAE. But also Saudi Arabia has repeatedly received ammunition for machine guns, pistols, submachine guns from RUAG Ammotec during the last 12 years, e.g. 790,000 rounds of SMG ammunition in 2012 alone.¹⁸⁸

3.3.2.

Fritz Werner and Rheinmetall set for expansion

Since the end of the 1950s, German companies have been setting up ammunition plants in many countries and provided the respective know-how and necessary parts. Thereby Fritz Werner ensured that, until today, Iran, Colombia, Myanmar, Nigeria, Pakistan, Philippines and Sudan were able to produce enough ammunition to fuel a number of armed conflicts. The Al-Shagara Munition plant in Sudan, set up by Fritz Werner in 1959 (and since 1994 part of the Sudan Military Industries Corporation), has always been and one of the most important suppliers of ammunition for the civil wars in Libya, Somalia and Congo.¹⁸⁹ Especially in the 1970/1980s, Fritz Werner was one of the global players in the munitions segment. Together with its main competitor, the French company Manufacture de Machines du Haut-Rhin (Manuhrin), Fritz Werner agreed to divide the world markets into spheres of influence in 1967. Both sides agreed to "not compete or only pretend to compete in regard to the sales of machines for the production of ammunition in the caliber range of 0.22–30mm" outside their respective spheres of influence.¹⁹⁰

183 Otfried Nassauer (2002): Sündenfall im Himalaya. BITS März 20p2.

184 Neil Corney / Nicholas Marsh (2013): Aiming for Control. PRIO, S.22f.

185 Bruno Schrep (2010): Wir beliefern nur die Guten. Spiegel online, 26-7-2010.

186 Since 2014 the Brazilian pistol manufacturer Forjas Taurus also belongs to CBC. Potentially, this can also open new markets for MEN-munition, especially since this company is also reknown for its aggressive export strategy. In 2015 authorities uncovered an illegal arms deal of the company for the delivery to 11,000 pistols to Yemen. Robbert Muggah / Nathan B. Thompson (2016): Brazil's Merchants of Death. New York Times (online), 23-10-2016.

187 Bruno Schrep (2010), *ibid.*

188 Vgl. Deutscher Bundestag (2015c), *ibid.*

189 Jane's Intelligence Review (2014): Sudan's arms footprint spans conflict zones. 27-11-2014

190 Spiegel Nr.19/1987, p.35ff.

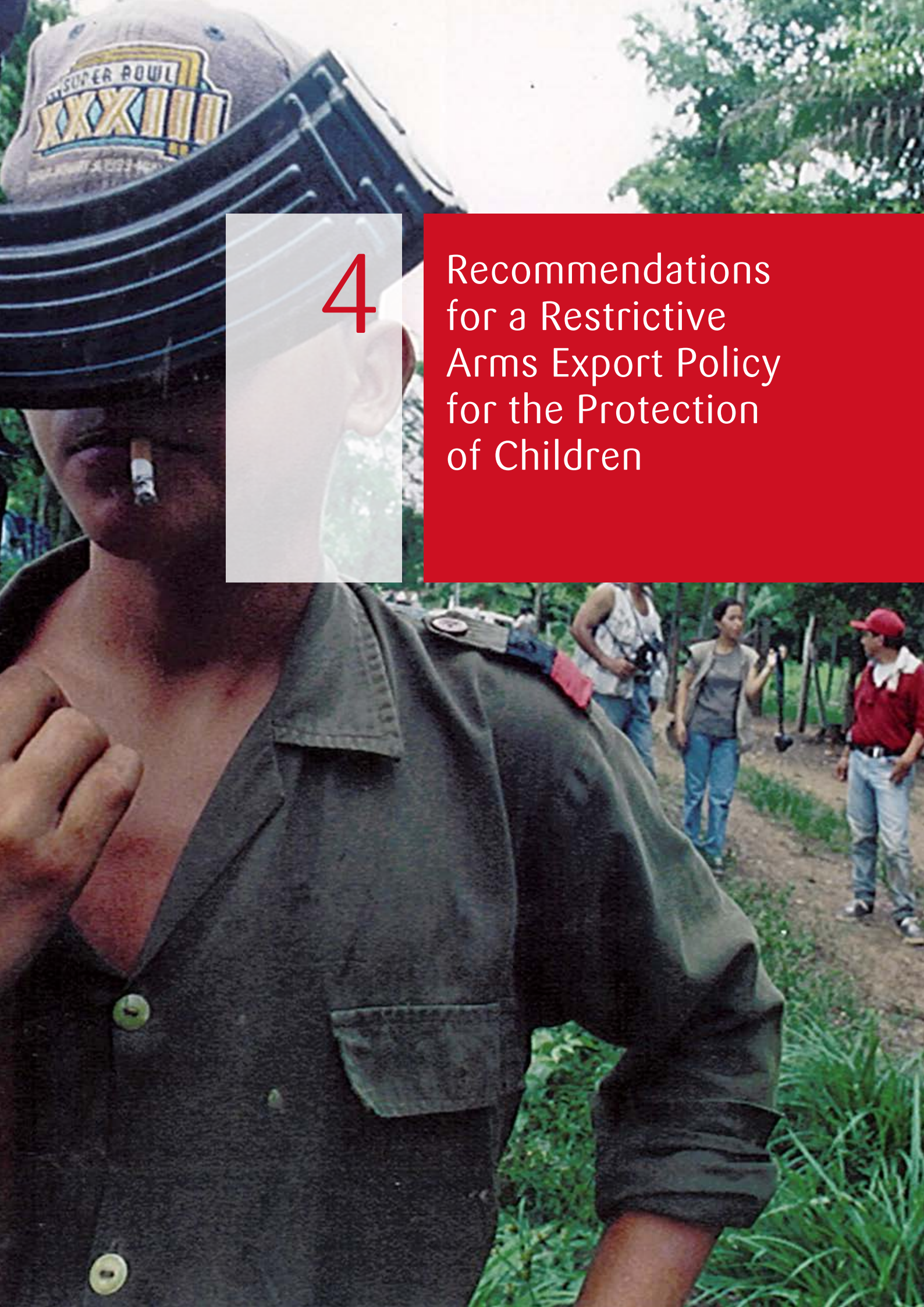
Presently, Fritz Werner Ausrüstungsanlagen GmbH is part Rheinmetall International Engineering (RIE), a Joint Venture between Rheinmetall and Ferrostaal GmbH. For a number of years now, the German arms company Rheinmetall Defence has pursued a strategy of internationalizing its ammunition production. Next to the German production sites of Rheinmetall, all under the umbrella of Rheinmetall Waffe Munition GmbH, other companies were acquired in Italy, Austria and Switzerland. Furthermore, Joint Ventures were established in South Africa (Rheinmetall Denel Munitions / RDM) and USA (DMI and RDZM) and one subsidiary set up in the USA (American Rheinmetall Munitions). As part of this strategy, Rheinmetall explicitly strives to increase exports. Especially the acquisition of the majority stakes in Denel Munitions was supposed to serve this purpose. In 2014, more than 90% of the South African production was sold to other countries.¹⁹¹ RDM chairman, Norbert Schulze, stated that it is difficult to receive export licenses from Germany and that the South African National Conventional Arms Control Committee is much more supportive of its arms companies.¹⁹² A recent contract for RDM involved the construction of a munitions plant for mortar and artillery munition in Saudi-Arabia. The plant was opened in 2016 and is designed to produce around 600 mortar grenades (60mm to 80mm) per shift.¹⁹³

