

# controlling arms brokering and transport agents

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Time for International Action

Briefing 8

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**BASIC - INTERNATIONAL ALERT - SAFERWORLD**

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BRITISH AMERICAN SECURITY INFORMATION COUNCIL

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The British American Security Information Council is an independent research organisation that analyses international security issues. BASIC works to promote awareness of security issues among the public, policy-makers and the media in order to foster informed debate on both sides of the Atlantic. BASIC has worked on small arms and light weapons issues since 1995. BASIC's Project on Light Weapons has facilitated a network of analysts and activists working on the issue around the world.

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Saferworld is an independent foreign affairs think tank working to identify, develop and publicise more effective approaches to tackling and preventing armed conflicts. Saferworld's Arms Programme, initiated in 1991, aims to foster greater international restraint over transfers of arms – from light weapons to major conventional weaponry – and dual-use goods. At the same time, Saferworld aims to work with governments and non-government groups on the ground in regions of conflict in order to better control flows of, and reduce demand for, arms.

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# Controlling Arms Brokering and Transport Agents: Time for International Action

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by Elizabeth Clegg and Michael Crowley

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# Executive Summary

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## **The *modus operandi* of arms brokering and transport agents**

Evidence suggests that many of the arms transfers to the worst affected conflict regions and human rights crisis zones are organised and trafficked by arms brokering and transport agents. Targeting those states with weak national export controls and enforcement, unscrupulous brokers and transportation agents organise the transfer of arms and security equipment to a range of illegitimate end users such as criminals, terrorists and human rights abusers.

Arms brokers can be defined as middlemen who organise arms transfers between two or more parties, often bringing together buyers, sellers, transporters, financiers and insurers to make a deal. They generally do so for financial gain, although political or religious motivation may also play a part in some deals. Often such brokers do not reside in the country from which the weapons originate, nor do they live in the countries through which the weapons pass or for which they are destined. As a result, such 'third party' arms brokering is notoriously difficult to trace, monitor or control. Arms brokers work very closely with transport or shipping agents. These agents contract transport facilities, carriers and crews in order to move arms cargoes by sea, air, rail or road.

The activities of arms brokering and transportation are facilitated by a number of factors.

### **Inadequate arms stockpile management and control**

If state stockpiles are not adequately controlled, they can become a source of supply for illicit arms traffickers. Record-keeping and stockpile security provisions of states are sometimes non-existent and government-owned weapons can become easy targets for corrupt officials and thieves.

### **Loopholes in export controls and inadequate enforcement**

Arms traders supplying illegitimate customers usually exploit loopholes or weaknesses in their national arms control systems and in those of third countries. Countries with weak export and import controls may be targeted, and vague definitions, poor licensing procedures, corruption, and a lack of capacity to enforce customs controls provide arms brokering and transportation agents with an opportunity to move arms along clandestine supply routes.

### **Tax havens and front companies**

Inadequate financial regulatory systems have also contributed to the creation of a permissive environment within which arms brokering and transport agents operate. Arms brokers have shown themselves to be adept at finding loopholes in banking operations, which allow them to launder the proceeds from their arms deals. This is exacerbated by the ease with which companies can be established and dissolved in many countries, and particularly in those with offshore tax-haven banking facilities.

### **Circumventing international controls on transportation of goods**

International conventions do exist to regulate the aviation and shipping industries, and national authorities are required to implement and enforce these regulations. However, a lack of international cooperation and coordination between different national authorities, and the ever-growing volumes of goods that are traded and shipped across borders, make it increasingly difficult for under-resourced agencies to regulate the transport market.

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# Executive Summary

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## **Existing national controls and regional and international initiatives**

National, regional and international efforts have been undertaken with a view to investigating the activities of arms brokers and transport agents and to developing control mechanisms to regulate their trade. A growing number of governments including Germany, Sweden, the Netherlands, Luxembourg and the USA have measures that deal explicitly with arms brokering. Regionally the OAS, the OSCE, the OAU and the EU have all begun to address the issue and a range of non-binding measures have been considered. At the global level progress has also been made. The recently concluded UN Firearms Protocol includes an article recommending that states “consider establishing a system for regulating the activities of those who engage in brokering”. The issue of arms brokering and transportation has also been raised within the context of the forthcoming UN Conference on the Illicit Trade in Small and Light Weapons in All Its Aspects. The Group of Experts on the Feasibility of Restricting the Manufacture and Trade of Small Arms and Light Weapons to the Manufacturers and Dealers Authorised by States has produced its report for consideration by the Conference.

## **The UN Conference and an international regime**

The provisions set out in the second draft Programme of Action (L4/rev1) for the UN Conference are disappointing in that they are weaker than those outlined in the initial draft Programme (L4). The original L4 contained a clear commitment to the negotiation of a legally binding instrument on the control of arms brokering and shipping agents. Whilst L4 did not elaborate on what such an instrument should contain, the commitment to pursue an international solution to what is an international problem represented an extremely positive development.

## **Developing international action**

Ideally the UN Conference Programme of Action should contain a commitment to negotiate an international legally binding convention on the control of arms brokering and transportation agents (as in first the draft Programme of Action, L4) by a specified date. The proposed biennial meeting of states in 2003 would be an appropriate deadline.

