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People's Republic of China Sustaining conflict and human rights abuses

The flow of arms accelerates



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People's Republic of China

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The flow of arms accelerates

Introduction

China is emerging as one of the world's major arms exporters.¹ It is increasing its reach and influence in Asia, Africa and Latin America, and arms sales are an integral part of the trade links it is developing with countries in these and other parts of the world. Over the last 20 years China has supplied a range of military, security and police equipment to countries with a record of gross human rights violations. Much international debate about China's controls on arms exports has focused on the transfer of nuclear or long-range missile technology to countries such as Iran, North Korea and Pakistan. Yet the routine export of conventional weapons and small arms has been contributing to human rights violations including in brutal armed conflicts.

China is the only major arms exporting power that has not entered into any multilateral agreement which sets out criteria, including respect for human rights, to guide arms export licensing decisions.² Many of the companies involved in the arms trade were established under the control of China's People's Liberation Army (PLA) and the police state agency.³ The flow of arms is often to countries where there are real risks that the arms are used to commit serious abuses.

For example, China has continued to allow military equipment to be sent to Sudan despite well-documented and widespread killings, rapes and abductions by government armed forces and allied military groups in Darfur. In Nepal, China has supplied small arms and light weapons to the armed forces, which have been responsible for much of the killings and torture, often of civilians, in the internal armed conflict. Lethal force has also been used on pro-democracy protests in Nepal, resulting in torture, arbitrary arrests, unwarranted injuries and even deaths. In South Africa, guns seized from armed criminals have frequently been of Chinese origin.

The equipment supplied by China to armed forces and law enforcement agencies includes major conventional weapons, small arms and light weapons, and police and security

¹ The Omega Research Foundation contributed research to this report.

² For example, the Organisation for Security and Co-operation in Europe (OSCE) Document on Small Arms and Light Weapons, the European Union Code of Conduct on Conventional Arms Exports, the Wassenaar Arrangement Best Practice Guidelines on SALW, and the Best Practice Guidelines for Implementing the Nairobi Protocol on SALW.

³ David Walker, "The Chinese Military – Industrial Complex Goes Global", *Multinational Monitor*, June 1997, vol. 18 No. 6; Evan S. Medeiros and Bates Gill, "Chinese arms exports: Policy, Players and Process", August 2000.

equipment. In conflicts worldwide the use of such equipment frequently violates human rights law and international humanitarian law (the Geneva Conventions and other laws of war), including provisions prohibiting torture and other cruel, inhuman or degrading treatment or punishment.

In 2002 the Chinese government reviewed and updated its export control regulations governing international arms transfers by the government.⁴ However, it is almost impossible to assess the effectiveness of the revised regulations, as China does not publish information about actual transfers abroad of military, security and police equipment. In addition, the regulations' provisions for the licensing of exports fail to impose requirements that recipient states must respect human rights and international humanitarian law. The regulations also lack specific controls to ensure that arms transfers do not contribute to human rights abuses, such as controls on international arms brokering or robust end-use monitoring and enforcement systems.

In its 2005 report on implementation of the UN Programme of Action on small arms and light weapons, China described its approach to conventional arms export licensing as "cautious and responsible".⁵ Yet its record in supplying arms to countries such as Iran, Myanmar, Pakistan and Sudan suggests, by contrast, a dangerously permissive approach to licensing arms exports, both of conventional weapons and of small arms and light weapons.

The primary responsibility for controlling the flow of arms rests with governments – all governments, whether they are manufacturers of arms or not – that export, re-export or allow the transit of arms. States have the right to buy weapons for legitimate self-defence and responsible law enforcement, for lawful operations abroad such as participation in UN peacekeeping operations, or for transfers to other states for similar purposes. However, they should not authorize arms transfers that will be used, or are likely to be used, for violations of human rights or international humanitarian law, or to hold back development. Such criteria reflect existing responsibilities of states and are already included in a range of multilateral and arms regional agreements (see the section on international controls).

Amnesty International is opposed to transfers of military, security or police equipment, technology, personnel or training – and logistical or financial support for such transfers – that can reasonably be assumed to contribute to serious violations of international human rights law or international humanitarian law (the Geneva Conventions and other laws of war). Such violations include genocide, targeting of civilians and civilian objects, indiscriminate attacks, deportations, and other breaches of international humanitarian law, as well as arbitrary killings, "disappearances", torture or other ill-treatment.

Amnesty International campaigns for effective laws and agreed mechanisms to prohibit

⁴ Regulations of the People's Republic of China on Administration of Arms Exports. The original Regulations of 1997 and the updated and revised Regulations of 2002 are available on the website of the Ministry of Foreign Affairs of the PRC (www.fmprc.gov.cn). The revised version is available on various other websites including www.nti.org

⁵ Report of China to the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, 23 June 2005, Section 7.

military, security and police transfers unless it can reasonably be demonstrated that they will not contribute to serious human rights violations. Amnesty International also campaigns for military, security and police institutions to establish rigorous systems of accountability and training to prevent such violations.

In this report, examples from different countries highlight concerns that the Chinese export licensing policy does not include human rights considerations. Amnesty International is calling on the Chinese government to strengthen its controls on military, security and police transfers so they are consistent with international law, especially human rights and international humanitarian law; to increase transparency in the reporting of such transfers; and to ban the manufacture and trade in security equipment, such as restraint devices, that are inherently cruel and degrading. Amnesty International is also calling on other governments to take steps to avoid contributing to arms exports from China that are used for grave human rights abuses, as required under the existing responsibilities of all states. The report's descriptions of human rights abuses around the world demonstrate vividly the urgent need for a tough, comprehensive and enforceable Arms Trade Treaty to control the international transfer of conventional arms according to existing principles of international law, and China is urged to support the initiative for such a treaty. As a permanent member of the UN Security Council, China is well placed to support the important role played by the UN in consolidating international consensus and deepening international cooperation to prevent the proliferation of arms.

In the global arms market

China is an important and large arms exporter – one of the top 10 suppliers in the world. The Stockholm International Peace Research Institute (SIPRI) ranked China the eighth largest supplier of major conventional weapons in 2004.⁶ However, the government's lack of transparency prevents a comprehensive understanding of the types of arms China supplies, their quantities, destinations or end-users. Statistics available tend to grossly underestimate the actual financial value of the trade, which is estimated to be in excess of US\$1 billion annually.⁷

⁶ The SIPRI arms transfer data cover six categories of major weapons or systems: aircraft, armoured vehicles, artillery, guidance and radar systems, missiles and warships. The registers and statistics do not include the trade in small arms, artillery under 100mm calibre, ammunition, support items, services and components, or production technology. SIPRI Yearbook 2005, Table 10A.2 exports.

⁷ TransArms database on the arms trade. The estimate for this figure is based on annual records for the last years - from both Chinese and US sources. For example, in constant 2002 terms, China exported US\$815 million yearly in period 1994-2002 and arms exports agreements averaged US\$1.1 billion yearly in same terms and years (CRS, Richard F. Grimmett, *Conventional Arms Transfers to Developing Nations*, various editions; the last one - *1997-2004*, issued 29 August 2005, reports a value of US\$600 million for the 2004 year). By taking into account data included for China, Hong Kong and Macau and data declared by the importers in the UN Comtrade database for SITC Code 891 (arms and ammunition) for the years 2002-2005, China's commercial exports show an annual average of about \$130 million. This data does not account for government-to-government sales of major weapons systems, transfers of military equipment for free or under military co-operation agreements, military services and

This lack of openness is seen in the government's failure to produce an annual report on military, security and police transfers, showing which transfers were licensed and which arms were delivered. However, it is clear from the limited data and information available from, for example, the UN customs database known as Comtrade and media reports, that China has been supplying a wide range of military equipment to many countries around the world many of which have a very poor record for human rights. This equipment includes:

- major conventional weapons – combat aircraft, tanks, armoured vehicles, missiles and missile launchers
- small arms and light weapons – pistols and revolvers
- police, security and restraint equipment – leg irons and stun guns

Historically, China has maintained a policy of industrial self-reliance in the production of military equipment. However, manufacturers in China produce sufficient surplus for China to have become a leading supplier. Economic reforms introduced by leader Deng Xiaoping in 1979 resulted in major changes in China's arms industry during the 1980s. The reforms enabled individual government agencies and public institutions, including those within the military, to set up their own commercial companies. As a consequence, numerous sub-units within the military complex began operating profit-making companies involved in arms manufacturing, imports and exports. The largest arms companies include:

- Norinco, China North Industries Corporation⁸
- Poly Group, China Poly Group Corporation, which is one of the largest Chinese arms exporting companies and is operated by PLA's General Staff Department⁹
- Xinxing Corporation, which is operated by the PLA General Logistics Department

Despite central Chinese government directives in the late 1990s that military units should divest themselves of their profit-making companies, strong informal links remain. As noted in a 2005 study on export controls in China by the US-based academic institute, the Centre for International Trade and Security (CITS):

dual-use equipment, for example, such as aircraft or ship engines or optical equipment often categorised as civilian goods. In addition, COMTRADE figures tend to largely underestimate the actual trade because China do not declare part of its exports (as evident from the difference between its declarations and importers declarations) and some countries do not report arms imports from China (as evident from China export declarations to countries that have not declared to that they have received arms from China). See also: Information Office of the State Council of the People's Republic of China, in Nuclear Threat Initiative "China and Conventional Weapons Nonproliferation," by the Center for Nonproliferation Studies, Monterey Institute of International Studies, <http://www.nti.org/db/china/conpos.htm>; and U.S. Dept. of State, *Military Expenditures and Arms Transfers 1999-2000*. Washington, D.C., Bureau of Verification and Compliance, June 2002.

⁸ Norinco is under the control of the State Council and registered/authorized under the Commission for Science, Technology and Industry for National Defence (COSTIND). Norinco does not have any formal ties with the military.

⁹ Kevin F. Roth, "Chinese Development and PLA Enterprises: Security Prospects and Implications", www.wps.princeton.edu/~jpia/July96/roth.html; David Walker, "The Chinese Military – Industrial Complex Goes Global", *Multinational Monitor*, June 1997, vol. 18 No. 6.

“The divestiture of profit-making enterprises from the PLA in the last five years, although nominally accomplished, may not have fully separated the enterprises from patronage and influence networks that may allow them to conduct trade beyond the oversight of China’s export control apparatus.”¹⁰

In addition, Chinese military and defence industrial enterprises have established several joint ventures and licensed production agreements with Canadian, European, Russian and US companies. A range of military and dual-use equipment has been supplied to China, or developed by Chinese arms companies with assistance from European and US companies. This is in spite of a European Union (EU) and US arms embargo on China imposed in response to the armed crackdown on pro-democracy demonstrations in and around Tiananmen Square in June 1989.