In the UAE, Rheinmetall Waffe&Munition has been actively involved in the munition plant construction business since 2007, also drawing upon resources from RDM. Together with the consortium Al Jaber and Tawazun Holding, Rheinmetall set up the Burkan Munitions Systems (BMS) which opened in 2010. The factory produces, among others, 40mm munition for grenade launchers and 76/62mm munition for naval guns. In 2012, Rheinmetall Defence sold its shares of BMS back to Tawazun but will continue to provide support and supply components.¹⁹⁴

3.3.3. Munition, the small but big evil

If the sometimes decade-long worldwide journey of small arms from conflict to conflict is very difficult to trace, this is even more true for ammunition. The long term span of ammunition is illustrated for instance by the discovery of old ammunition manufactured in the GDR and used during the wars in Sudan and Somalia in recent years. The lack of control in regard to ammunition exports is diametrically opposed to their relevance. The availability of munition is the one essential precondition for the use of SALWs in the first place. This is a reason why munition stockpiles of armed forces are hidden under thicker layers of secrecy than the weapons themselves. Another factor expediting munitions exports is the low cost, especially for the components of ammunition, which increases the chances of them sailing under the radar of the government agencies and being waved through. German arms companies like MEN, RUAG Ammotec, Rheinmetall, but also Diehl Defence (hand grenades) or MBDA Germany (Milan missile system), and Dynamit Nobel Defence (Panzerfaust 3) profit from this lack of transparency. It is even more troubling that there is the transfer of know-how for the construction of munition plants by German companies. This cements the continuous and uncontrollable availability for ammunition for internal and external conflict.

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- 191** Christopher Alessi (2014): Weapons-maker uses South African plant to sidestep German restriction. *The Australian*, 29-12-2014; Kim Helfrich (2014): Exports essential for Rheinmetall Denel Munition. *DefenceWeb – South Africa*, 4-2-2014; Londiwe Buthelezi (2013): Denel munitions unit has global ambitions. *Independent Online South Africa*, 11-12-2013.
- 192** Guy Martin (2014): Rheinmetall to establish defence research centre in South Africa. *Defence Web – South Africa*, 1-8-2014.
- 193** Otfried Nassauer (2016): Hemmungslos in alle Welt. *BITS Research Report Nr. 1/2016*, p.16; Oscar Nkala (2016): Rheinmetall Denel Munition Factory Opens in Saudi Arabia. *Defense News (online)*, 6-4-2016.
- 194** Nassauer (2016), *ibid.*, S.27; Emirates 24/7 (2012): UAE Firm takes control of munition factory. *(online)*, 19-3-2012.



4

Recommendations for a Restrictive Arms Export Policy for the Protection of Children

Weapons don't belong in the hands of children. The United Nations made clear unequivocally that the recruitment and use of child soldiers in armed conflicts is to be banned internationally. In connection to this, they also have referred to the negative interdependence between the availability of weapons – especially SALWs – and grave violations of child rights in armed conflict. The UN Committee on the Rights of the Child, responsible for monitoring the adherence to the CRC, repeatedly asked Germany to ensure that no weapons be delivered into conflicts where child soldiers are used. Germany is a member of the United Nations and has ratified the relevant international agreements on child rights. Therefore, Germany has committed itself to improve the protection of children in armed conflict according to its possibilities, and refrain from any measures making the plight of children worse. Furthermore, the Federal Government publically acknowledges the necessity of a restrictive arms exports policy and repeatedly stated that it wants to improve the control of small arms exports.