However, if agreement to negotiate a legally binding instrument proves impossible, the Programme of Action should at a minimum contain the following:

- i. An unequivocal acknowledgement in the text that unregulated arms brokering and shipping is a problem that needs to be addressed by all states.
  - ii. A commitment by states to review, at the first of the biennial meetings of states, progress in arriving at a common understanding of the nature of the problem and how to address it through the development of legislation and enforcement capacity. This should build on the work of the above-mentioned UN Group of Experts.
  - iii. A commitment to develop model regulations by the time of the first of the biennial meeting of states. The draft Programme of Action should also state that such model regulations should be based upon registration and licensing and mutual respect for extradition arrangements in the context of enforcing controls on arms brokering and transport agents. This should be elaborated under paragraph 37 of Section II of the draft Programme of Action.
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# Executive Summary

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## Developing international action

- iv. A commitment to establish a mechanism whereby states can learn from each other's experience in tackling illicit arms brokering and transportation. For example, by requiring states to exchange information on illicit or unregulated activities, possibly through Interpol. In this event, a commitment to strengthen and enhance the capacity of Interpol would also be required.
- v. A commitment to strengthening the enforcement capacity of states through the provision of international assistance and training packages.

If there is no agreement on the above, however, following the UN Conference, interested states should convene promptly to develop model regulations with a view to their elaboration and implementation. In addition, the first biennial meeting of states should then revisit the issue of brokering and commit to negotiate a legally binding international convention on the control of arms brokering and transportation with a timetable.

Finally, it is important that the Conference take action on other issues. Controls on arms brokers and transportation agents need to be supported by measures to enforce UN arms embargoes, international criteria to govern arms transfers and norms and standards for effective controls on the end use of arms. Such a holistic approach by states at the Conference is vital to combat, prevent and eradicate the illicit trade in small arms and light weapons in all its aspects.

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## Introducing the Extent and Nature of the Problem

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The increasing privatisation of the international arms trade has contributed to the reliance by many arms exporting governments and companies on private brokering and shipping agents for the transfer of conventional arms across state borders. The lack of regulation in this field means that the extent of the involvement of brokering and transportation agents in the illicit arms trade is difficult to ascertain. However, there is strong evidence to suggest that large scale illicit trafficking is confined to a relatively small number of arms brokering and transportation agents.

Evidence also suggests that many of the arms transfers to the worst affected conflict regions and human rights crisis zones are organised and trafficked by arms brokering and transport agents. Targeting those states with weak national export controls and enforcement, unscrupulous brokers and transportation agents are hired to transfer arms and security equipment to a range of illegitimate end-users, such as criminals, terrorists and human rights abusers (see below).

### **Box 1: Angola – breaching a UN arms embargo<sup>4</sup>**

On 15 September 1993, a UN arms and fuel embargo was adopted against UNITA in Angola.<sup>5</sup> However, this embargo has been repeatedly and systematically violated. In May 1999, the Security Council established a Panel of Experts to investigate violations of the embargo. On 10 March 2000, the Final Report of the UN Panel of Experts on violations of Security Council Sanctions against UNITA was issued. The 'Fowler Report' systematically detailed the role of arms brokers and shipping agents in the arming and provisioning of UNITA.

"The Panel learned that arms procurement by UNITA was not by means of direct contact between UNITA and arms producing countries. The Panel learned that UNITA placed orders with arms brokers who then undertook to procure the required items.... As a general rule, the broker who supplied the arms was also responsible for arranging transport and delivery, any necessary training on the use of the system, maintenance and sometimes even spare parts."

Although precise definitions vary, in general terms arms brokers can be defined as middlemen who organise arms transfers between two or more parties, often bringing together buyers, sellers, transporters, financiers and insurers to make a deal.<sup>1</sup> They generally do so for financial gain, although political or religious motivation may also play a part in some deals. Often such brokers do not reside in the country from which the weapons originate, nor do they live in the countries through which the weapons pass or for which they are destined. As a result, such 'third party' arms brokering is notoriously difficult to trace, monitor or control. Arms brokers work very closely with transport or shipping agents. These agents contract transport facilities, carriers and crews in order to move arms cargoes by sea, air, rail or road.

Arms brokers and transporters generally do not own the arms they arrange to sell and transfer. Because they are not manufacturers, retailers or wholesalers, they are frequently not defined as a specific category under states' national arms export laws, and their activities often go unrecorded and uncontrolled. As a result, very little information is available on the activities of transport agents, brokers and financiers.

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## Introducing the Extent and Nature of the Problem

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In recent years, concern about the activities of arms brokers and shipping agents has grown. It is now an issue that is being addressed by individual governments and by the United Nations itself. The UN Secretary-General repeatedly has highlighted the role of such agents in fuelling conflict in Africa.