The US arms embargo adopted on 7 June 1989 suspended all licences and approvals authorising the export of defense articles and defense services by any US manufacturers and exporters to China including “manufacturing licence and technical assistance agreements” for all US-origin items.¹¹ It appears that this embargo could cover joint venture agreements between US and Chinese companies, particularly if the production is for dual-use items and technologies such as engines, rotor blades and other components where the US government designates such items or technologies as being specifically adapted for military applications.¹²

The EU arms embargo, adopted by the European Council on 27 June 1989, strongly condemned the “brutal repression taking place in China” and requested the Chinese authorities to respect human rights...¹³ The Council Declaration adopted several measures including a commitment to raise the issue of human rights in China in the appropriate international fora and the imposition of an arms embargo. The text of the Council Declaration does not specify the scope of arms covered by the arms embargo since it states:

“...interruption by the Member States of the Community of military corporation and an embargo on trade in arms with China,”¹⁴

Thus, EU governments have interpreted this arms embargo differently. Some have continued to allow the sale of a range of military and dual-use equipment to China. The transfer of dual use items and technology by EU members states are controlled by the EC Regulation on Dual-Use Items and Technology adopted 22 June 2000. However, it is not clear if this Regulation’s catch-all clause 2 of Article 4 applies to products such as radar systems, transmission systems, and engines for military end-use transferred to China. This clause states that:

¹⁰ “Export Controls in the People’s Republic of China”, Centre for International Trade and Security (CITS), University of Georgia, USA, February 2005, p.36.

¹¹ US Department of State Suspension Notice, Federal Regulation 58, 24539, 7 June 1989.

¹² US Federal Register Vol 58 number 139, Amendment to ITAR, part 126, July 22, 1993. See also ITAR, part 120 and 121.

¹³ European Council, Declaration on China, Madrid, 27 June 1989.

¹⁴ European Council, Declaration on China, Madrid, 27 June 1989.

“An authorisation shall also be required for the export for the export of dual-use items not listed in Annex 1 if the purchasing country or country of destination is subject to an arms embargo decided by a common position or joint action adopted by the Council or a decision of the OSCE or an arms embargo imposed by a binding resolution of the Security Council of the United Nations and if the exporter has been informed by the authorities referred to in paragraph 1 that the items in question are may be intended, in their entirety or in part, for a military end-use.”¹⁵

In April 2005 a *Jane’s Defence Weekly* article highlighted the involvement of European companies in assisting the Chinese development of a new military attack helicopter. It described how secrecy surrounding Chinese production of military, security and police equipment had allowed the European companies to hide the extent of their assistance and involvement:

“The intense secrecy that surrounds the Z-10 [military attack helicopter] is probably driven by the involvement of Western firms who have provided much technical assistance. Under the guise of CHRDI’s [China Helicopter Research and Development Institute] parallel Chinese Medium Helicopter (CMH) project, often referred to as the six-tonne helicopter, China is buying in skills and off-the-shelf technology that is being routed directly into a military programme. Chinese officials have portrayed the Z-10 and CMH as one and the same thing, seeking to dismiss Western reports of the Z-10 as the misunderstanding of a civil programme.”¹⁶

According to the article, companies involved with the Z-10 programme include the Canadian company, Pratt and Whitney, which has delivered 10 PT6C-67C turbo shafts to China. The Italian/UK company AgustaWestland is understood to have assisted in the development of the Z-10’s main rotor blade and transmission and gearbox system. The US company Lord Corporation appears to be also involved. The European Aeronautic Defence and Space company (EADS), which now owns the subsidiary group Eurocopter, had provided the Z-10’s transmission system under a co-development agreement.¹⁷ The secrecy that surrounds China’s arms production and exports is augmented by the overlap between defence and civil commercial industry.

Canada, the European states, Russia and the USA have agreed to the 1993 Organisation, for Security and Cooperation of Europe (OSCE) Principles Governing Conventional Arms which include a commitment to “avoid the transfer of arms which would be likely to be used for the violation or suppression of human rights and fundamental

¹⁵ Article 4.2 continues: For the purposes of this paragraph, ‘military end-use’ shall mean: a) incorporation into military items listed in the military list of Member States; b) use of production, -test-, or analytical equipment and components therefore, for the development, production or maintenance of military items listed in the abovementioned list; c) use of any unfinished products in a plant for the production of military items listed in the abovementioned list.”

¹⁶ Robert Hewson, “China’s Z-10 helicopter built on Western expertise”, *Jane’s Defence Weekly*, date posted 6 April 2005.

¹⁷ Robert Hewson, “China’s Z-10 helicopter built on Western expertise”, *Jane’s Defence Weekly*, date posted 6 April 2005.

freedoms.”. The principles cover conventional arms and related technology. These states are also parties to the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies.

The EU has been working to strengthen the EU Code of Conduct on Arms Exports (EU Code) as a counterweight to the lifting of the arms embargo on China. However, for the EU Code to be a sufficient replacement of the arms embargo against China, it would need to be legally-binding. At present the Code is not a legally binding instrument and not all Member States have introduced the EU Code or referenced it in their national laws. The EU Code will become a Common Position which will give it legal status. Under Article 15 of the Treaty on the European Union, Member States “shall ensure that their national policies conform to the common positions”. However, it is not clear to what extent individual Member States will be required to enact the EU Code’s criteria and provisions into their own national laws. Moreover, the Code does not cover dual-use technologies to China.

Chinese arms deals often involve an exchange of weapons for raw materials, and the increase in the number of these barter deals can be linked to China’s rapid economic expansion over the past 25 years and its increasing need to secure raw materials. In the 1990s, the PLA reportedly actively participated in arms deals with Iran in return for oil.¹⁸ China was a major importer of timber from Liberia and a supplier of arms to Liberia.¹⁹ Amnesty International has documented widespread and systematic violations of human rights in the Liberia over the years involving small arms.²⁰ China is also a major supplier of arms to Sudan and Chinese firms have the largest foreign stake in Sudanese oilfields. The Sudanese government has used increases in oil revenues – oil which China is heavily dependent on, but also heavily invests in - to fund a military capacity that has in turn been used to conduct war in Darfur, including carrying out violations of international human rights and humanitarian law.²¹ China is reported to be steadily becoming the largest foreign investor in Zimbabwe²² and in November 2004 it was reported that Zimbabwe President Robert Mugabe had met with representatives of Norinco to discuss possible areas of co-operation in various sectors of the economy. The Zimbabwe Defence Forces Commander General, Constantine Chiwenga, and the general manager of Zimbabwe Defence Industries (ZDI), Retired Colonel Tshinga Dube, also attended the meeting.²³ In addition to Africa, Latin America is becoming another key market for Chinese arms supplies.

¹⁸ Kevin F. Roth, “Chinese Development and PLA Enterprises: Security Prospects and Implications”, July 1996. www.wss.princeton.edu/~jpia/July96/roth.html

¹⁹ See for example, Amnesty International, “*Dead on Time – arms transportation, brokering and the threat to human rights*”, May 2006.

²⁰ See Liberia entry, Amnesty International Report 2003; *Liberia: Civilians faces human rights abuses at home and across borders*, 1 October 2002. *Democratic Republic of Congo: Killing Human Decency*, 31 May 2000.

²¹ See Sudan: *Arming the perpetrators of grave abuses in Darfur*, Amnesty International, 16 November 2004, AI Index 54/139/2004.

²² Industry Updates 8 May 2005: China becomes largest foreign investor in Zimbabwe.

²³ *Africa News Service*, Nov 2, 2004. Chinese Delegation Seeks Areas of Co-Operation.

Small arms and light weapons

China is also a large producer and exporter of small arms and light weapons. According to the research project, the Small Arms Survey, China in 2002 was one of the top exporters, exporting at least US\$100 million of small arms annually, according to the limited data available from the UN customs database, UN Comtrade.²⁴ The Chinese government withholds much data for many of the specific categories in the database covering military weapons. The total value of transfers of small arms and light weapons is also largely underestimated because it is not clear whether the UN Comtrade data includes only commercial transactions from a private company to a foreign recipient, or also government-to-government sales. It is also very difficult to account for cheap sales or gifts of surplus small arms and light weapons by a government due to lack of reporting on such transfers. Nevertheless, in the absence of figures on the actual number of weapons delivered (which is not always provided), the estimated total is useful in conveying the scale of arms transferred.

Small arms play a particular role in contributing to violations of human rights and international humanitarian law – through their direct use or through the threat of use. More deaths, injuries, rapes and other acts of torture, displacements of people and crime are inflicted or perpetrated with small arms than any other type of weapon. According to data on SALW transfers from China to other countries, data submitted by the Chinese government to the UN, such abuses by the security forces occurred in countries sold parts and accessories for small arms and military weapons by China in 2003 and 2004, including Brazil, Myanmar, Indonesia, Iran, Pakistan and Sudan.²⁵

China has exported large quantities of small arms and light weapons to countries in the Great Lakes Region of Africa over the past fifteen years where gross violations of human rights have been carried out. Chinese AK-47 assault rifles are common amongst soldiers, militia and fighters of armed groups operating in the Kivu Provinces and the Ituri District of the Democratic Republic of the Congo where atrocities have frequently been committed with such weapons, often associated with the drive by foreign businesses for control of valuable minerals. In November 2005, researchers in the Democratic Republic of the Congo (DRC) investigated the origin of 1100 weapons collected by the United Nations MONUC peace-keepers in Bunia, in Ituri district. Seventeen per cent of these were Chinese copies of AK-47 assault rifles, known as Type 56s.²⁶ These Chinese-made weapons would have been delivered directly from China to the DRC, Uganda, Rwanda and Burundi or from third countries

²⁴ Graduate Institute of International Studies, *Small Arms Survey 2005: Weapons at War*, Switzerland, p.98.

²⁵ Norwegian Initiative on Small Arms Transfers (NISAT) database, www.nisat.org, Parts and accessories of Military Weapons reported by China to Comtrade:

- Brazil (category 930599) worth \$84,505, Myanmar (category 930599) worth \$822,239,
- Bombs, Grenades, Ammunition, Mines and Others (category 930590): Indonesia worth \$392,399; Iran worth \$2,045,135; Pakistan worth \$477,048.
- Sudan (category 930591) worth \$166,000.

²⁶ A selection of weapons were photographed, and lists of others were provided by MONUC to IPIS, a Brussels-based research institute, in November 2005. From serial numbers and other evidence, their origin was sourced by the UK's National Firearms Centre in December 2005.

supplied by China, such as Albania and Zimbabwe, which have supplied countries in the Great Lakes.²⁷

China is a major exporter of pistols and revolvers. The proliferation of handguns has increased the availability of these types of weapons in countries like South Africa. Such small arms have contributed to human rights violations and fuel armed violence particularly in non-conflict areas. Analysis of the data provided by recipient countries identified that between 2000 and 2003 there were reported imports of over US\$10 million of “pistols and revolvers” from China.²⁸ The importing countries included: Argentina, Australia, Bangladesh, Bolivia, Burkina Faso, Canada, Chile, Costa Rica, Czech Republic, Dominican Republic, Finland, Germany, Guatemala, Hong Kong, India, Indonesia, Iran, Italy, Macau, Malaysia, Niger, Pakistan, Philippines, Saudi Arabia, Slovakia, Sudan, Thailand and Uganda. The list is not exhaustive of countries receiving Chinese “pistols and revolvers” but it demonstrates the range of countries reporting such imports from China.