4.1. Exports of small arms despite use of child soldiers

The results of this study paint a different picture: Germany still is the second largest exporter of small arms. According to the figures published by the Ministry for Economy and Energy, small arms exports will maintain a high level in 2016. Exports worth more than € 47 million were licensed, a clear increase by almost € 14.5 million in comparison to the previous year. A third of this value was for exports to countries outside NATO and EU. Since 2002, small arms (according to the EU definition), worth more than € 800 Mio. have been licensed for export. Around € 400 Mio. worth of munition export licenses have to be added to this. It is obvious that the primary reason for the proliferation of German small arms is not the illegal smuggling of arms but the official licensing policy of the Federal Government – and of course the willingness of German companies to sell their small arms abroad.

Basing an evaluation of Germany's export policy for small arms solely on the values for export licenses, provided in the national annual reports since 2002, would create a lop-sided and incomplete picture (see Chapter 2.1. and Appendix 3). These figures are only of limited informational value and also fluctuate strongly, even if they do show that German SALW-exports to countries outside NATO and EU have, on average, increased since 2002. Exports of those small arms and munitions classified as „civilian“ by the government are completely missing in this picture. Furthermore, many German small arms ended up – with some delay – in regions of conflict by legal and illegal resales from other countries or were already present before the outbreak of violence because of licensed production.

But it remains difficult to collect reliable data on German arms exports. Transparency remains a big challenge. The lack thereof prevents a coherent assessment of Germany's export policy. The annual reports only offer superficial transparency. The amount of figures and colorful charts in these reports only disguise the fact that essential information is missing. Matching the special treatment of EU and NATO countries in the licensing process and also different standards of transparency are applied for arms exports to them. The public is being consciously led astray, as has been shown in this study in regard to re-exports via Great Britain and the USA.

Aside from the difficulties encountered concerning data collection, a number of short-comings and structural problems of Germany's arms export policy have become obvious, preventing a restrictive export policy for SALWs:

- ▶ In favor of alliance-related and strategic considerations, international obligations for a restrictive export licensing policy have taken a back seat. This is especially true in regard to EU- and NATO-countries, even though these nations, especially the USA, have a dubious track record and have repeatedly supplied armed groups and armed forces of other countries with German weapons; to countries where Germany wouldn't necessarily license exports. Furthermore, Germany also makes exceptions for "strategic partners", e.g. India and Saudi-Arabia, despite the incompatibility of arms deals with these countries with numerous criteria listed in the Political Principles. These countries use their security forces in armed conflicts and commit human rights violations, including grave violations of children's rights, like the recruitment of children and bombarding schools and hospitals.
- ▶ Licensed production of small arms, light weapons and their ammunition as well as the transfer of related technology remain a big challenge for German arms export policy.
- ▶ The different treatment of small arms for military and civilian use in the export licensing process and as well as the related gaps in registration of such exports neglect the relevance of pistols, sporting rifles and hunting rifles for the escalation of armed conflicts and the use of child soldiers.
- ▶ It is often ignored that Germany's arms industry is in large part a supplier industry. Cartridge cases, primers and propellants for ammunition, barrels and grips for small arms or parts for warheads are being supplied to other states for final assembly. Here, the trace of German military goods quickly evaporates, since the German government emphasizes that its legal and political responsibility stops at the border.
- ▶ Even though the whole segment of ammunition manufacturing and exports has an enormous relevance for the proliferation and use of SASALWs, it is largely omitted in the reporting mechanisms. This concerns especially "civilian" ammunition for pistols, sniper rifles and semi-automatic rifles. But also hand grenades, being classified as ammunition by the Federal Government, are not being reported, even though these weapons possess a high relevance for the issue of child soldiers.

The following excerpts from a court decision of the Administrative Court of Frankfurt a. M. of 2012 show that the Federal Government could implement a more restrictive export license policy for arms than previous done. In that court decision concerning the export of twelve precision- and pump-action rifles to Russia, the Federal Government refused to grant an export license because:

- ▶ "The delivery [stands] in contradiction to an export policy aimed at reducing tensions and achieving equilibrium (...) and the Federal Republic of Germany [would lose] its reputation as a reliable partner in regard to export controls."
- ▶ An approval of the export license would not be in line with the Political Principles, since "the issuing of an export license for items listed in Teil 1 Abschnitt A of the Ausfuhrliste to states, where internal tensions exist or where a danger of an involvement in armed external conflicts exists, is barred. Such a danger can't be ruled out for Russia, as confirmed by the armed conflict with Georgia in 2008."
- ▶ "The rifles are also suited for military use. A contradiction for the later add-on of a sniper-scope and a night-sight exists. The straps and rifle bipod can be used for hunting and sporting purposes but also militarily."

- ▶ “A license is also not compatible with Criteria No. 7 of the EU Common Position 2008/944/CFSP of the Council from 8-12-2008 (EU Code of Conduct, ABl EU 2008 Nr L 35/99). Accordingly, licenses are not permitted if a detour of the equipment in the customer country or the re-export under unwanted conditions can’t be ruled out. This danger already exists here for the sole reason that the circle of customers for these goods has not been identified“¹⁹⁵

Using this or a similar line of argumentation, the Federal Government could have justifiably refused a large share of the licenses for small arms and light weapons exports mentioned in the study. But this didn’t happen, even when far more substantial and militarily more relevant small arms exports were on the agenda or where the recipients were involved in armed conflicts, like India, Iraq, Colombia, Pakistan, Philippines or Thailand. Political expediency, a lack of political will or economic interests were apparently the overriding factors for the approval of these export deals.