“Arms exporting countries have a responsibility to exercise restraint, especially with respect to the export of weapons into zones of conflict or tension in Africa. Particularly close attention needs to be paid to the role of private arms merchants in supplying weapons to areas of actual or potential conflict. The goal of public identification of international arms merchants and their activities has proved elusive, but perhaps no other single initiative would do more to help combat the flow of illicit arms to Africa - a trade that is made possible largely by the secrecy that surrounds it. The Security Council should address itself to this issue as a matter of urgency, including the role the United Nations might play in compiling, tracking and publicizing such information.”<sup>2</sup>

National, regional and international efforts have been undertaken to investigate the activities of arms brokers and transport agents, and to develop control mechanisms to regulate their trade. A growing number of governments, including Germany, Sweden, the Netherlands, Luxembourg and the United States, have instituted measures to deal explicitly with arms brokering. Regionally the Organisation of American States (OAS), the Organisation for Security and Co-operation in Europe (OSCE), the Organisation of African Unity (OAU), and the European Union all have begun to address the issue, and a range of non-binding measures have been considered. At the global level, progress has also been made. The recently concluded UN Firearms Protocol includes an article recommending that states “consider establishing a system for regulating the activities of those who engage in brokering”.<sup>3</sup> The issue of arms brokering and transportation has been further raised within the context of the forthcoming UN Conference on the Illicit Trade in Small and Light Weapons in All Its Aspects. The Group of Experts on the Feasibility of Restricting the Manufacture and Trade of Small Arms and Light Weapons to the Manufacturers and Dealers Authorised by States has produced its report for consideration by the Conference.

### **Box 2: Brokering guns for drugs in Colombia<sup>6</sup>**

In September 1997, evidence of connections between Russian organised crime and Colombian drug traffickers surfaced in the media. According to US, European and Latin American law enforcement officials, the Russian criminal elements were supplying Latin American mafias with weapons in return for cocaine to supply the rising demand in the former Soviet republics and in Europe. The officials said that Russian groups had already sold small arms and two Russian combat helicopters to Colombian drug traffickers, and that plans for selling a submarine, helicopters and surface-to-air missiles were also underway. They also reported the suspected delivery of AK-47 assault rifles and rocket propelled grenades in exchange for narcotics at the northern Colombian port of Turbo. It has not been determined whether the weapons were bound for Marxist guerrillas, right-wing paramilitary organisations or the Cali drug cartel.



## Introducing the Extent and Nature of the Problem

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However, the complexity of the arms brokering issue, combined with a lack of understanding, uncertainty about the effectiveness of certain control measures, and political resistance, means that there is a risk that the Conference will not lead to effective action. Controlling arms brokering and transport agents requires international action, and the Conference is a vital opportunity.

This briefing contains a number of examples which relate predominately to transfers of small arms and light weapons. It must be noted, however, that illicit trafficking involving arms brokers and transport agents is not confined to small arms and light weapons, but potentially includes a wide range of military, security and police equipment and services. The methods of operation and the organisational structures are very similar whether the cargo is spare parts for attack helicopters or a shipment of semi-automatic rifles. Controls on the activities of such agents must therefore be comprehensive in nature, and should not be restricted to small arms and light weapons.

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# The Modus Operandi of Arms Brokering and Transport Agents

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In July 1999, a UN Panel of Experts highlighted the methodology and practices of arms brokers and shipping agents.<sup>7</sup>

“Countries subject to weak export and import controls, vague legal definitions, poor licensing procedures, corruption and a lack of capacity to enforce customs controls provide unscrupulous arms brokering and transportation agents with an opportunity to move arms along clandestine supply routes. These arms brokers and transportation agents, who supply recipients in conflict zones, will try not to directly contravene national laws, at least where they know law enforcement agencies have the capacity to bring this legislation to bear.

They are usually able to use foreign ‘flags of convenience’ in their transportation and financing operations, and are able to launder the proceeds from their arms dealings in offshore tax-haven accounts, constantly registering and closing down front companies....”<sup>8</sup>

The activities of arms brokering and transportation are facilitated by a number of factors.

## **Inadequate arms stockpile management and control**

If state stockpiles are not adequately controlled, they can become a source of supply for illicit arms traffickers. Record-keeping and stockpile security provisions in some states are non-existent, and government-owned weapons can become easy targets for corrupt officials and thieves.

There are numerous reports of arms dealers and brokers obtaining arms from such inadequately controlled stores. For example, the US General Accounting Office (GAO) has reported on the consequences of inadequate security measures, detailing thefts of small arms from military bases and armouries as a result of inattentive management and inadequate internal controls.<sup>9</sup>

## **Loopholes in export controls and inadequate enforcement**

One argument which is invoked against the development of comprehensive international controls on the activities of arms brokering and transportation agents is that these agents are already required to comply with the export controls laws of the countries in which they are resident or operating. However, arms traders supplying illegitimate customers usually exploit loopholes or weaknesses in their national arms control systems and in those of third countries. Countries with weak export and import controls may be targeted, and vague definitions, poor licensing procedures, corruption, and a lack of capacity to enforce customs controls provide arms brokering and transportation agents with an opportunity to move arms along clandestine supply routes.