Sales to Nepal

The March 2006 visit to Nepal by Chinese State Councillor Tang Jiaxuan was reportedly the most high-level visit by a foreign government official since King Gyanendra seized absolute power in Nepal on 1 February 2005. Speaking at a programme organized by the Chinese Embassy in the capital, Kathmandu, Tang Jiaxuan said, “We look forward to working with Nepal to make [a] greater contribution to world peace, stability and prosperity.”²⁹

Yet, far from contributing to peace and stability in Nepal, China’s military transfers over the previous year seemed likely to have fuelled further human rights violations by the security forces in a brutal civil war and amid growing civil protests in 2005 and 2006. Supplies from China undermined the international effort, in response to the deteriorating human rights situation, to limit arms flows to the Royal Nepalese Army³⁰ in its conflict with the forces of the Communist Party of Nepal (CPN) (Maoist). In June 2005, five armoured personnel carriers arrived in Nepal from China, reportedly the first major military supplies to arrive in the country since the King’s takeover prompted India, the United Kingdom (UK) and USA to suspend most military assistance.

Despite the commission of gross human rights violations by the Nepalese armed forces, in September 2005, China was reported to have agreed to provide arms and ammunition worth approximately 1 billion Indian rupees (US\$22.4 million) in a deal negotiated during the August visit to China of Nepal’s Foreign Minister Ramesh Nath Pandey.³¹ In October, Nepal’s Chief of Army Staff, General Pyar Jung Thapa, announced a commitment by the

²⁷ Amnesty International, Democratic Republic of the Congo: arming the east, July 2005 (AI Index: AFR 62/006/2005)

²⁸ Based on UN Comtrade data under the category “pistols and revolvers” (9302) in the NISAT database.

²⁹ *Nepalnews*, 17 March 2006, “China in favour of unity among constitutional forces: Tang”, <http://www.nepalnews.com/archive/2006/mar/mar17/news08.php>.

³⁰ As of 18 May the Royal Nepalese Army was renamed the Nepal Army.

³¹ *India Today*, “The Gulf Widens”, 19 September 2005.

Chinese government to military aid worth 72 million Nepali rupees (US\$1 million).³² In late November, 18 trucks carrying military hardware from China were reported to have crossed the Nepal-Tibet border.³³ The armed forces acknowledged receiving military supplies from China but refused to reveal details.

In January 2006, China signalled concern at a renewed crackdown on peaceful political demonstrations in Nepal. “We hope all forces in Nepal can narrow their differences through dialogue and work together for the country’s development and prosperity”, a Foreign Ministry spokesman said.³⁴ Despite such public concern, however, China did not appear to impose any restrictions on transfers of military supplies. It was reported in February that the government of Nepal had paid US\$10 million for Chinese-made rifles and that a consignment of nearly 25,000 rifles was due to arrive in Kathmandu.³⁵ The report also stated that in 2005, Nepal’s defence ministry had spent nearly US\$800,000 on 7.62mm rifle ammunition and 18,000 grenades manufactured in China. In May 2006, there were reports that Nepal’s new interim government was planning to cancel orders for defense supplies, including the purchase of two Chinese aircraft. At the time of this writing, Amnesty International was unable to verify these reports.³⁶

Security force personnel have used armoured personnel carriers to intimidate, restrict or control peaceful political demonstrators, including in Kathmandu in April 2006.³⁷ The government repeatedly imposed blanket bans on public gatherings ahead of scheduled demonstrations by the political opposition. During the first four months of 2006, more than 5,000 protestors – mostly non-violent political and civil society activists – were detained for participating in or planning pro-democracy demonstrations.

The security forces often used excessive force to suppress demonstrations, and even shot unarmed demonstrators. On 8 February 2006, armed forces personnel reportedly fired between 25 to 30 rounds at a group of about 15 political activists, killing Umesh Thapa, aged 45, a local district council member of the mainstream Communist Party of Nepal (United Marxist-Leninist), and injuring Krishna Giri, aged 55, a member of the Nepali Congress party.³⁸ They had been protesting peacefully against the municipal elections called by King Gyanendra.

Violence escalated sharply in April 2006, as army and police officers used excessive forces to control growing numbers of pro-democracy demonstrations. On 13 April, police

³² *Nepalnews.com*, “China grants Rs 72 million as military aid to Nepal”, 25 October 2005, <http://www.nepalnews.com.np/archive/2005/oct/oct25/news10.php>.

³³ *Kathmandu Post*, “No let up in fight against terror; RNA admits arrival of Chinese military aid”, 26 November 2005, <http://www.kantipuronline.com/kolnews.php?&nid=58170>.

³⁴ *Reuters*, “Nepal anti-king protests turn violent”, 24 January 2006.

³⁵ *Indo-Asian News Service*, “Nepal dips into dwindling dollars for more arms”, 5 February 2006, <http://dnaindia.com/report.asp?NewsID=1011470&CatID=9>.

³⁶ Report completed on 18 May 2006; *Kantipur Online*, “Nepal said set to scrap China defence purchases”, *eKantipur.com*, Kathmandu, 15 May 2006.

³⁷ *Reuters*, 6 April 2006, “UPDATE 5-Nepal protesters defy ban, rebel raid kills 22”.

³⁸ INSEC report, “Civilian participating in peaceful demonstration shot dead by Army”, www.insec.org.np

fired tear gas and rubber bullets at a peaceful demonstration led by the Nepal Bar Association; at least four lawyers were injured by rubber bullets.³⁹ At least 17 people were killed and hundreds severely injured in demonstrations as the security forces used lethal force in addition to tear gas and rubber bullets.

The security forces also continued to commit human rights violations in the context of Nepal's decade-long internal conflict. Thousands of people have been arbitrarily detained, hundreds have "disappeared", and there have been numerous reports of torture, including rape, by the security forces. The opposition Communist Party of Nepal (Maoist) forces have also been responsible for grave abuses, including killings, abductions, torture, the use of children in military activities and attacks on civilian infrastructure. Despite high profile pledges of commitment to human rights, both sides have failed to investigate human rights abuses or punish those responsible, allowing their forces to operate in an environment of complete impunity.

Nepal's security forces have failed to respect the principles of distinction and proportionality under international humanitarian law, and have not taken necessary measures to protect civilian life. On 24 September 2005, three army units opened fire upon entering the village of Bahadupur, in Palpa district. A fact-finding mission by local human rights organizations found that, although there were CPN (Maoist) members among the civilian residents of the village, they were unarmed at the time of the attack.⁴⁰ The Office of the UN High Commissioner for Human Rights in Nepal (OHCHR-Nepal) noted that two children were among the injured and one adult villager was among those killed along with Maoists.⁴¹

On 24 March 2006 police in Janakpur, Dhanusha district, opened fire on a crowd gathered in a busy market area, instantly killing one civilian, Ram Chandra Yadav, aged 55, and fatally wounding another, Daya Ram Pariyar, aged 23, an employee of Nepal's National Human Rights Commission. The incident occurred just hours after an attack by the CPN (Maoist) in Janakpur in which two police officers had been killed.

It is clear that the supply of military equipment and military assistance, to an ill-trained army functioning with impunity, increases the risk of civilian casualties, and may prolong and exacerbate the conflict. On 24 April, following nearly three weeks of massive nationwide public protests against palace rule, King Gyanendra announced the reinstatement of Parliament. The new interim government declared a ceasefire on 3 May and invited the CPN (Maoist) to join peace talks. It also has suspended senior security officers suspected of involvement in human rights violations and taken steps to bring the army under parliamentary control. Amnesty International believes that the continued suspension of military and security supplies to Nepal is essential to strengthen accountability and encourage human rights reforms during this critical transitional period. Even in the event of resumed fighting, military

³⁹ Kantipur Online, "Police open fire at lawyers' rally, 4 injured; 72 arrested", 13 April 2006. <http://www.kantipuronline.com/kolnews.php?&nid=71038>

⁴⁰ INSEC report, "Incident of EJE in Palpa", <http://www.inseconline.org/factfinding/factfinding.php>.

⁴¹ UN Document E/CN.4/2006/107, *Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Nepal*, 16 February 2006.

supplies should not be provided until there is clear evidence, against agreed benchmarks, of a commitment by the government and its security forces to uphold international human rights standards and international humanitarian law.

Weapons in the hands of Chadian armed groups

Arms made by the Chinese company, Norinco, have been seen in the hands of fighters for the United Front for Democratic Change (Front uni pour le changement démocratique au Tchad, FUC). Members of the group were photographed carrying QLZ87 35mm automatic grenade launchers outside the town of El Geneina in Western Darfur, Sudan, near the Chad border, on 28 February 2006. The weapons appear not to be very old, and it is not clear how they ended up in the hands of a Chadian armed group. The QLZ87 was first exhibited at the IDEX international arms fair in the United Arab Emirates in March 2003.⁴²



PHOTO CAPTION: A member of a Chadian armed group operating in the Chad-Sudan border area holds a QLZ87 35mm automatic grenade launcher made by Chinese arms company Norinco. © Daniel Pepper/Getty Pictures

The Sudanese government is reported to provide support to some Chadian armed groups that are opposed to Chad's President Idriss Deby. These armed opposition groups are based in Darfur and allegedly cooperate with the pro-Sudanese government Janjawid militia. The allegations have recently been levelled against Janjawid militia support for the Rally for Democracy and Liberty (Rassemblement pour la Démocratie et la Liberté, RDL), formed in October 2005 and led by Mahammat Nour. The RDL launched an attack on Adre, Chad, on 18 December 2005, in which numerous civilians were killed. The government of Chad alleged that this attack was mounted with Sudanese government support. Mahammat Nour, subsequently became leader of the FUC, a coalition of eight armed groups in Chad and Darfur

⁴² *Jane's Infantry Weapons*, Automatic Grenade Launchers/China/Type/QLZ87/35mm automatic grenade launcher, 1 March 2006.

formed in December 2005. When asked whether he got his weapons from Sudan, he was reported as saying: “[o]ur weapons come from other governments in Africa, and Sudan allows them to be transported here.”⁴³

All armed groups operating in Darfur, not just the Janjawid, should fall under the UN arms embargo, imposed by UN Security Council resolution 1556, which says that:

“all states shall take the necessary measures to prevent the sale or supply, to all non-governmental entities and individuals, including the Janjaweed, operating in the states of North Darfur, South Darfur and West Darfur...[and] shall take the necessary measures to prevent any provision to the non-governmental entities and individuals identified operating in the states of North Darfur, South Darfur and West Darfur.”