Therefore, it comes as no surprise that German small arms in the hands of child soldiers are part of the grim reality today:

- ▶ Small arms continue to be exported to areas of tension and to armed conflicts where child soldiers are used, such as Iraq and several other countries in the Middle East, India or the Philippines.
- ▶ Small arms are being exported to security forces which recruit and use child soldiers, e.g. India and the Philippines.
- ▶ Germany continues to support security forces of other nations which recruit child soldiers, as is the case in Afghanistan and Somalia.

It is no secret that child soldiers exist in the countries receiving German arms. Instead, even a cursory look into the annual UN-reports on children and armed conflict would suffice to inform German government officials accordingly. Nevertheless, the provisions of the CRC and other international child protection agreements seem to be regarded by the administration only as third-rate factors in the export licensing process. Strategic, alliance-related and daily-opportunistic considerations are given a much higher priority. Together with other considerations, such as industrial policy and maintaining a strong German defense-related industrial base, as well as protecting present arms sales markets, this leads to an approach focused more on short-term political and economic gains. The long-term risks – jeopardizing peace and human rights, especially children’s rights – attached to these arms deals are simply ignored, despite the fact that the weapon deliveries of today pave the way for the future militarization of children and laying the foundation for a next “Generation of War”.

More importantly though, two important qualitative aspects tend to be omitted frequently in this discussion: First, when talking about internal armed conflicts, the quantities shouldn’t be the sole reference point for assessing the relevance of arms exports. Even small-scale arms shipments, like a hundred MP5s for the police in India or pistols and rifles for the Colombian special forces, have a significant impact on the conduct of the conflict. Second, it needs to be kept in mind that in regard to child soldiers and grave violations of children’s rights, the focus should not be put on weapons as such but on the child affected. If weapons end up in the hands of child soldiers, or children are killed with these weapons, the national system of arms export control has purely and simply failed.

¹⁹⁵ VG Frankfurt a.M., Urteil Az.1 K 675/12.F, 29-11-2012, p.3 (Translation by the author).

4.2. Recommendations for the protection of children in armed conflict

The protection of children in armed conflict poses a big challenge. There is an urgent need for action on many related aspects. A restrictive export policy in regard to SALWs could be Germany's important contribution.

Contrary to the claims of the Federal Government the, Political Principles apparently are not sufficient to prevent arms deliveries to countries where child soldiers are used or other violations of child rights according to UN Security Council Resolution 1612 are being committed. The study has shown that German arms were being exported to many of these countries despite the Political Principles. In addition, in the assessment of the child soldier issue in those countries, the focus should be extended beyond the armed forces. Especially in connection with internal armed conflicts, police units and associated militias are regularly being involved in military operations, and equipped with military-issue weapons. Many of these armed actors recruit children, as the examples from Afghanistan, Philippines or India reveal. In many cases militias and police units act more brutally and are responsible for more human rights violations than the armed forces.

In principle, the entirety of German arms exports needs to be considered, since components for fighter aircraft, bombs or fire control systems exported from Germany also contribute to the demise of children in armed conflicts. The same holds true for the transparency and reporting mechanisms in place for German arms exports, especially SALW exports. Public control and government accountability are important preconditions for an effective and restrictive arms export policy. Much more needs to be done in this area, but a list of the possible improvements would go beyond the scope, this study.

Based on the gathered information, the following recommendations can be made for an improvement of Germany's arms export policy in the small arms segment:

Reform Germany's legislation on arms exports, including the scope and status of the Political Principles, to ensure a restrictive arms exports policy, with a special emphasis on SALWs.

The dualism of KrWaffKontrG and AWG has not proven its value. The majority of German arms exports is being decided along the provisions of the AWG and therefore is only denied as an exception. This also applies to pistols, sporting and hunting rifles. The "Political Principles" permit the Federal Government to weigh national security interests against internationally accepted and agreed human rights standards and norms of international law. Therefore, a fundamental reform and streamlining of the legislation on arms exports is required. The KrWaffKontrG should serve as the core of the restrictive provisions covering all military goods. The criteria for license denials embodied in the Political Principles and the EU Common Position should be encoded in law and become legally binding. Furthermore, this legal reform should also extend to the circle of entities – beyond arms companies and government – which are permitted to file suit against licensing decisions.

The results of this study leave no doubt that, due to the very long usability of these arms, it is impossible to control the further proliferation and use of German small arms (and their ammunition) in any practical way after their export.

- ▶ Therefore, the export of German small arms and their ammunition should be stopped. This would be a most effective and sensible measure for a restrictive arms exports policy which focuses on the protection of human rights and a peaceful foreign and security policy.

As long as a complete stop of small arms exports and their ammunition cannot be implemented, the following specific measures should be enacted to improve the current practice in regard to arms exports:

- ▶ All the relevant arms export legislations and regulations should be expanded to include an explicit prohibition on weapon sales to countries whose armed forces recruit children under the age of 18 (regardless of whether they are recruited on a voluntary basis or by force) and/or where children are used in armed conflicts. In this way, Germany would satisfy one recommendation made by the UN Committee on the Rights of the Child.
- ▶ The non-binding political criteria for the denial of arms exports need to be codified legally. In order to improve public control, new legal provisions should be introduced, extending the circle of entities entitled to file a court case and improving the accountability and transparency in regard to arms exports.
- ▶ The issuing of licensed production or transfer of technology and software for the manufacturing of SALWs and their ammunition should not only be prohibited in principle but definitely. It doesn't matter if the 10 % or 100 % of the required technologies are provided; any licensed production always contributes to the build-up of autonomous arms production capacities.
- ▶ To effectively impede the re-export of German small arms, the mechanisms for an improved end-use monitoring, introduced in 2015, need to be made mandatory for all recipients of German weapons, without any exception.
- ▶ The UN working definition for SALWs should be adapted by the Federal Government. As a result, the "Small Arms Principles" would also apply to export license decisions for pistols, sporting and hunting rifles.