A particular cause for concern has been the activities of arms brokers either based in or buying arms from some former Warsaw Pact countries. Such arms brokers have found eager customers for the cascade of weapons resulting from the downsizing of former Soviet military forces. The weapons that have been released as part of these processes are sometimes inadequately controlled by national export control regimes, and, as a result, have been exported to regions of conflict and to human rights abusers.<sup>10</sup>

However, even in those countries where stringent arms export laws exist and are enforced, arms brokers can still operate, finding ways to circumvent domestic regulations. For example, the United States operates stringent re-export laws whereby purchasers are required to sign a statement undertaking not to re-export arms of US origin without the prior authorisation of the US State Department. However, arms brokers and shipping agents based in the United States reportedly have taken advantage of the less stringent application of these controls with regard to NATO partners in order to forward arms to countries of concern. In April 1998, the US State Department threatened to revoke all export licences for firearms to countries of the European Union because, it was claimed, thousands of high-powered, semi-automatic US pistols and rifles sent there were being re-exported to countries of concern, such as Algeria or Turkey.<sup>11</sup>

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# The Modus Operandi of Arms Brokering and Transport Agents

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## **Tax havens and front companies**

Inadequate financial regulatory systems have also contributed to the creation of a permissive environment within which arms brokering and transport agents operate. Arms brokers have shown themselves to be adept at finding loopholes in banking operations, which allow them to launder the proceeds of their deals. This is exacerbated by the ease with which companies can be established and dissolved in many countries, and particularly in those with offshore tax-haven banking facilities.

In 1998, a UK Home Office report<sup>12</sup> estimated that 90,000 companies<sup>13</sup> were incorporated in UK offshore tax havens, most of them by non-residents. The report described how such companies are generally allowed to conduct business in relative secrecy without filing public accounts, annual reports or publicly revealing the names of their beneficial owners. The report detailed the particular problem of 'nominee directors':

"The reputation of all the Islands has suffered from the presence on the Islands, especially Sark, of so-called 'nominee' Directors of companies. These Directors know little or nothing about the companies they nominally direct. Owners of assets or business interests in other jurisdictions have found that they can combine secrecy with tax-free status by forming non-resident companies in (say) the Isle of Man with 'Directors' (and hence residence for tax purposes) in (say) Sark (where there is no tax and no company regulation)."

The Home Office report estimates that such island companies hold around 5 percent of the global offshore tax haven funds of \$6 trillion – a total that is equivalent to just under half the gross national product of the United Kingdom.<sup>14</sup> Such arrangements were used in the brokering of arms to the perpetrators of the Rwandan genocide in 1994.

The Home Office reported that the UK offshore tax havens were improving their regulations to combat money laundering and related trafficking crime, but continued that: "The struggle against financial crime, including money laundering, is not yet being convincingly won anywhere. In the UK and the Islands, as in many other jurisdictions, such crime remains too profitable".<sup>15</sup>

## **Circumventing international controls on transportation of goods**

Although the attention of the international community now is beginning to focus on the role of arms brokers in irresponsible small arms and light weapons transfers, the activities of those directly involved in the physical transportation of such goods to conflict zones or human rights abusers have been largely neglected.

The physical transportation of small arms and light weapons is potentially the most vulnerable part of an illegal arms deal. Every time a cargo vessel or aircraft is used in the transportation of arms, a range of physical and administrative tasks are undertaken, including the loading and unloading of cargo, requesting of docking/landing rights at international ports, and the filing of flight plans.

International conventions do exist to regulate the aviation and shipping industries, and national authorities are required to implement and enforce these regulations. However, a lack of international co-operation and co-ordination between different national authorities, and the ever-growing volumes of goods that are traded and shipped across borders, make it increasingly difficult for under-resourced agencies to regulate the transport market.

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# The Modus Operandi of Arms Brokering and Transport Agents

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## Circumventing international controls on transportation of goods

### **Transporting arms by air**

All commercial movement of cargo via air requires certain generic documentation, whether the cargo consists of foodstuffs or small arms and light weapons. Such documentation includes: airway bills; cargo manifests; an aircraft General Declaration certificate (which specifies who was on board and where the flight originated and landed); an official airport landing permit; and over-flight permission for all third country airspace flown over en route. If the aircraft is chartered, there will be additional paperwork specifying the exact time during which the aircraft is flying (known as block-time).<sup>16</sup> However, according to the US International Air Cargo Association, the international rules governing cargo planes are outdated and inconsistent.<sup>17</sup> Transport agents have, in any case, proven adept at breaching both export and air freight controls.

Numerous ways in which existing controls can be evaded, especially in countries that lack adequate resources for regulation have been documented.<sup>18</sup> Examples include a cargo plane that flew in at an airport with one registration number and then flew out with a different one. Another airline was said to have changed its corporate structure and name overnight when its name became linked to illicit activities. One operator used an old licence that had been cancelled by aviation authorities to fly several 'ghost planes' to hot spots in Africa. Another corporate owner used the logo and colours of a licensed company to fly non-licensed planes. Yet another abusive practice reported was that of a cargo plane using a certain flight schedule arriving very late at its stated destination because the plane had, in fact, made an illegal landing on the way, unloading illicit cargo. Often, non-scheduled landings are used to load illicit cargo en route, and then ship the additional load under cover of the legal cargo.