In Sudan, the on going conflict in Darfur has been characterised by gross violations of human rights involving a range of military, security and police equipment as Amnesty International showed in its report ‘*Sudan: Arming the perpetrators of grave abuses in Darfur*’.⁴⁴ China is one of several states including France, Iran and Saudi Arabia that have exported large amounts of small arms and light weapons and ammunition to Sudan. The Darfur region has been deeply affected by the proliferation of small arms and light weapons. Violence in Darfur has resumed at a high level since September 2005. The scale of the human rights disaster and the killing of people and destruction of major parts of Darfur is massive: an estimated 1.6 million people are displaced within Darfur and 200,000 Sudanese refugees have fled across the border into Chad.⁴⁵ The Office of the UN High Commissioner for Refugees has condemned the forced conscription of Sudanese refugees in camps based in eastern Chad, bordering Darfur, by various armed groups.⁴⁶

Shipping Chinese arms to Liberia

Evidence has emerged allegedly showing that a Dutch arms dealer Gus Kouwenhoven brokered the delivery of large quantities of arms to Liberia from China, in contravention of the UN arms embargo on Liberia. Van Kouwenhoven has been president of the Oriental Timber Company (OTC), a Liberia-based firm that owned the largest logging concessions in Liberia during the late 1990s and early 2000s and was reported by the UN to be owned by Singaporean interests. Amnesty International and Trans Arms in a report published in May, *Dead on Time – arms transportation, brokering and the threat to human rights*, showed how Chinese arms had been shipped to Liberia by a Dutch arms broker and involving a Hong Kong based company.

According to the South China Morning Post, the Hong Kong authorities have in particular provided the prosecutor’s office in Rotterdam with information on the connection

⁴³ San Francisco Chronicle, “War follows refugees to Darfur: From inside Sudan, Chadian rebels launch attacks on their home”, Daniel Pepper, 13 March 2006.

⁴⁴ Sudan: Arming the perpetrators of grave abuses in Darfur, Amnesty International, 16 November 2004, AFR 54/139/2004.

⁴⁵ Sudan: Who will answer for the crimes?, Amnesty International, 18 January 2005, AFR 54/006/2005

⁴⁶ UN News Service, “UN Agency Condemns Forced Recruitment of Sudanese Refugees in Chad”, 31 March 2006.

between van Kouwenhoven and Hong Kong companies that were linked to OTC's logging and arms business: a company called Global Star (Asia), a ship ("Antarctic Mariner," presently the "Raffles") that allegedly transported arms (in particular Chinese-made AK-47s, machine guns and rocket-propelled grenade launchers) to Liberia between 2001 and 2003,⁴⁷ when Liberia was under a UN arms embargo,⁴⁸ and a list of crews who served on the same ship. Along with other companies variously connected to arms traffickers, such as the Ukrainian arms trafficker Leonid Minin⁴⁹ and Victor Bout's business partner Sanjivan Ruprah,⁵⁰ OTC and Global Star (Asia) had served as a conduit for arms shipments that fuelled Liberia's and Sierra Leone's bloody conflicts and were responsible for severe human right abuses.

In 2004, Amnesty International reported that in Liberia, as armed conflict worsened, government forces and armed opposition groups were responsible for widespread abuses against civilians including killings, torture, rape and other forms of sexual violence, and forcible recruitment of children. Hundreds of thousands of civilians were forced to flee their homes. Despite cease-fire and peace agreements, hostilities and human rights abuses continued [...]. Those responsible for human rights abuses enjoyed almost total impunity.⁵¹ In 2001, Amnesty International had reported that in Liberia "torture, ill-treatment and other human rights violations continued to be carried out by the security forces. Human rights defenders and journalists were arrested, assaulted and forced into exile. Political prisoners were sentenced to prison terms after trials which failed to meet international standards for fair trial. There was no progress in investigating past human rights abuses. The international community continued to accuse the Liberian government of assisting rebel forces responsible for atrocities in neighbouring Sierra Leone."⁵² Van Kouwenhoven is the first person to stand trial on a charge of crimes against humanity committed in Liberia. He was arrested in Rotterdam, Netherlands, on 18 March 2005 and the Dutch authorities have charged him to stand trial for aiding war crimes and crimes against humanity.

Norinco pistols on the streets of South Africa

In the late 1990s, Chinese-made Norinco pistols reportedly flooded the market in South Africa.⁵³ Analysis of South African press reports by Amnesty International over a five year

⁴⁷ Agence France Press, March 21, 2005, quoted.

⁴⁸ U.N. Security Council Resolution 788 (November 1992) established an arms embargo on Liberia (implemented from 1995 under Resolution 985). The type of embargo adopted by this resolution was terminated by U.N. Security Council Resolution 1343 (2001) in March 2001 and it imposed a new arms embargo on Liberia. See also U.N. Security Council Committee List (SC/7068), June 4 2001 (Travel Ban List) that included Kouwenhoven. On 5 July 2000, the Security Council had also adopted resolution 1306 that imposed a ban on the direct or indirect import of rough diamonds from Sierra Leone.

⁴⁹ For Minin's involvement in Liberia's arms smuggling schemes see in this report the chapter "Arms brokering and plausible denial," paragraph "The case of Leonid Minin."

⁵⁰ Ruprah himself acknowledged his and OTC role in providing military equipment for Taylor in an interview that US Customs agents carried out in January 25, 2002.

⁵¹ Amnesty International, "Annual Report, Liberia," 2004, www.amnesty.org

⁵² Amnesty International Report 2001. See also Amnesty International, "*Liberia, Civilians face human rights abuses at home and across borders*," 1 October 2002.

⁵³ *Africa News Service*, "Poor Quality guns flood SA market", 15 July 1999.

period between July 1999 and November 2004 suggests that Norinco 9mm pistols are commonly used in cases of robbery, rape and other crimes. Despite tougher regulations under the 2000 Firearms Control Act to regulate the possession, use and transfer of firearms in South Africa, many weapons enter the illegal market after being lost or stolen.

Neither China nor South Africa reported the transfer of “pistols and revolvers” between 2000 and 2003. Over a 10-year period between 1994 and 2004, the UN Comtrade database recorded only one transfer from China to South Africa of “pistols and revolvers”: 10,079 units in 1998.⁵⁴ It is not possible to establish whether this transfer included Norinco pistols because of the lack of transparency on the part of China about its military, security and police transfers.

The table below from the press analysis shows the range of incidents involving Norinco pistols, among others, in South Africa that were reported in a selection of media outlets between July 2003 and November 2004. Please note that the text included in the table has been taken directly from the press articles:

Description	Norinco weapon	Source
The men took a 9mm Norinco pistol from the security guards and two cellular phones.	Norinco 9mm pistol	Xinhua News Agency , 30 November 2004, SOUTH AFRICAN GUARDS DISARMED AND RAPED
One man was arrested and a 9mm unlicensed Norinco pistol was found in his possession.	Norinco Pistol	Asia Africa Intelligence Wire , 29 April 2004, MPUMALANGA POLICE STOP CASH HEIST
...taking with them the fatally wounded guard's Norinco firearm.	Norinco firearm	Asia Africa Intelligence Wire , 8 March 2004, JHB SECURITY GUARD SHOT DEAD IN CASH HEIST
During the search he took R950, two cell phones worth R4200, car keys and a 9mm Norinco pistol.	Norinco 9mm pistol	Asia Africa Intelligence Wire , 23 February 2004, FAKE COP WANTED FOR ROBBERY
Among them were two rifles, five handguns, and a 9mm Norinco pistol that had been stolen from a security guard in Hillbrow in December 2003.	Norinco 9mm pistol	Asia Africa Intelligence Wire , 19 February 2004, 10 ARRESTED IN FAILED HEIST
Police arrested a 33-year-old man found in possession of an unlicensed 9mm Norinco pistol in Mandela Park in Katlehong around 1.30am.	Norinco 9mm pistol	Asia Africa Intelligence Wire , 24 December 2003, PUPIL ARRESTED FOR ALLEGED POSSESSION OF ILLEGAL FIREARM
A 9mm Norinco pistol, telephone	Norinco 9mm	Asia Africa Intelligence Wire ,

⁵⁴ Based on UN Comtrade data under the category “pistols and revolvers” (9302) in the NISAT database in 1998. Partner country: Defined as “South African Customs Union”. Under this entry 10,079 units were transferred.

Description	Norinco weapon	Source
cards and an unconfirmed amount of cash were found in the possession of the suspects.	pistol	25 November 2003, FOUR ARRESTED AFTER BFN GARAGE ROBBERIES
Sergeant Richard Munyai said a 41-year-old man was robbed of his 9mm Norinco parabellum pistol	Norinco 9mm pistol	<i>Asia Africa Intelligence Wire</i> , 17 September 2003, POLICE ISSUE WARNING ON CONCEALED WEAPONS
Police found a 9mm Norinco firearm, reported stolen in November 2001, with one round in the magazine next to the dead man's body. On the body was a wallet with cash, a firearms licence and a 9mm Luger pistol in a holster. Police believed the man had been overpowered by his attackers before he was shot dead with the Norinco . The two firearms along with the cartridges will be sent for ballistics tests.	Norinco 9mm pistol	<i>Asia Africa Intelligence Wire</i> , 31 July 2003, TAXI DRIVER SHOT DEAD IN MDANTSANE

Small arms are used by criminal gangs in South Africa to devastate the lives of civilians and their families, as in many other countries.⁵⁵ In countries where large numbers of people legally own handguns and which experience armed criminal violence, the need for not only domestic but international controls on the sale of weapons is clear.

The illicit trade in pistols: Australia, Malaysia and Thailand

The “illicit trade” in arms is understood by the United Nations to refer to trade that is contrary to national and/or international laws⁵⁶ and can sometimes include government sanctioned transfers where not all governments whose countries are involved in a transfer have given their explicit authorisation or where the transfer is in violation of an international law. The illicit arms trade can also simply mean the trade in arms by unauthorised groups or individuals, as has been reported with pistols such as Norinco weapons manufactured in China which have been reportedly found by police in Australia, Malaysia and Thailand as in South Africa (see above). It is unclear whether arms dealers have knowingly violated laws and traded on the illicit market, or whether these pistols have been legally transferred into the recipient country and then subsequently diverted or stolen from the authorised end-user. All

⁵⁵ See, for example, Amnesty International, *The impact of guns on women's lives*, AI Index: ACT 30/001/20057, March 2005.