- ▶ All pistols and rifles should be incorporated into Kriegswaffenliste B to ensure that any export decisions for these weapon types are made according to the KrWaffKontrG.
- ▶ Special treatment of NATO and EU states in regard to arms exports needs to be terminated. Neither the KrWaffKontrG nor the AWG provide a basis for this. This practice is primarily a manifestation of Germany's alliance-related and industrial considerations. It leads to an uncontrollable proliferation of German arms technology and military goods – also to countries where child soldiers are used in armed conflicts.

Strict and consistent implementation of international agreements for the protection of children in armed conflict.

Military (training) aid for security forces recruiting children must be terminated. Otherwise, the Federal Government will continue to tolerate and indirectly support the continued violation of international laws and the provisions of international agreements on the protection of children by these states. The verifiable relinquishment of the recruitment of children and presence of child soldiers in the military should be made a precondition for the allotment of military training aid. If such a red line is not drawn, children will continue to be recruited by armed forces, since the demand for new recruits is always high in armed conflicts. The same standards should also be applied to military cooperation in the framework of military interventions. Any joint operations with armed forces, either recruiting children or committing one of the other six grave violations of children rights, must be categorically excluded.



War affected girls and young women at a terre des hommes-project in Angola. Some of them had been abducted or forcibly recruited by rebels during the civil war.

The Federal Government wants to retain the possibility to recruit and train children militarily. This undermines the credibility of the Federal Government which calls upon other states and non-state actors to follow the 18-years-standard in the recruitment process. Instead of taking on a role model in regard to human rights, Germany serves as a negative example and excuse for other armed forces and armed groups to continue to recruit minors. Acknowledging „Straight 18“ and raising the minimum age for recruitment for the Bundeswehr would be the right way to proceed.

Improving and strengthening of international instruments to control SALW exports and the protection of children in armed conflict.

In line with a reform of the German legislation on arms exports, the Federal Government should also strive on the international level for the adoption of the broader UN definition for SALWs by the EU and OSCE and also expand the definition to include hand grenades.

Within EU and NATO, the Federal Government should propose mechanisms to ensure that countries continuing to recruit children or tolerate their recruitment will not receive any military support or military goods from EU and NATO members, neither in the framework of military interventions nor on a bilateral level.

On the international level, the Federal Government should undertake all necessary efforts to ensure a comprehensive implementation of the provisions of the CRC and the OPAC by all armed actors. The present focus on armed forces and certain non-state actors falls short and doesn't mirror the realities of armed conflict. Police, private security companies and armed criminal groups require special attention since they are playing an increasingly prominent role in armed conflicts and frequently recruiting child soldiers.



Appendix

APPENDIX 1

Definitions of SALW by the UN, EU and OSCE

United Nations:

With the adoption of the “International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (A/60/88)” by the UN General Assembly in 2005 the UNO agreed on an international accepted working definition which also applies to the Program of Action for small arms 2001:

“Article 4: For the purposes of this instrument, “small arms and light weapons” will mean any man-portable lethal weapon that expels or launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet or projectile by the action of an explosive, excluding antique small arms and light weapons or their replicas. Antique small arms and light weapons and their replicas will be defined in accordance with domestic law. In no case will antique small arms and light weapons include those manufactured after 1899:

(a) “Small arms” are, broadly speaking, weapons designed for individual use. They include, inter alia, revolvers and self-loading pistols, rifles and carbines, submachine guns, assault rifles and light machine guns;

(b) “Light weapons” are, broadly speaking, weapons designed for use by two or three persons serving as a crew, although some may be carried and used by a single person. They include, inter alia, heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems, and mortars of a caliber of less than 100 millimetres.”

OSCE:

On 24-11-2000 the member states of OSCE agreed in the “Document on Small Arms” (Small Arms Document) on the following definition:

“For the purposes of this document, small arms and light weapons are man-portable weapons made or modified to military specifications for use as lethal instruments of war. Small arms are broadly categorized as those weapons intended for use by individual members of armed or security forces. They include revolvers and self-loading pistols; rifles and carbines; sub-machine guns; assault rifles; and light machine guns.

Light weapons are broadly categorized as those weapons intended for use by several members of armed or security forces serving as a crew. They include heavy machine guns; hand-held under-barrel and mounted grenade launchers; portable anti-aircraft guns; portable anti-tank guns; recoilless rifles; portable launchers of anti-tank missile and rocket systems; portable launchers of anti-aircraft missile systems; and mortars of calibres less than 100 mm.”

European Union

In 2002, the European Union agreed with the “Council Joint Action on the European Union’s contribution to combating the destabilizing accumulation and spread of small arms and light weapons and repealing Joint Action 1999/34/CFSP“ (2002/589/CFSP) on the following definition:

“The Joint Action shall apply to the following categories of weapons, while not prejudging any future internationally agreed definition of small arms and light weapons. These categories may be subject to further clarification, and may be reviewed in the light of any such future internationally agreed definition.

- a) Small arms and accessories specially designed for military use:
 - ▶ machine-guns (including heavy machine-guns),
 - ▶ sub-machine guns, including machine pistols,
 - ▶ fully automatic rifles,
 - ▶ semi-automatic rifles, if developed and/or introduced as a model for an armed force,
 - ▶ moderators (silencers).