Moreover, sub-Saharan Africa in particular lacks sufficient numbers of skilled air traffic controllers, radar equipment and trained personnel to monitor the vast air space between the southern border of Egypt and the northern borders of South Africa. Small freight operators often use older aircraft that can evade long-range radar.

### **Transporting arms by sea**

An estimated 90 percent of all world trade is maritime. These supply routes must be tightly controlled if illicit trafficking is to be effectively tackled. Experienced and unscrupulous brokers and shippers use complex routes, and can change cargo ships or alter the appearance of their vessels on the open sea in order to avoid detection. In 1993, an international warrant was issued for a cargo of arms aboard a vessel registered in Greece. While authorities were searching for a ship called the Maria, the ship's name had been illegally changed to Malo. The Malo was finally held in the Indian Ocean by the Seychelles authorities. Arms from the Malo were later transferred to the perpetrators of the Rwandan genocide.<sup>19</sup>

The sheer quantity of cargo transported internationally and the very limited resources available to customs officials in many countries renders the detection of suspect cargoes by traffickers extremely difficult.

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# The Modus Operandi of Arms Brokering and Transport Agents

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**Box 3:  
Long Beach,  
US Customs seizure:  
a simple twist  
of freight<sup>20</sup>**

In March 1997, two sealed containers containing thousands of unassembled grenade launchers and parts for M2 automatic rifles destined for Mexico were seized at a 'left cargo' hold near San Diego. The containers had entered the United States at the port in Long Beach, California, two months earlier. The arms had originally been left behind in Vietnam by US armed forces. They had been shipped from Ho Chi Minh City to Singapore, then to Bremerhaven in Germany, through the Panama Canal and up to Long Beach for transit to Mexico. The Mexican freight forwarder commissioned to take the containers to Mexico City could not produce an address for the purchaser when asked. According to a customs official "in the normal course of business, no one would have ever opened them. The arms were discovered through a fluke. Containers in transit or 'in bond' are normally never touched". Long Beach is the busiest port in the United States, with an average of 8,400 cargo containers in the port area in any one day, and only 135 US Customs officials available to carry out inspections.

# Existing national approaches to tackling the problem of arms brokering and transportation

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Few states have actually legislated to control arms brokers, and even fewer incorporate controls on the activities of arms transport agents. However, an increasing number have begun to recognise the need for controls on arms brokering, and have sought to learn from the experience and practices of other states in this area. In seeking to address the problem of arms brokering, states can take one of two approaches: either they can ban some or all arms brokering, or they can subject these activities to some form of control.

## **Option One: Banning arms brokering**

The option for states to ban all arms brokering and transportation is not a realistic one, since most states recognise that arms brokering and transport agents can fulfil an important function when operating within states' existing laws governing the export and import of arms. It is important, however, that countries apply a prohibition on arms brokering to specific destinations, for example countries that are subject to UN or other international arms embargoes. However, adopting such an approach in isolation would fail to address fully the problem of arms brokering as it is currently manifest, for two main reasons.

Firstly, recent examples have shown that arms brokering agents are adept at circumventing international arms embargoes by transporting arms into countries neighbouring an embargoed territory or party, and from there, trans-shipping the arms to the proscribed end-user.<sup>21</sup> Secondly, arms embargoes are often imposed only after the situation in a particular country or sub-region has deteriorated to the extent that the international community feels compelled to act. Accordingly, arms embargoes are often of limited utility in preventing a military build-up or reducing the level of violence in a particular conflict. As a result, grounding an arms brokering and transportation control regime in restrictions on embargoed destinations would be of limited effect in preventing arms flowing to illicit end-users in regions of conflict or tension.

## **Option Two: Controlling arms brokering**

Of those countries that control arms brokering – for example Germany, Norway, Sweden and the United States – most do so by means of a licensing system. However, in developing and implementing controls in this area, these states have had to address a number of issues that affect the scope and operation of the licensing regime.

### **Activities to be controlled**

Potentially, there is a wide range of activities that fall under the remit of arms brokering and could conceivably be brought under control. The United States, for example, takes a very comprehensive approach. US law defines an arms broker as any person who acts as an agent for others in negotiating or arranging contracts, purchases, sales or transfers of defence articles or services in return for a fee, commission or other consideration. In the United States, brokering activities include financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export or import of a defence article or defence service – irrespective of its origin. US controls are notable for the fact that they include transportation and financing of arms deals in their consideration of arms brokering. Although such a comprehensive definition could be regarded as providing an ideal standard for controls, the difficulty of enforcing controls on such a wide range of activities could present problems for smaller countries, which lack the intelligence and law enforcement outreach of the United States. As a result, enforcement of controls on such a comprehensive range of activities would require significant international collaboration on enforcement.

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# Existing national approaches to tackling the problem of arms brokering and transportation

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## Option Two: Controlling arms brokering

Other governments take a more limited view of what constitutes arms brokering. The German government defines two types of arms brokering activity that are subject to control: buying and selling (where the arms or military equipment enter into the legal possession of the arms brokering agent); and mediation (where an agent puts buyer and seller in contact with each other). The German approach, however, may be too limited, in that some activities of concern may fall outside the net. Firstly, the restrictions on mediation activity apply only when a brokering agent puts a buyer *directly* in touch with a seller of weapons; the controls do not apply to those who put buyers and sellers of arms in touch with other middlemen. Secondly, the restrictions on mediation apply only to deals involving 'war weapons' – or lethal military equipment – thereby enabling unlicensed mediation in the transfer of a range of non-lethal military and security equipment.