⁵⁶ Guidelines for international arms transfers in the context of General Assembly resolution 46/36 H of 6 December 1991', UN Disarmament Commission, May 1996, Official Records of the General Assembly, Fifty-first Session, Supplement No. 42 (A/51/42), May 22, 1996.

three states reported imports from China within the UN category “pistols and revolvers” between 2000 and 2003.⁵⁷

In Malaysia, an analysis of newspaper reports from April 2004 to September 2005 shows a number of police seizures of Norinco weapons:

Description	Norinco weapon	Source
The firearms found included a Chinese-made Norinco Mak-90 rifle, a Stevens 311R sawn-off shotgun, three Italian-made F. Lippietta revolvers and a US-made MRSportsmen .22 Long Rifle.	Norinco Mak-90 rifle	Asia Africa Intelligence Wire , 16 September 2005. POLICE FOIL BID TO SMUGGLE FIREARMS TO WEST ASIA
Police recovered two semi-automatic pistols and a revolver: a Colt .45, a Norinco 9mm , a Smith and Wesson revolver, and a toy Beretta.	Norinco 9mm revolver	Asia Africa Intelligence Wire , 17 July 2005, THREE KILLED IN SHOOT-OUT
Police are trying to ascertain if the weapon, a Chinese-made Norinco 9mm ,...	Norinco 9mm	Asia Africa Intelligence Wire , 13 July 2004, GUNMAN DETAINED IN ROUTINE CHECK
The two guns seized on Thursday, a Glock 19 and a Chinese-made Norinco pistol and 33 9mm bullets, were recovered from three suspects in Pandan Indah by a police team from the Anti-Vehicle Theft squad.	Norinco pistol	Asia Africa Intelligence Wire , 26 June 2004, TWO MORE HANDGUNS SEIZED BY CITY POLICE
The gunman was in possession of a Norinco semi-automatic.	Norinco pistol	Asia Africa Intelligence Wire , 14 May 2004, COP OVERPOWERS FUMBLING GUNMAN
Police seized a Norinco 213 pistol, a Llama Cal.22 pistol and 15 bullets from the suspects.	Norinco 212 pistol	Asia Africa Intelligence Wire , 17 April 2004, TWO GUNMEN NABBED OVER CAR GAFFE

In Thailand, it was reported in July 2002 that brand new weapons were still available from two Chinese arms factories, Norinco and Poly Technology:

“Underground agents are reportedly able to move small purchases of weapons from these two companies. A minimum order of US\$100,000 (about 4.5 million baht) is required, according to a Chinese source in Bangkok. Sea shipments are in wooden crates, stamped with the words ‘Fragile, Handle with Care’ and ‘Made in South Korea’, said an inside

⁵⁷ Based on UN Comtrade data under the category “pistols and revolvers” (9302) in the NISAT database.

source. If delivered to Cox's Bazaar in Bangladesh, the weapons come via cargo ship from Hong Kong, passing through Singapore and the Indian Ocean. Cox's Bazaar is a preferred destination as it has many escape conduits."⁵⁸

In Australia, the police raised concerns in April 2002 about the spread of illegal handguns. They reported that firearms of Chinese manufacture were entering Australia and that of these firearms 80% could be attributed to the Chinese firm Norinco."⁵⁹

Conventional Arms

The extent of China's exports of major conventional weapons – including battle tanks, armoured combat vehicles, missile and combat aircraft – is difficult to determine, especially since China stopped submitting data to the UN Register of Conventional Arms in 1997, citing the inclusion of US arms exports to Taiwan as the reason.⁶⁰ According to data covering the period 1992 to 1996, China exported a range of military equipment to Bangladesh, Iran, Myanmar, Pakistan, Sri Lanka and Sudan – countries where persistent human rights violations by the armed and security forces have been documented. China has regularly supplied military equipment, as the examples below show, to Sudan where persistent violations of human rights and international humanitarian law have occurred for many years.

Helicopters used in Sudan conflict

Aircraft, including helicopters, have played a critical role in human rights violations in several internal conflicts in Sudan.

During the armed conflict in southern Sudan and the Nuba Mountains between the government and the Sudanese People Liberation Army (SPLA), government aircraft carried out indiscriminate attacks and attacks targeting civilians in the past 15 years. For instance, in August 1995 helicopter gunships killed five civilians in an attack on civilians at Kotobi in Western Equatoria.⁶¹ In 1999, there was aerial bombardment of civilians by government forces despite the extension of a ceasefire between the Sudanese government and the SPLA. In an attack on 21 February 2002, a government helicopter gunship was used to kill 17 civilians, injured many others and disrupted a food distribution operation by the World Food Programme.⁶²

⁵⁸ *Sunday Perspective* (Thailand), as reported in *Asia Africa Intelligence Wire*, "Transit to terror", 14 July 2002.

⁵⁹ *Australasian Business Intelligence*, "Click on crime – revealed: how illegal firearms can be ordered over the Internet in less than three minutes", 16 April 2002.

⁶⁰ In 1997, China had noted that "arms transfers from the US to Taiwan are neither legitimate nor transfers between sovereign States" and asked that such entries be deleted from future annual reports to the Register. "The UN Register of Conventional Arms: A Progress Report", Malcolm Chalmers and Owen Greene, Disarmament diplomacy, the Acronym Institute, Issue No 35, March 1999; *China withdraws from register in protest*, Jane's Defence Weekly, 18 November 1998.

⁶¹ Amnesty International Annual Report 1997, p.295.

⁶² Amnesty International. 22 February 2002. Sudan: Bombings of civilians are unacceptable. AI Index AFR 54/006 /2002 – News Service Nr. 32/02.

In 1998 the predominantly Masaalit population in western Darfur was involved in conflict with militias reportedly backed by government helicopter gunships and armed vehicles.⁶³ In the Darfur conflict in June 2004 a plane and helicopters fired rockets on villages following ground attacks on civilians. A 25-year old woman from Abu Jidad village in the Abu Gamra region spoke to Amnesty International at a refugee camp in Chad:

*“Men on horses and camels and in cars came in and surrounded the village at midday. The Janjawid were accompanied by soldiers of the government, the latter using cars. Two hours later, an Antonov plane and two helicopters flew over the village and shot rockets. The attackers came into the houses and shot my mother and grandfather, without any word. Most of the inhabitants had stayed in their houses. The attack lasted for two hours and everything was burnt down in the village.”*⁶⁴

In the 1990s, China reportedly sold aircraft including helicopters to Sudan. In 1996, China was said to have supplied Z-6 helicopters, manufactured by Changhe Aircraft Industries and designed to carry troops.⁶⁵ In 2001, the Harbin Dongan Engine Manufacturing Company (Harbin) performed repairs on Mi-8 helicopter engines for various governments including those of Pakistan and Sudan.⁶⁶ Mi-8 helicopters are commonly used for transporting troops, but variants also carry a range of weapon systems.

Although transport helicopters may not carry rockets and missiles, they have been used to ferry troops to areas in which fighting is taking place or where atrocities have been carried out against civilians.

In December 2004 a helicopter was used to transport a detained primary schoolteacher who subsequently “disappeared”. Abu Seri was one of 11 members of the Popular Congress reportedly arrested in Um Hosh, near Tawesha in North Darfur, transferred to al-Fasher by helicopter and beaten publicly at the airport there.⁶⁷

Dong Feng military trucks in Myanmar and Sudan

China has sold military trucks produced by the Chinese company Dong Feng to Myanmar and Sudan.

Dong Feng produces a range of military vehicles. It exports under the name Dongfeng Aeolus. Its EQ2081/2100 series of military trucks have reportedly been a popular carrier

⁶³ Amnesty International Annual Report 2000, p.224.

⁶⁴ Amnesty International, “Sudan: Victims of the war in Darfur speak about their plight”, 3 June 2004. AI Index: AFR 54/063/2004 (Public).

⁶⁵ Jane’s Intelligence Review 1/7/1998: NIF and SPLA carve up Sudan.

⁶⁶ www.aviationnow.com/content/publication/awst/2001outlook/aw347.htm 2001.

⁶⁷ Amnesty International, *Sudan. No one to complain to: No respite for the victims, impunity for the perpetrators*, 2 December 2004, AI Index: AFR 54/138/2004.

vehicle of the Chinese armed forces.⁶⁸ Both the EQ2082E6D and EQ2001E6D models are powered by diesel engines made by the US company, Cummins.⁶⁹



Photo caption: The EQ2082E6D military truck made by the Dong Feng company in China, the latest variant of the EQ2081 series, which has a 6BT5.9 turbo-charged diesel engine made by US company Cummins.⁷⁰ (c) Chinese Defence Today/SinoDefence.com

In August 2005, it was reported that 400 Aeolus military trucks for the Myanmar government had arrived at Shweli in Myanmar, near the border with China.⁷¹ Since 1988, China has reportedly regularly supplied the army in Myanmar with military equipment, including tanks, armoured personal carriers and artillery pieces such as howitzers, anti-tank guns and anti-aircraft guns. Between 1988 and 1995, China is reported to have provided about 1,000 vehicles, including 6.5 tonne Aeolus trucks, 5 tonne Jiefang trucks, 2 tonne Lan Jian trucks, 2 tonne Kungji trucks, and about 300 other heavy-duty machines.⁷² During the 1990s China became Myanmar's most important trading partner. A US\$1,000 million arms deal reportedly enabled Myanmar's government to buy a range of military equipment and training in China for armed forces officer.⁷³

Long-standing and serious violations of international human rights and humanitarian law committed by the army and law enforcement officials continue to be reported in Myanmar. These violations have particularly taken place in counter-insurgency operations in ethnic minority areas and include torture, extrajudicial executions, and forcible relocation, requirement to take part in unpaid forced labour, including military portering, and the forcible recruitment of children to the military. They have led to the displacement of hundreds of thousands of people, both within and outside the country. There is widespread impunity

⁶⁸ The independent online UK-based source providing information on China's military capabilities, SinoDefence.com, accessed 17 May 2006.

⁶⁹ Jane's Defence Weekly, Dong Feng EQ2081, 7 April 2004.

⁷⁰ www.sinodefence.com/army/transport/eq2081.asp.

⁷¹ *Democratic Voice of Burma*, "400 Chinese military trucks arrive at Burma Shweli", 7 August 2005, <http://english.dvb.no/news.php?id=5343>.

⁷² Andrew Selth, *Jane's Intelligence Review*, 1 November 1995.

⁷³ *Burma: Insurgency and the Politics of Ethnicity*, Martin Smith, Zed Books, 1999, p. 426.

enjoyed by state officials committing these violations.⁷⁴ In Myanmar in the late 1990s the army reportedly used military vehicles in the forcible recruitment of child soldiers.⁷⁵

In Sudan in August 2005 a UN panel, which was investigating violations of the international arms embargo on Sudan, saw a shipment of green DongFeng military trucks in the Port of Sudan. “New green trucks of a similar type were also seen on the Sudanese air force premises in Darfur in October.”⁷⁶ The investigations found that:

“The Panel had begun a process trace in order to verify the end-user and final destination of the vehicles that were seen at Port Sudan. The investigation showed that a total of 222 vehicles (212 military trucks of model EQ2100E6D and 10 chassis workshop of model EQ1093F6D) were procured from Dongfeng Automobile Import and Export Limited in China, makers of military equipment and vehicles. The consignee was the Ministry of Finance and National Economy of the Sudan. Further reports received indicated that the vehicles were consigned on behalf of the Ministry of Defence.”⁷⁷

It is not clear whether the truck models recently delivered to Myanmar and Sudan were fitted with the Cummins diesel engines, but according to the Hubei Dong Feng Motor Industry Import & Export Co the EQ2100E6D truck is powered by Cummins6BT5.9 turbo charged diesel engine.⁷⁸ Cummins has been involved in joint production ventures with Dongfeng since 1986, and Dongfeng Motors has been:

“producing the Cummins’ B series engines under license since 1986. Dongfeng also uses both the B and C series engines to power its popular medium-duty trucks.”⁷⁹

In its 2002 annual report to the US Securities and Exchange Commission, Cummins states that it:

“partnered with Dongfeng International Ltd. in 1995 to form a joint venture in China, Dongfeng Cummins Engine Co. Ltd., for the production of our C Series engines. This

⁷⁴ See, for example, Amnesty International, “Myanmar: UN Security Council must act”, 14 December 2005, AI Index: ASA 16/030/2005.