- b) Man or crew-portable light weapons:
 - ▶ cannon (including automatic cannon), howitzers and mortars of less than 100 mm caliber,
 - ▶ grenade launchers,
 - ▶ anti-tank weapons, recoilless guns (shoulder-fired rockets),
 - ▶ anti-tank missiles and launchers,
 - ▶ anti-aircraft missiles/man-portable air defense systems (MANPADS).”

APPENDIX 2

Selection of German Small Arms Companies (including ammunition and add-ons)

The following chart presents a selection of German companies which manufacture small arms, parts for them, ammunition or add-ons.

Company (integrated companies)	Headquarters
Blaser Jagdwaffen GmbH (Mauser Jagdwaffen GmbH)	Isny (BW)
Carl Walther GmbH	Ulm
Diehl Defence Holding GmbH (u.a. Diehl Munitionssysteme, Junghans Microtec GmbH)	Überlingen
DSR Precision GmbH	Dietingen
Dynamic Arms Research GmbH	Fraureuth
Dynamit Nobel Defence GmbH	Würgendorf /Burbach
Heckler&Koch GmbH	Oberndorf
Hensoldt GmbH (Airbus DS Optronics GmbH, Zeiss Optronics GmbH, Hensoldt AG)	Wetzlar
Hera GmbH	Triefenstein
IRT Infrarot-Technik Eisel	Stuttgart
J.P. Sauer&Sohn GmbH	Isny
Jagd- und Sportwaffen Gottlieb Prechtl	Birkenau
Keppler Technische Entwicklung	Fichtenberg
Merkel Jagd- & Sportwaffen GmbH (Suhler Jagd & Sportwaffen, C.G. Haenel)	Suhl
Metallwerk Elisenhütte Nassau / MEN	Nassau / Lahn
Nammo Schönbeck (Lapua GmbH, SK Jagd- und Sportmunition)	Schönbeck
Oberland Arms oHG	Huglfing
Rheinmetall Waffe & Munition GmbH (u.a. Buck Neue Technologien, Mauserwerke, Nico Pyrotechnik, Nitrochemie)	Unterlöss
Oberland Arms oHG	Huglfing
RUAG Ammotec (Dynamit Nobel AG)	Fürth
Saxonia Spezialtechnik GbR	Schwarzenberg
Schmeisser GmbH (Waffen Schumacher GmbH)	Krefeld
Schmidt&Bender GmbH	Biebertal
Sig Sauer GmbH	Eckernförde
Steiner Optics	Bayreuth

APPENDIX 3

**Export Licenses Issued for Small Arms and Ammunition
(Annual Reports of the German Government 2002–2015, in Mio.€)**

Position	Ware	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2002–2015
A 0001	Firearms total	149.2	189.8	285.8	234.4	222.3	237.3	205.3	176.6	171.6	127	115.6	181.4	277.9	438.3	2.835.9
	thereof Small Arms	32.4	47.4	82.6	76.2	37.9	49.5	70.4	68.9	48.9	37.3	36	36.3	52.9	61.6	738.3
	thereof Small Arms to "third Countries"	14.5	21.6	42.2	37.1	17.9	16.3	14.3	17.2	30.2	15.6	12.8	8.2	8.6	4.2	260.7
A 0003	Ammunition total	449.6	243	308.9	297.6	1.079.60	306.5	460.6	297.2	231.7	312.3	176.3	139	280.7	134.9	4.257.3
	thereof Small Arms Ammunition	31.4	27.2	52.5	18	34.6	29.5	61.4	38.9	31.8	21.2	17.9	15.3	12	15.6	407.3
	thereof Small Arms Ammunition to "third Countries"	4.3	5.5	2.8	3.8	1.8	2	2.6	18.7	1.4	0.2	0.2	0.6	1.6	1.9	47.4

Glossary of Terms

A. Terms concerning child soldiers and conflict

Child Soldiers: A legally binding definition of the term “Child Soldiers” doesn’t exist. The “2nd Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict” of 2002 refers to all children under age 18 which are or will be recruited by government forces or non-state armed actors. The Paris Principles of February 2007 refer to children “associated with an armed forces or armed group”. According to this broadly accepted definition, child soldiers are „any persons below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including, but not limited to children, boys, and girls used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or has taken a direct part in hostilities.“ This definition has been accepted by the more than hundred signatory states of the Paris Principles, among them Germany. Therefore, in this study the term “Child Soldiers” is used according to this definition.

Straight 18: The strict observation of the internationally established standard of a minimum age of 18 for the forced or voluntary recruitment of soldiers, i. e. no minors but only adults can be recruited as soldiers.

Armed actors/armed groups/armed parties to the conflict: these terms are used interchangeably for all groups in an internal or interstate conflict who possess at least a rudimentary form of organization and chain of command, who have weapons and use them in conflict or threaten to use them.

Non-state armed groups: those armed groups not belonging to government security forces (armed forces, police, special forces). This category includes groups fighting against the state (e.g. guerilla groups or insurgents) or groups allied with government security forces (e.g. militias and paramilitary forces).

Annual report of the UN Secretary-General on children and armed conflict: Since 2000, and based on UN Security Council Resolution 1261 (1999), the Special Representative of the UN Secretary-General for children and armed conflicts has compiled an annual report on the situation of children in areas of conflict. Aside from thematic and country specific summaries the appendix to the report also includes a list of armed actors who have committed one of the six grave violations of children rights in armed conflicts. The unofficial reference term for this listing is “list of shame”.