The challenge, therefore, is for states to identify a comprehensive range of activities that can be effectively brought within the scope of controls on arms brokering to ensure that the activities of these agents can be subject to full scrutiny and review. In this regard, states should, at a minimum, seek to control those activities that are central to arms brokering. Such activities should include: the buying and selling of arms; playing any role in the negotiation or arrangement of contracts, purchases, sales, or transfers of arms; and the arrangement of, or provision of means for, the physical shipment of arms. Other activities, such as the provision of financial services to assist arms brokering, could also be included, although detection and enforcement may be especially problematic. It thus may be preferable for states to require arms brokering agents to provide information on the financial aspects of their transactions during a licensing process. However, there are a number of issues of scope and substance regarding licensing practices that need to be addressed.

### **The scope of a licensing regime – goods to be controlled**

A fundamental consideration for any licensing regime involving the movement of controlled goods is the determination of the list of goods whose transfer should be controlled. As mentioned above, the German government operates different levels of control on 'war weapons' and on non-lethal military equipment. The Swedish government, on the other hand, imposes an identical licensing requirement on brokering in all types of military equipment.

The most comprehensive approach that could be envisaged would be for states to subject to licensing the brokering of all controlled items – including lethal and non-lethal military equipment, paramilitary and internal security equipment, and dual-use goods. There is a clear rationale for this approach. By ensuring that the brokering of a wide range of equipment is subject to scrutiny and regulation, such controls would potentially have a significant impact in helping to prevent all such equipment being diverted to illicit markets and unauthorised end-users.

On the other hand, there is concern that the legitimate activities of the defence industry could be unfairly disrupted by the advancement of a licensing regime that regulates brokering and transportation of all controlled goods. This has led to pressures in some countries to limit the scope of controls to certain categories of equipment. However, there is a danger that if these categories are too narrowly defined, then controls may be of limited effect.

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# Existing national approaches to tackling the problem of arms brokering and transportation

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## Option Two: Controlling arms brokering

### **The scope of a licensing regime – destinations subject to control**

One argument often used against introducing a licensing system is that it would be a bureaucratic strain and inhibit the legitimate brokering trade. One way to address these concerns would be for governments to control arms brokering and transportation by destination through open licences. Such licences are used by many states seeking to reduce the bureaucratic burden that arises from scrutinising and approving arms export licences on an individual basis. Open licences allow companies to export specific types of equipment to specific destinations or end-users, often over a set period of time. The application of this type of control in the field of arms brokering (and possibly arms transportation) could allow the brokering and transportation of specific types of equipment from and to specific source and end-user countries not of concern. However, states should exercise extreme caution in issuing open licenses to ensure that equipment is not transferred that could be used to fuel conflict or facilitate human rights violations.

### **The scope of a licensing regime – extra-territoriality**

Another important issue concerns that of the territorial scope of any national legislation to control arms brokering and transportation. The United States, which is well known for its extra-territorial laws, takes a maximal approach to this issue. Its controls include, but are not limited to, activities by US persons who are located inside or outside of the United States, or foreign persons subject to US jurisdiction (i.e. located in the United States). Thus, as well as relating to all nationals and foreign passport holders located in the United States, these controls apply to US passport-holders anywhere in the world, regardless of where they are resident and regardless of where the arms brokering or transportation activities take place. The benefits of this approach include the fact that the nationality of an individual is much less liable to change than their residence or location. The adoption of such maximal constraints, if fully enforced by a group of countries could, moreover, make a significant impact in bringing under scrutiny and controlling the activities of a significant number of arms brokering and transportation agents.

However, such controls are bound to be more difficult for governments to enforce than those which rest upon the agent being located or resident in their territory. Other options include using the national residence or domicile of an arms brokering agent (as in Sweden) and the country of operation (as in Germany) as possible bases for control. However, both kinds of laws, and particularly the latter (where controls are imposed according to where the arms brokering deal is struck), can be circumvented by unscrupulous agents. The residency and location of an arms broker are likely to change frequently, particularly if the brokers are seeking to evade stringent national controls. Under such circumstances, those countries with the weakest controls will inevitably become a haven for illicit arms brokering activities. Accordingly, states should be aware of the fact that if they fail to include extra-territorial provisions in their legislation, some nationals and residents who are arms brokering agents may well relocate outside their territory and continue their operations.