⁷⁵ My gun was as tall as me: child soldiers in Burma, Human Rights Watch, October 2002.

⁷⁶ Letter dated 30 January 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan addressed to the President of the Security Council, para 126. <http://daccessdds.un.org/doc/UNDOC/GEN/N05/632/74/PDF/N0563274.pdf?OpenElement>.

⁷⁷ Letter dated 30 January 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan addressed to the President of the Security Council, para 126. <http://daccessdds.un.org/doc/UNDOC/GEN/N05/632/74/PDF/N0563274.pdf?OpenElement>.

⁷⁸ See <http://www.hbdfmiec.com/auto/offroad/2100e6d.htm> Hubei Dong Feng Motor Industry Import & Export Co is a subsidiary of the Dong Feng Motor Group and according to the company's website: "HBDFMIEC , a subsidiary of China DONG FENG Motor Company is specialized on the import and export business. We mainly export the products of DONG FENG Motor Group. The products include trucks, cross-country vehicles (4X4 & 6X6) , construction dumper, special-purpose vehicles (such as water tank truck, fuel tank truck, wrecking vehicle, fire fighter, van etc.), buses, tourist coaches, passenger cars. We also exports the auto parts manufactured by DONGFENG motor Group as per customers' drawings and samples. Website accessed last 31 May 2006.

⁷⁹ Diesel Progress North American Edition, “China: welcome to economic ground zero for the 21st century”, August 1998.

*joint venture produces engines for the second largest truck manufacturer in China. We have also licensed Dongfeng Automotive Corporation to manufacture Cummins B Series engines in China.”*⁸⁰

More recently, in October 2005, Cummins announced that it was planning to make an additional investment of US\$300 million in the Chinese market before 2010. In November the company announced that its joint venture, the Dongfeng Cummins Engine Company, had begun development of a 13-litre heavy-duty truck engine.

Throughout the massacres in Darfur in 2004, Amnesty International and other human rights monitors noted that military trucks were being used to transport both Sudanese military and Janjawid militia personnel, and in some cases to deliver people for extrajudicial execution. In April 2004, Amnesty International reported the extrajudicial execution of 168 people from Wadi Saleh, in the west of Darfur, near the Chad border. The men were seized from 10 villages by a large force of soldiers, military intelligence officers and Janjawid militiamen, blindfolded and taken in groups of about 40 in army trucks to an area behind a hill near Deleij village. They were ordered to lie on the ground and were shot dead.”⁸¹

If the vehicles sighted in Sudan were fitted with Cummins engines, it would raise serious concerns about the end-use monitoring by the US authorities of components manufactured under licence agreements in China and destined for military equipment and military end-users. Most direct exports from the USA to Sudan require export license authorization. The guidance notes state that:

*“Exportation of goods or technology from the United States to third countries is prohibited if the exporter knows, or has reason to know, that the goods or technology are intended for transshipment to Sudan. The exportation of goods or technology intended specifically for incorporation or substantial transformation into a third-country product is also prohibited if the particular product is to be used in Sudan, is being specifically manufactured to fill a Sudanese order, or if the manufacturer’s sales of the particular product are predominantly to Sudan.”*⁸²

Export controls by the US government imposed on exports of military truck components destined for Sudan should apply whether or not the incorporation of components manufactured in China are part of a US-Chinese joint venture. The US embargo restrictions on Sudan introduced were in November 1997. These state that:

“Except for information or informational materials and donated articles intended to relieve human suffering, such as food, clothing and medicine, and the licensed export of

⁸⁰ For the Fiscal Year Ended December 31, 2002. Commission File Number 1-4949
<http://www.getfilings.com/o0001047469-03-026015.html>

⁸¹ Amnesty International, Press release, “Sudan: UN fact-finding mission must have full access and investigate reported extrajudicial executions in Darfur”, 7 April 2004. <http://news.amnesty.org/index/ENGAFR540372004>.

⁸² Introduced on 3rd November 1997, the guidance notes for the US Sanction regulations on Sudan state that:
<http://www.treas.gov/offices/enforcement/ofac/programs/sudan/sudan.pdf> An overview of the Sudanese Sanctions Regulations -- Title 31 Part 538 of the U.S. Code of Federal Regulations.

agricultural commodities, medicine and medical devices, no goods, technology, or services may be exported from the United States to Sudan, either directly or through third countries, without a license.”⁸³

This guidance should require the same standards to be applied to US companies operating outside the USA, including in joint ventures, as to those operating wholly within US borders. It is not clear whether the agreement between the US and Chinese companies for the production of Cummins engines in China has been officially licensed or would actually require authorisation by the US government and how the US arms embargo on China and Sudan should have affected this. In any case, transnational companies should set and maintain corporate standards that include requirements to observe international human rights standards.

Excessive and indiscriminate force has frequently been used to disperse demonstrators in the Democratic Republic of the Congo, sometimes with fatal results. In January 2005, scores of people in Kinshasa were killed or seriously injured by army and police units during protests against the postponement of elections. In June 2005, 10 protesters in a number of cities were reportedly shot dead. The photograph below shows a Chinese truck transporting riot police preparing to break up a demonstration in Kinshasa, who reportedly used excessive and indiscriminate force.⁸⁴ It is not known when this type of truck was delivered to the DRC or whether they would have required a licence from the Chinese authorities.



Photo caption: In the Democratic Republic of the Congo (DRC), riot policemen in a Jiefang truck, manufactured by Chinese First Automobile Works, prepare to break up demonstrations in the capital, Kinshasa, 30 June 2005. The security forces fired tear gas to disperse thousands of protesters calling for the government’s resignation over delayed elections. © REUTERS/David Lewis.

⁸³ Introduced on 3rd November 1997, the guidance notes for the US Sanction regulations on Sudan state that: <http://www.treas.gov/offices/enforcement/ofac/programs/sudan/sudan.pdf> An overview of the Sudanese Sanctions Regulations -- Title 31 Part 538 of the U.S. Code of Federal Regulations.

⁸⁴ Voters Confronted by Bullets, Not Ballots, Inter Press Service, July 1, 2005; Opposition in DR Congo claims at least 26 dead in rally shootings, Agence France Presse, July 1, 2005; and, Seven Killed in Demonstrations, Hundreds Arrested, UN Integrated Regional Information Networks June 30, 2005.

Police and security equipment

China is a manufacturer and supplier of electro-shock weapons such as stun guns and shock batons. It also produces and supplies mechanical restraints such as handcuffs, leg irons and shackles.

Seven of the 23 internationally documented manufacturers of leg irons worldwide are based in China.⁸⁵ In 2002, the Police Apparatus Factory of Muping District, in Yanti City, reported that it was an enterprise designated by the Ministry of Public Security in 1984 to produce handcuffs and fetters, and had become the largest manufacturer of such equipment in China. Annually it produced 500,000 pairs of handcuffs and 20,000 pairs of fetters.⁸⁶

Although restraint devices such as handcuffs are in many cases used legitimately to control dangerous prisoners, all too often they are misused. The use of chains and irons as restraints on prisoners is prohibited under international standards.⁸⁷ Yet Amnesty International has documented the use of leg irons in at least 38 countries between 1998 and 2003.⁸⁸

However, information about where such equipment made in China is exported is not made public by the Chinese government. It is also not clear from the control list of military products requiring an export licence in the 2002 Regulations on the Administration of Arms Exports whether such police equipment is subject to licensing under the regulations. This lack of clarity is reflected in the contradictory views of the manufacturers of shock batons regarding China's licensing requirements and end-use assurances for their products. One manufacturer said that an export licence and end-use documentation from "the police or some other organization" would be required for the export of shock batons from China. Another manufacturer and exporter claimed not to need either.⁸⁹

⁸⁵ Data from Omega Research Foundation military, security and police database. Source data between 2000-2005. Results were China (7), Czech Republic (1), France (1), Germany (1), Pakistan (1), South Africa (1), South Korea (1), Spain (1), Taiwan (1), US (5).

⁸⁶ www.beijingaviation.com/police/listing/CNC03.pdf 6/2002

⁸⁷ Rule 33 of Standard Minimum Rules for the Treatment of Prisoners. states the following

"Instruments of restraint, such as handcuffs, chains, irons and strait-jacket, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:

(a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;

(b) On medical grounds by direction of the medical officer;

(c) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority."

⁸⁸ Pain Merchants: Security Equipment and its use in torture and ill treatment, Amnesty International, 2 December 2003.

⁸⁹ Email correspondence with the companies on 8/9/2005 and 16/9/2005.

Electro-shock weapons such as stun guns and shock batons are used by the security forces within China to violate human rights. In testimony to the Committee on International Relations of the US House of Representatives in April 2005, Bob Fu, President of the ChinaAid Organisation, described how pastor Cai Zhuohua from Beijing was tortured repeatedly by electric shock batons by his interrogators in exchange for confessions against him.⁹⁰



Photo caption: The electric shock baton used in Bob Fu's testimony on 5 April 2005.⁹¹

Norinco tear gas pistol in Tanzania

China is also a manufacturer and supplier of tear gas. Amnesty International has been able to verify that the tear gas pistol shown in the photograph below which was reportedly used by a Tanzanian police officer against demonstrators is a Norinco 35mm tear gas pistol. It is not known when China exported them to Tanzania. Tear gas is not included in the control list of military products in the 2002 Regulations on the Administration of Arms Exports and therefore subject to licensing by the government.

Following elections in Zanzibar on 30 October 2005, there were reports of the excessive use of force by police and soldiers who clashed with supporters of the opposition party, the Civic United Front (CUF). Tear gas and water cannons were used against opposition supporters in Stone Town, Zanzibar.⁹²

⁹⁰ http://www.chinaaid.org/english/press_releases/7.htm

19 April 2005 Testimony of Bob Fu, President of China Aid Association before the Committee on International Relations of the US House of Representatives.

⁹¹ chinaaid.org/images/ConfiscatedElectricProdphoto2.JPG

⁹² *Zanzibar police surround two opposition party headquarters, move into other areas*, Chris Tomlinson, AP Worldstream, 1 November 2005; *BBC Monitoring Service Zanzibar: Scored said injured as police, opposition supporters clash*, 1 November 2005.