“Six Grave Violations”: Based on UN Security Council Resolution 1539 (2004) the UN Security Council established with Resolution 1612 (2005) six categories of severe violations of children’s rights. Aside from the recruitment of children, these violations include abduction of children, killing and maiming of children, sexual violence against children and attacks on schools and hospitals as well as the denial of access to humanitarian help.

UN Committee on the Rights of the Child: This Committee belongs to the ten treaty bodies of the United Nations tasked with the monitoring international human rights treaties and reporting on the progress made. This committee receives regular reports by signatory states of the Convention on the Rights of the Child and provides recommendations for the improvement of national policies in regard to the convention and optional protocols. The last recommendations for Germany (so-called Concluding Observations) were released on 31-01-2014.

Convention on the Rights of the Child (CRC): This convention was adopted by the UN in 1989 and entered into force in 1990. The CRC has been ratified by all countries with the exception of the USA, i. e. the treaty is applicable universally in 196 states (aside from USA).

2nd Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC): This protocol was adopted in 2000 and entered into force on 12-2-2002. It has been ratified by 166 of 197 countries. OPAC establishes 18 as the minimum age for the use of children in armed conflicts.

B. Terms concerning arms exports

SALW – Small Arms and Light Weapons

Small Arms: A universal definition for small arms doesn't exist. See Chapter 1.2.2. and Appendix 3. If not stated otherwise, the study uses the term "Small Arms" in line with the UN working definition. Accordingly, all civil firearms are also treated as small arms (with the exception of air-guns, alarm guns and captive-bolt humane killers).

Light Weapons: This category of weapons includes heavy machine guns, grenade launchers, portable anti-aircraft and anti-tank guns, recoilless rifles, portable launchers of anti-tank and anti-aircraft missile systems, and mortars of a caliber of less than 100 millimetres. These weapons can be carried by two people or a crew and can be transported by a small vehicle or a mount. See Chapter 1.2.2. and Appendix 3.

Civilian weapons: All small arms not covered by the small arms definition of the Federal Government of Germany (see entry above or Chapter 1.2.2.).

Licensed production: The permission by a German company to produce a product abroad which has been developed in Germany. Aside from issuing such a production license this usually also includes supplying know-how, machines and certain manufacturing parts.

End-use: This term refers to the final destination and user of the military goods and technologies exported by Germany.

Dual-use goods: All products and technologies which are developed for civilian purposes but also potentially have military applications. In Germany these goods are listed in Ausfuhrliste Teil 1C of the AWG. EU Regulation (EC) No. 428/2009 of the Council from 5-5-2009 introduced common licensing requirements and procedures for dual-use goods.

NATO-equivalent countries: According to the Federal Government the following countries belong to this category: Australia, Japan, New Zealand, Switzerland.

Third countries: All countries neither member states of the EU or NATO nor classified as NATO-equivalent countries.

Report on German arms exports: Since 1999, Germany has annually published a "Report of the Federal Government on Its Policy on Exports of Conventional Military Equipment". These reports contain information on the developments of international export controls for conventional arms from a German perspective. At the center of the report, there is a presentation of the licensed exports of weapons of war and other military goods according to Ausfuhrliste Teil 1A. In addition, some more specific statistical information is provided on licenses and actual exports for weapons of war as well as export licenses (and meanwhile as actual exports) for small arms and light weapons.

Political Principles for the Export of War Weapons and Other Military Equipment (Political Principles): These contain political guidelines for the decision-making process on license applications for arms exports for the involved government ministries. The first "Political Principles" were established in 1972. The current version was authorized in 2000 and also refers to the license criteria's established by the EU Code of Conduct for Arms Exports of 1998. The Political Principles are only politically but not legally binding.

UN Register of Conventional Arms (UNROCA): This Register is a UN body. It was established by Resolution 46/36L in 1991. The purpose of UNROCA is the documentation of the worldwide trade with conventional weapon systems based on the annual reports provided by the member states. Since 2006, UNROCA has also included documentation on the trade of small arms and light weapons.

Common Position defining common rules governing control of exports of military technology and equipment: Adopted in 2008, this Common Position establishes politically provisions and criteria's for the licensing of arms exports by the EU member states. It builds on the EU Code of Conduct for Arms Exports agreed on by the EU in 1998.

Foreign Trade and Payments Act (“AWG”): This law regulates the export of all military goods and components listed either in Ausfuhrliste Teil 1A (conventional military goods) or Teil 1C (dual-use goods).

War Weapons Control Act (“KrWaffKontrG”): This law regulates the export of all military goods listed by Kriegswaffenliste Teil B (War Weapons List Part B). This mainly covers complete weapon systems (e.g. tanks, fighter aircraft) but also includes a number of military small arms (like assault rifles and machine guns) as well as connected key components.

Federal Statistical Office (DESTATIS): This agency collects and evaluates statistical information, including the foreign trade, provided by the companies. In the commodity list “Chapter 93: Arms and Ammunition; parts thereof and accessories thereof” the Federal Statistical Office compiles the statistical information on the export of small arms and ammunition.

UN Comtrade: This database is maintained by the UN Statistics Division and collects all the trade statistics reported by the member states, including information on the exports of goods falling under “Chapter 93: Arms and Ammunition; parts thereof and accessories thereof”.

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List of companies

The following list includes those companies mentioned in the study in connection with small arms and ammunition exports. Other companies can also be found in Appendix 2.