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# Existing national approaches to tackling the problem of arms brokering and transportation

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## Option Two: Controlling arms brokering

Most governments tread carefully in the realm of extra-territorial legislation. When considering extra-territorial controls on arms brokering agents, some governments may have constitutional issues to address, others may feel they have little experience in this area. In practice, however, most governments do have some form of extra-territorial provision in the context of particular pieces of legislation. The Ottawa Convention and the Chemical Weapons Convention, for example, prohibit the involvement of states parties and their nationals, respectively, from assisting in the laying of landmines and in the manufacture, acquisition and trade of chemical weapons. Furthermore, many governments also have laws with an extra-territorial dimension in areas such as the control of drug trafficking, terrorism and the prevention of child sex-abuse by nationals overseas. Generally, extra-territorial legislation is tolerated by governments in situations where there is seen to be a very serious threat to an important interest. When one considers the role of arms brokering agents in supplying arms to the Rwandan *genocidaires*, the case for extra-territorial legislation in this area is compelling.

### **Registration of arms brokering agents**

Another dimension of controls on arms brokering and transportation concerns the possibility for registration of such agents. Some governments that operate a licensing system (Sweden, Norway) also require arms brokering agents to register as such. There are several reasons for this. Firstly, if properly designed, a register of agents can act as a repository for important information concerning the nature and activities of individuals and companies operating in this field. At a minimum, a register should contain basic details such as name and address, relating to an arms broker. It should also contain details of a company's owners and directors to facilitate investigation. Beyond this it should also contain information on the number of arms brokering licences applied for and, as far as is known, the level of compliance of the agent with national laws and regulations in this area. This information is of particular importance because, when processing arms brokering licence applications, it will be important for governments to take into account not only the details of the particular deal which they are processing, but also the record of the agent in question.

The second advantage of adopting a system for registering arms brokering agents is that it potentially allows governments to co-operate more closely and effectively in the monitoring of the activities of such agents and in the enforcement of national controls. For example, governments should seek to avoid situations where an arms brokering agent who has been convicted of having engaged in the unlicensed transfer of arms moves to another country and resumes activities undetected. By sharing information on such illicit arms brokers, for example through Interpol, governments could find that they have a useful tool for aiding enforcement of national controls on arms brokering agents.

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# Existing national approaches to tackling the problem of arms brokering and transportation

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## Option Two: Controlling arms brokering

### **The role of transportation agents<sup>22</sup>**

The transportation of arms is an issue that merits special attention. Controls on the transportation of arms could be integrated into controls on arms brokering. However, distinct controls should be considered in this area to regulate the central involvement of transport agents in the physical movement of arms into regions of conflict and tension.

One approach could be to impose a licensing obligation on the transportation of arms by air and other means, although it is recognised that this poses significant challenges. The company or individual ultimately involved in the physical shipment of the arms could be designated responsible for applying for a licence. Conceivably, the licensing requirement could be invoked by the government in the country where the transportation firm is registered or incorporated. However, shifting registration of such companies is common practice, and enforcing this obligation could be problematic – since agents would be likely to relocate to countries with inadequate or poorly enforced controls. One way around this could be for governments to place a licensing obligation on the owners of transportation companies, based on nationality. This would necessarily involve the development of extra-territorial controls similar to those imposed on arms brokering agents by the United States.

Another way of extending controls to transportation agents could be to require arms brokers to disclose information on the companies they will be using to transfer the arms, including relevant sub-contractors, and to disclose details of the travel routes and flight plans for shipments of arms. This would allow governments more easily to monitor and trace shipments of arms, and to detect illicit diversion of cargoes.

Finally, it should be noted that there is a range of internationally agreed measures in the field of civil aviation and maritime shipping that could be developed and enforced more stringently. Whilst most of these regulations relate to safety aspects of freight transportation, the obligation on pilots to disclose flight plans and information on cargo shipments is a potential point of departure for enhanced controls in this field.

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# Building on Current Practice: Regional and Global Initiatives

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## Regional initiatives

The need for states to adopt controls on arms brokering agents has been acknowledged in a number of regional and international fora in recent years. Whilst the issue of shipping has also been raised, most discussions have begun by addressing the question of how to control arms brokering. The consideration of how best to control arms brokering agents has been driven, to a large extent, by those governments that already have controls established in this area, but who witness these controls being undermined by lax regulations in other countries.

### **The Organisation of American States (OAS)**

The Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials of November 1997<sup>23</sup> broke new ground in terms of regional initiatives to control small arms and light weapons. With the aim of preventing, combating and eradicating the illicit manufacture and trafficking in firearms, the Convention promotes the co-ordination of a range of legislative, regulatory and administrative measures amongst the states parties. The problems of arms brokering and transportation are not explicitly mentioned in the Convention. However, the definition of 'illicit trafficking' as "the import, export, acquisition, sale, delivery, movement, or transfer of firearms, ammunition, explosives, and other related materials from or across the territory of one state party to that of another state party, if any one of the states parties concerned does not authorise it"<sup>24</sup> could conceivably apply to the activities of arms brokering and transport agents if conducted without authorisation from source, transit and end-user states who are parties to the Convention. Moreover, the states parties have agreed to exchange information that could be relevant to control of illicit arms brokering and transportation, including details of "authorized producers, dealers, importers, exporters and, wherever possible, carriers of firearms, ammunition, explosives and other related materials" and "routes customarily used by criminal organizations engaged in illicit trafficking...". Finally, the OAS Convention also sets out the possibility of co-operating on the 'controlled delivery' of firearms, where suspect cargoes are monitored as they pass through the territories of one or more states parties with a view to "identifying persons involved in the commission of offences..." under the Convention.