Photo Caption: A Norinco 38mm anti-riot pistol in his hand, a member of an anti-riot unit runs in the Darajani district of Stone Town, the main town in Zanzibar, 1 November 2005. Police in Zanzibar fired tear gas into crowds of opposition supporters awaiting election results. About 20 people were reportedly injured when the police used teargas and stun grenades to disperse several hundred people outside CUF headquarters. Some were hit by tear gas canisters, others affected by the fumes, according to witnesses. © Marco Longari/AFP/Getty Images

In 2001 police used tear gas and live ammunition to break up demonstrations in which at least 37 people were killed, including six police officers, and an unknown number injured. The demonstrations were organized by the CUF, on the islands of Zanzibar (Unguja and Pemba) and in Dar es Salaam, to call for a rerun of the October presidential and parliamentary elections and constitutional reform. The elections on Zanzibar were widely seen by observers to have been unfair. The police declared demonstrations by the CUF to be illegal and a threat to peace and stability. This ban was challenged by the CUF on the grounds that the police did not have the legal authority to restrict freedom of assembly. The response of the police to this challenge was excessive.⁹³

Irritants such as tear gas can cause pain. Their use by police and security services is permitted in many countries for purposes such as dispersing crowds. International human rights standards stipulate people have the right to peaceful assembly and that law enforcement officials should maintain and uphold the human rights of all; should use force only when strictly necessary; and that the use of such methods should be carefully controlled and in proportion to the legitimate objective to be achieved. However, in some countries tear gas is often misused to inflict injuries on individuals and suppress their right to peaceful assembly.

China's controls on arms exports

The Chinese government has asserted that it strictly controls the transfer of conventional military equipment and related technologies. It has stated it respects the right of every country

⁹³ Amnesty International, "Zanzibar and Dar es Salaam: Amnesty International calls on the authorities to respect the freedom of assembly", 30 January 2001, AI Index AFR 56/003/2001 – News Service Nr. 18

to acquire weapons in accordance with the principles of the UN Charter, but is concerned about the “adverse effects on world security and regional stability arising from excessive accumulations of weaponry.”⁹⁴ The government regularly sets out its policy on arms control, disarmament and non-proliferation. In its most recent policy statement, the government expressed support for multilateral efforts to combat the illicit trade in small arms and light weapons, and has actively participated in the relevant work within the UN framework.⁹⁵ At a UN small arms meeting in New York in January 2006, the Chinese delegation stated its hope that the forthcoming UN conference to review implementation of the small arms Programme of Action (PoA) “will achieve substantial results on the basis of consensus, so as to further and effectively promote global, regional and national efforts to combat the illicit trade of small arms and light weapons.”⁹⁶ However, many of the provisions within the PoA are vague concerning specific controls and stringent criteria for authorising arms transfers. Moreover, the Chinese delegation has opposed the development of common criteria consistent with states existing responsibilities under international law for transfer controls.

China’s controls governing international arms transfers are set out in the Regulations of the People’s Republic of China on Administration of Arms Exports, adopted on 22 October 1997. These regulations established a licensing system under which no transfers of listed military products may be carried out without authorization by the responsible government departments. Transfers may only be carried out by entities or companies licensed and registered by the government. Under the regulations, particularly important exports (for example, those that establish new precedents, are particularly large or involve very sensitive items) must be submitted to the State Council and the Central Military Commission for approval.⁹⁷

The regulations were revised and updated on 15 October 2002 to include a control list of military products that require an export licence, and appears to extend export controls to cover private exporters. The changes also gave the government the authority to restrict or prohibit the export of items for reasons of national security.

The three basic principles that are listed by the Chinese government as guiding arms export licensing policy are very vague and open to loose interpretation. They require that arms exports are conducive to the self-defence of the recipient country, do not harm the peace, security and stability of the region concerned and the world as a whole, and do not interfere in the internal affairs of the recipient country.⁹⁸

⁹⁴ *China: Arms Control and Disarmament*, Information Office of the State Council Of the People’s Republic of China, November 1995, Beijing; *White Paper on National Defence*, July 1998.

⁹⁵ “China’s Endeavours for Arms Control, Disarmament and Non-Proliferation”, a White Paper issued by the State Council Information Office, 1 September 2005.

⁹⁶ Statement made by Ambassador Zhang Yishan at the Preparatory Committee for the UN Conference to Review Progress Made in Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. <http://www.un.org/events/smallarms2006/pdf/China.pdf>

⁹⁷ *China: Arms Control and Disarmament*, Information Office of the State Council of the People’s Republic of China, November 1995, Beijing; *White Paper on National Defence*, July 1998.

⁹⁸ Regulations of the People’s Republic of China on Administration of Arms Exports 2002 (Article 5). Available at: http://www.gov.cn/english/laws/2005-07/25/content_16975.htm.

These principles fall way below those in most international arms controls agreements including: the 1993 OSCE Principles Governing Conventional Transfers, the 2000 OSCE Document on Small Arms and Light Weapons, the 1998 EU Code of Conduct on Conventional Arms Exports, the 2002 Wassenaar Arrangement Best Practice Guidelines on SALW, and the Best Practice Guidelines for Implementing the Nairobi Protocol on SALW. Unlike these international standards, the Chinese regulations do not include a direct provision which would prohibit the transfer of arms to countries where they are likely to be used for serious violations of international human rights and humanitarian law. Amnesty International is concerned that the requirement of non-interference in the internal affairs of other states is interpreted by the Chinese government in its arms control decisions in a manner that is not consistent with states' existing obligations under international law so as to exempt the Chinese authorities from taking into account the human rights record of a would-be recipient state.

The 2002 Chinese regulations apply to conventional arms used principally for military purposes, including small arms, ammunition, bombs, anti-tank missiles, armoured vehicles, the parts and components of these weapons, and other military equipment that requires a licence.⁹⁹ Pistols apparently require a licence under the regulations, as they are classified as small arms.

The 2002 regulations also give primacy to international treaties that China has signed or ratified over domestic legislation:

“Where an international treaty concluded or acceded to by the People’s Republic of China contains provisions different from these Regulations, the provisions of the international treaty shall prevail, except for the provisions on which reservations are made by the People’s Republic of China.”¹⁰⁰

However, there is no elaboration in Chinese arms export controls of what constitutes a breach of the regulations or the guiding principles, which international treaties are considered or how they should be applied and will be monitored. Combined with the lack of public information on the application of export controls, there is insufficient public accountability on how the regulations and principles are interpreted and implemented.

For example, the regulations require exporters of military equipment to “hand in valid certificates and documents of the recipient country” (Article 15). They also make the forgery of such documents a criminal offence (Article 22 (4)). However, the assessment of the risk of diversion in licensing the export of arms appears to go no further. There is no systematic system for monitoring the end-use of the arms exported, and very limited post-export

⁹⁹ Exports of controlled items destined for military end-use, items listed in the Military Products Export Control List (adopted in November 2002) and items in Part 1 of the Missiles and Missile-related items and Technologies Export Control List (adopted 25 August 2002).

¹⁰⁰ Regulations of the People’s Republic of China on Administration of Arms Exports 2002 (Article 6).

verification of the arms transfers. This increases the risk that exports from China may be diverted.¹⁰¹ Crucially, it increases the risk of their use to abuse human rights.

While there appears to be no specific licensing requirement for licensed production agreements, Article 2 of the 2002 regulations apply to the export of “special production facilities, as well as their related materials, technologies, and service”. There is little information available regarding licensed production of major conventional weapons and small arms and light weapons.

There are no separate regulations on arms brokering. However, Article 20 of the 2002 regulations “prohibits any individual from engaging in military products export”. The legal prohibition on brokering is reinforced in China’s report to the UN Programme of Action in 2005 which states that “legally speaking, arms brokers are prohibited in China. In accordance with the Regulations on the Administration of Arms exports, all arms trading activities in China are carried out exclusively by companies that have been specifically designated and authorized to do so by the State. Engagement in such activity by any other entity or individual is illegal.”¹⁰² This does not make clear whether brokering activities undertaken by “companies that have been specifically designated and authorized” by the State to carry out brokering activities are subject to the regulations and therefore a licensing requirement. However, according to the academic institute the Centre for International Trade and Security, the Chinese Ministry of Commerce does not recognise the status of brokers in arms export transactions.¹⁰³ It is not clear whether this prohibition covers just Chinese individuals and companies, but also foreign nationals and companies brokering Chinese weapons, or companies based or registered in Hong Kong engaged in brokering activities.

The regulations make it clear that police equipment is subject to licensing (Article 29). However, the control list of military products that require an export licence does not contain a specific police equipment category. The current list includes equipment that could have a policing application, such as “special equipment: weapons carried and used by an individual or squad to fulfill the tasks of...anti-riot action”, “armoured security vehicles” and “high-maneuvrability multi-purpose wheeled vehicles (including...security vehicles)”. However, there are no references in the list to riot control agents such as tear gas and their delivery systems, or mechanical restraints. Therefore, what police equipment the Chinese government considers must be licensed for transfer/export remains unclear and incomplete.

International controls

States do have the right to self-defence under the UN Charter but they also have the duty to respect other articles included in the UN Charter: namely, Article 1 - the duty to encourage and promote respect and observance of human rights, and Article 26 - the duty to promote the

¹⁰¹ “Export Controls in the People’s Republic of China”, Centre for International Trade and Security (CITS), University of Georgia, USA, February 2005, p.37.

¹⁰² <http://disarmament2.un.org/cab/nationalreports/2005/China%20English.pdf>

¹⁰³ Export Controls in the People’s Republic of China”, Centre for International Trade and Security (CITS), University of Georgia, USA, February 2005, p.21.

establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources.

The UN Security Council also encourages the arms-exporting countries to exercise the highest degree of responsibility in small arms and light weapons transactions according to their existing responsibilities under relevant international law.¹⁰⁴ According to the UN Disarmament Commission Guidelines on International Arms Transfers of 1996, "*Limitations on arms transfers can be found in international treaties, binding decisions adopted by the Security Council under Chapter VII of the Charter of the United Nations and the principles and purposes of the Charter.*" [paragraph 8] Moreover, "*Illicit arms trafficking is understood to cover that international trade in conventional arms, which is contrary to the laws of States and/or international law.*" [paragraph 7]¹⁰⁵ However, the General Assembly has not yet agreed on a set of explicit standards that provide clear and fair criteria for decisions on the international transfer of conventional arms.

There is now a growing consensus among governments on the need for stronger controls on international arms transfers according to agreed guidelines or principles. Already current regional and multilateral standards have been agreed by 106 states outlining common standards for the authorization of international arms transfers, including criteria and guidelines governing arms transfer. The OAS, OSCE, EU and Nairobi Protocol agreements include reference to a set of common principles or criteria including respect for international human rights standards and international humanitarian law to govern decisions about the granting of arms export licenses.

However, there are several weaknesses that exist across these agreements which show why an international instrument is urgently needed to ensure that all states abide by the same standards under international law. Not all these agreements are binding so not all states have incorporated the requirements and standards under these agreements into their national legislation and implemented them. The formulation of criteria or guidelines for authorising arms transfers does not always fully reflect states' existing obligations under international law. Some of the agreements are limited to small arms and light weapons and most of the agreements' provisions only apply to commercial sales so do not cover government-to-government sales.