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 Deutsche Industrieanlagen GmbH (DIAG) 59
 Defence Industries Corporation of Nigeria (DICON) 59
 Diehl Defence GmbH 24, 68, 80
 Dynamit Nobel AG 67, 80
 Fritz Werner GmbH, Fritz Werner Ausrüstungsanlagen GmbH 4, 39, 51, 59, 60, 61, 67, 68
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List of countries

The following list includes countries mentioned in this study in connection with child soldiers and/or small arms and ammunition exports.

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Kindernothilfe (German for “Supporting children in need”) was founded in Germany in 1959 as a Christian child-right-organization supporting today 2 million vulnerable and marginalized children and youth to develop their full potentials. We partner with local non-governmental organizations to implement 783 projects in 31 countries. Our main Framework is the Child Rights Convention. Our work is supported by about 313.000 donors and 1.000 volunteers. In recognition of our responsible use of donations, we have received the DZI donations seal of approval on an annual basis since 1992. Within the scope of the Transparency Award of PricewaterhouseCoopers (PwC), Germany, we have been honoured numerous times for our high-quality and transparent reporting.

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terre des hommes Deutschland e.V. was founded in 1967 by dedicated members of the public to help children seriously injured in the Vietnam War. terre des hommes is independent of governments, economy, religious communities and political parties and supports more than 400 projects for children in need in 33 project countries. The project partners are native local initiatives. The target is a »terre des hommes«, an »Earth of Humanity«. terre des hommes helps street children, abandoned and working children, looks after children who have become victims of war and violence and ensures their education. terre des hommes supports boys and girls whose families have died of AIDS, supports the cause of maintaining biological and cultural diversity and of protecting the rights of discriminated population groups. terre des hommes consistently stands up for children's rights. In Germany, people in 120 locations are voluntarily involved in achieving the terre des homes aims.

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**German Coalition to Stop
the Use of Child Soldiers**

www.kindersoldaten.info

The German Coalition to Stop the Use of Child Soldiers is a coalition of ten NGOs based in Germany, that advocates the end of the abuse of children as soldiers and the compliance of the international 18-years standard (Straight 18) for the recruitment of soldiers.

The speaker organisations are terre des hommes and Kindernothilfe. Further members are UNICEF Germany, World Vision Germany, Aktion Weißes Friedensband, Deutsche Friedensgesellschaft, Lutheran World Federation, missio, Network Africa Germany and the Quaker Help Foundation.

The German Coalition to Stop the Use of Child Soldiers

- ▶ informs about the situation of child soldiers and recruitment of minors
- ▶ raises awareness with public campaigns as the Red Hand Campaign
- ▶ advocates the protection of children affected by armed conflicts
- ▶ many member organisations support child soldiers and war affected children in several countries worldwide

On international level, the German Coalition to Stop the Use of Child Soldiers cooperates with organisations like Child Soldiers International (www.child-soldiers.org) and the Watchlist on Children in Armed Conflict (www.watchlist.org).



Red Hand Campaign

www.redhandday.org

www.aktion-rote-hand.de

The German Coalition to Stop the Use of Child Soldiers has started the Red Hand campaign and coordinates activities in Germany. It is an annual protest against the use of children as soldiers and against the export of arms to countries and regions where children are abused as soldiers. Round half a million people from 50 countries have participated in this campaign, among them many school kids, former child soldiers and reknown politicians. Each year, on the 12. February is Red Hand Day. On this day in 2002, the 2nd Optional Protocol to the Convention on the Rights of the Child, which was aimed to protect children from being abused as soldiers, came into force.

Demands of the German Coalition to Stop the Use of Child Soldiers

The German Coalition to Stop the Use of Child Soldiers has 10 members:

Aktion Weißes Friedensband, Kindernothilfe, Deutsche Friedensgesellschaft, Lutheran World Federation, missio, Network Africa Germany, the Quaker Help Foundation, terre des hommes, UNICEF Germany, World Vision Germany.

- 1. "Straight 18":** No child under the age of 18 may be deployed or trained for use in armies, armed groups or other military organizations - irrespective of for which function (including unarmed functions!) and irrespective of whether this is on a "voluntary" or non-voluntary basis. No person under the age of 18 may be recruited to an army or armed group, and no promotion for recruitment may be directed to minors. All children under the age of 18 must be released from military service or from serving in an armed group and should receive respective assistance upon their return to civilian life.
- 2. Punishment of the responsible parties:** All persons, states and armed groups that recruit children must be publicly named and appropriately punished. These persons must be charged before the International Criminal Court or national courts. The respective states and armed groups must be publicly convicted (e.g. by the UN Security Council) and subjected to sanctions (economic consequences, travel bans, frozen accounts).
- 3. Protection, assistance and political asylum:** Former child soldiers need to be provided with medical and psychological assistance, protection from being re-recruited, school education and vocational training – especially when they are refugees in an industrialized country. Former child soldiers must be granted protection and political asylum in all countries to which they flee.
- 4. More funds for child soldiers aid programs:** State and international funding for prevention and child soldier reintegration programs must be considerably increased. In a lot of countries where child soldiers are deployed, there are no funds available for supporting such programs.
- 5. Ban on arms exports:** It is no longer allowed to export weapons (especially small arms), weapon components and ammunition to crisis regions where child soldiers are being deployed. Illegal routes through which weapons reach crisis-hit countries must also be closed down: There must be a ban on the granting of arms production licenses as well as a ban on exporting weapons to third countries that proceed to pass these weapons on to other crisis regions.
- 6. Promote peace education:** Peace education and non-violent conflict resolution should be an obligatory part of the school curriculum and teacher-training.

More information & Contact:

www.kindersoldaten.info