A growing number of States have expressed their support for developing a binding instrument to control international arms transfers and elaborating common criteria based on such rules. Amnesty International is campaigning for states to support an Arms Trade Treaty to effectively control the international transfer of all conventional arms and security equipment. Such a treaty would uphold existing common standards and criteria to help protect human rights and ensure respect for international law. It would be applied to the broadest range of weapons, munitions and equipment for use in military operations and law enforcement, including their components, technologies and technical assistance and training

¹⁰⁴ UN Security Council Debate on SALW, February 2005.

¹⁰⁵ Guidelines for international arms transfers in the context of General Assembly resolution 46/36 H of 6 December 1991', UN Disarmament Commission, May 1996, Official Records of the General Assembly, Fifty-first Session, Supplement No. 42 (A/51/42), May 22, 1996.

in the use of such equipment. It would help stop arms from falling into the hands of those who use them to attack civilians, to launch indiscriminate attacks and to perpetrate a wide range of other human rights abuses.

Already over 50 states have expressed support for the idea of an International Arms Trade Treaty based upon international norms, and many more States have called for international binding instruments for arms transfers. Amnesty International calls on the Chinese authorities to support the initiative for an international Arms Trade Treaty. The principles on which a treaty must be based codify existing obligations on states into three categories: express prohibitions, limitations based on use and factors to be taken into account. The full version of these global principles is annexed to this report.

Conclusion and Recommendations

The primary responsibility for controlling the flow of arms rests with governments. As a major arms exporter and a permanent member of the UN Security Council, China has a particular responsibility to ensure that its arms transfers do not contribute to violations of human rights and international humanitarian law.

As shown in this report, China has transferred military, security and police equipment to armed forces and law enforcement agencies in countries where these arms are used for persistent and systematic violations of human rights. The absence of criterion to respect human rights in the Chinese regulations governing decisions on arms export is a major flaw in controlling arms transfers.

Amnesty International believes that transparency is an essential component of a national export control regime to enable effective public and parliamentary scrutiny over decisions to authorise transfers of military, security and police equipment. However, the Chinese government does not produce an annual report on MSP transfers. It only reports data to the UN customs database, Comtrade, and has stopped submissions to the UN Register on Conventional Arms. This limited information prevents effective public scrutiny to ensure that arms transfers do not contribute to human rights violations. Thus, there is no real oversight mechanism to respect for human rights and international humanitarian law in licensing decisions.

The report also highlights how co-operation between Chinese and European, Russian and US companies raises serious concerns about the risk of China exporting the resulting military and dual-use equipment to armed forces or groups which use such equipment for gross human rights violations. This activity by foreign firms would appear to be a breach of the commitments made by the Canadian, European, Russian and US governments to the OSCE Principles Governing Conventional Arms Transfers regarding the duty to “avoid the transfer of arms which would be likely to be used for the violation or suppression of human rights and fundamental freedoms”, and the criteria to control dual use goods and technologies for military capabilities under the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies

It also highlights the continuing validity of the US and EU arms embargoes on China given the high risk that military and security capabilities transferred by the US or European countries potentially are used in the production and export of military, security and dual-use equipment by Chinese companies which can then easily be transferred and used to contribute to grave human rights abuses in China itself or in certain third countries.

Amnesty International is therefore urging the government of China as well as the trading partners of China to uphold their existing international obligations and take the following steps to ensure that the export of arms and security equipment does not contribute to grave abuses of human rights.

Recommendations to the Chinese authorities for China's national arms control

Amnesty International calls on the Chinese authorities to:

- Uphold, and enact in domestic law China's obligations under international law not to authorize transfers of arms and related military and security assistance unless it can be clearly demonstrated that such transfers will not contribute to serious human rights violations or breaches of international humanitarian law.
- Specify exactly the police equipment that is controlled and subject to licensing under the 2002 Regulations on the Administration of Arms Exports (Article 29). A specific category on police equipment, including all the main genre types of police and security equipment, setting out the type of equipment controlled, should be included in the Military Products Export Control List annexed to the regulations.
- Ban the use, manufacture, trade and promotion of law enforcement restraint devices and methods whose use is inherently cruel, inhumane and degrading, and ban their promotion and trade to other countries. Such a ban should cover leg irons, electro-shock stun belts and inherently painful devices such as serrated thumb-cuffs.
- Strengthen transparency over arms transfers by reporting annually and publicly on all military, security and police transfers that have been authorized for export and delivered – data should include how many articles have been licensed to which country and to which end-user. Annual submissions to the UN Register on Conventional Arms Exports on both its exports and imports should be resumed, and information on exports of SALW included in voluntary submissions.
- Establish official systems for adequate and reliable marking of arms during manufacture or import, and for adequate record-keeping on arms production, possession and transfer. Records should cover state-to-state transfers, and should meet standards under international arrangements for tracing arms.
- Prevent illicit arms brokering, logistics and transport activities, especially to destinations where the arms are likely to be used to facilitate serious violations of international human rights standards and international humanitarian law. Controls on international arms brokering should have extra-territorial applicability. Arms brokers should be registered

and records should be kept of registered arms brokers, transport agents and dealers for at least ten years.

- Establish a system for robust end-use monitoring including delivery verification procedures to check that the weapons have been received by the authorised recipient and monitoring of the end-use to ensure that the weapons are not re-exported or diverted to an unauthorised user.

Recommendations to the Chinese authorities for China's support for international initiatives on arms control

China should use its increasing reach and influence around the world to actively address the responsibility of all states to abide by their international commitments and prevent irresponsible arms transfers so as to help increase international security and respect for human rights.

Amnesty International calls on the Chinese authorities to:

- Support the inclusion of guidelines on international arms transfers within the framework of the Outcome Document to the Review Conference that will be tabled at the UN Review Conference in June/July 2006 based on relevant international law including human rights and international humanitarian law.
- Support the establishment of a government group of experts on international arms brokering which should report at least by the end of 2007 on its proposals for a global instrument, including standards and operative provisions to regulate international arms brokering and transporting; the adequacy and discrepancy of existing national laws and regulations on arms brokering and states' relevant international commitments; elements for international cooperation and assistance to control arms brokering and transportation, and; its consultations with recognised non-governmental experts on these subjects.
- Support efforts to establish an international Arms Trade Treaty on all conventional weapons with an agreement at the UN General Assembly in October 2006 based on the six principles that would uphold the relevant principles of international law, including human rights and international humanitarian law (see appendix).

Recommendations to China's trading partners for arms control

Amnesty International calls on the trading partners of China to:

- Implement fully commitments to the OSCE Principles Governing Conventional Transfers and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies.
- Maintain the existing arms embargoes on China. As long as China continues to allow arms to be exported to armed forces in other countries that perpetrate gross violations of human rights, the EU and the US governments should not relax their arms embargoes on China. Amnesty International calls on the EU Member States in particular to clarify and specify the scope and application of their arms embargo on China to minimise varying

interpretation across the EU and ensure that the EU does not collaborate in those types of arms exported from China which are used for gross human rights violations.

- Support efforts to establish an international Arms Trade Treaty on all conventional weapons starting with an agreement at the UN General Assembly in October 2006 based on the six principles that would uphold the relevant principles of international law, including human rights and international humanitarian law (see appendix).

Appendix: Global Principles for International Arms Transfers

NOTE: The following Principles bring together States' existing obligations in respect of international transfers of arms. The Principles are proposed by a diverse group of non-governmental organisations.

The Principles reflect the content of a variety of international instruments including: international and regional treaties, declarations and resolutions of the United Nations and other multilateral and regional organisations, and model regulations intended for national legislation. Some of the Principles reflect customary and treaty law, while others reflect widely accepted emerging norms. The compilation indicates the best general rules for effective control of international transfers of all conventional arms and reflect States' obligations under international law while also recognising States' right to legitimate self defence and law enforcement in accordance with international standards.

Principle 1: Responsibilities of states

All international transfers of arms shall be authorised by all States with jurisdiction over any part of the transfer (including import, export, transit, transshipment and brokering) and carried out in accordance with national laws and procedures that reflect, as a minimum, States' obligations under international law. Authorisation of each transfer shall be granted by designated State officials in writing only if the transfer in question first conforms to the Principles set out below in this instrument and shall not be granted if it is likely that the arms will be diverted from their intended legal recipient or re-exported contrary to the aims of these Principles.

Principle 2: Express limitations

States shall not authorise international transfers of arms that violate their expressed obligations under international law.

These obligations include:

- A. Obligations under the Charter of the United Nations – including:
 - a. binding resolutions of the Security Council, such as those imposing arms embargoes;
 - b. the prohibition on the threat or use of force;
 - c. the prohibition on intervention in the internal affairs of another State.
- B. Any other treaty or decision by which that State is bound, including:
 - a. Binding decisions, including embargoes, adopted by relevant international, multilateral, regional, and sub-regional organisations to which a State is party;

- b. Prohibitions on arms transfers that arise in particular treaties which a State is party to, such as the 1980 UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, and its Protocols, and the 1997 Convention on the Prohibition of Anti-Personnel Mines.
- C. Universally accepted principles of international humanitarian law – including:
- a. The prohibition on the use of arms that are of a nature to cause superfluous injury or unnecessary suffering;
 - b. The prohibition on weapons that are incapable of distinguishing between combatants and civilians.

Principle 3: Limitations based on use or likely use

States shall not authorise international transfers of arms where they will be used or are likely to be used for violations of international law, including:

- A. breaches of the UN Charter and customary law rules relating to the use of force;
- B. gross violations of international human rights law;
- C. serious violations of international humanitarian law;
- D. acts of genocide or crimes against humanity;

Principle 4: Factors to be taken into account

States shall take into account other factors, including the likely use of the arms, before authorising an arms transfer, including the recipient's record of compliance with commitments and transparency in the field of non-proliferation, arms control, and disarmament.

States should not authorise the transfer if it is likely to:

- A. be used for or to facilitate terrorist attacks
- B. be used for or to facilitate the commission of violent or organised crime;
- C. adversely affect regional security or stability;
- D. adversely affect sustainable development;
- E. involve corrupt practices;
- F. contravene other international, regional, or sub-regional commitments or decisions made, or agreements on non-proliferation, arms control, and disarmament to which the exporting, importing, or transit States are party;

Principle 5: Transparency

States shall submit comprehensive national annual reports on international arms transfers to an international registry, which shall publish a compiled, comprehensive, international annual report. Such reports should cover the international transfer of all conventional arms including small arms and light weapons.

Principle 6: Comprehensive Controls

States shall establish common standards for specific mechanisms to control:

- 1. all import and export of arms;**
- 2. arms brokering activities;**
- 3. transfers of arms production capacity; and**
- 4. the transit and trans-shipment of arms.**

States shall establish operative provisions to monitor enforcement and review procedures to strengthen the full implementation of the Principles.