### **The European Union**

In 1999 the German government, during its presidency of the European Union, put forward proposals for a common EU system for controlling arms brokering agents.<sup>25</sup> These proposals were similar in some respects to the German national controls, in that they focussed on the establishment of a licensing requirement for the buying and selling of arms, and the mediation in arms deals, by agents on EU territory. However, the scope of the goods to be controlled was rather more restrictive than that operated by the German government. Instead of focussing on 'war weapons' and other (non-lethal) military equipment, the proposed EU regime centred on the seven categories of major conventional weaponry (as set out in the UN Register of Conventional Arms Transfers<sup>26</sup>), plus the list of small arms and light weapons set out in the 1998 EU Joint Action on Small Arms.<sup>27</sup> Although the German proposals failed to come to fruition in an EU agreement on controlling arms brokering, the move represented an important step forward in placing the issue of how to control arms brokering high on the EU agenda. Since April 1999, a number of EU states, including the United Kingdom and France, have been exploring and developing proposals for national controls on arms brokering agents.

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# Building on Current Practice: Regional and Global Initiatives

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## Regional initiatives

Discussions on arms brokering have continued within the Council of Ministers Working Group on Arms (COARM) with a view to the agreement, in the near future, of common standards for the regulation of arms brokering. These discussions, moreover, have been reflected in the EU position paper drafted in advance of the UN Conference.<sup>28</sup> In this EU Plan of Action, the Member States set out a comprehensive programme that they urge the UN Conference to address, including 'licensing requirements including licensing or registration of manufacturers, traders and brokers'. During the Third Preparatory Committee for the UN Small Arms conference, the European Union also called for the development of an international legal instrument to control arms brokering.

### **Organisation for Security and Co-operation in Europe (OSCE)**

In November 2000, by way of preparation for the UN Conference, the OSCE issued a "Document on Small Arms and Light Weapons."<sup>29</sup> Through this, OSCE states undertake to pursue a range of measures in order to combat illicit trafficking in small arms, in all its aspects. With regard to provisions for the control of arms brokering, the commitments contained within the OSCE document are at the same time comprehensive and non-binding:

"Participating states will consider the establishment of national systems for regulating the activities of those who engage in [such] brokering. Such a system could include measures such as:

Requiring registration of brokers operating within their territory;

Requiring licensing or authorisation of brokering; or

Requiring disclosure of import and export licences or authorisations, or accompanying documents, and of the names and locations of brokers involved in the transaction."

Whilst these provisions are non-binding, the agreement is nonetheless significant since 55 states, including the majority of major arms manufacturers, have committed themselves to the document.

### **The Organisation of African Unity (OAU)**

In December 2000, OAU Ministers issued the Bamako Declaration<sup>30</sup> setting out the African states' position in advance of the UN Conference. The document sets out a comprehensive assessment of the problem of the illicit small arms trade. In doing so, the Declaration makes recommendations for the OAU Member States to act at national and regional level, whilst also calling upon the international community to adopt more responsible practices to prevent the illicit small arms trade. The issues of arms brokering and transportation are addressed directly and indirectly throughout the document. For example, the OAU recommends that states:

At the national level:

"vii) Take appropriate measures to control arms transfers by manufacturers, suppliers, traders, brokers as well as shipping and transit agents in a transparent fashion"

At the regional level:

"ii) Encourage the codification and harmonization of legislation governing the manufacture, trading, brokering, possession and use of small arms and ammunition..."

The Organisation of African Unity also calls upon the international community to:

"iv) enact appropriate legislation and regulations to control arms transfers by manufacturers, suppliers, traders, brokers, shipping and transit agents".

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# Building on Current Practice: Regional and Global Initiatives

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## Regional initiatives

The importance of controlling arms brokering to the OAU states is clear. The role of arms brokering agents in supplying arms that have fuelled the conflict in Angola, the Democratic Republic of the Congo and Sierra Leone has been well documented. However, as with the OSCE, the Bamako provisions are merely couched in terms of “recommendations” and as such, are unlikely to be adopted by states that feel they have no interest in this issue.

## International initiatives

### **The UN Firearms Protocol**

The negotiations to establish the “United Nations Protocol on the Illicit Manufacture and Trade in Firearms Ammunition and Related Materials”<sup>31</sup> have been the principal international forum within which discussions on the control of arms brokering have taken place. Indeed, the issue of arms brokering proved to be one of the most challenging issues faced by the negotiators of the Firearms Protocol. Different drafts of the Firearms Protocol contained a variety of measures including a requirement that arms brokers register – in their country of residence/nationality – and apply for a licence in their country of operation/residence.<sup>32</sup> Ultimately, however, the provisions contained in the final agreed text of the Firearms Protocol are similar to those set out by the OSCE, with states being required to consider measures such as registration and licensing of arms brokering agents. The inclusion of these recommendations in an international treaty clearly represents an important step in building of international norms and standards for the control of arms brokering agents. However, the recommendatory nature of these provisions is almost certain to lead to a slower implementation of controls at national level than had the commitments been of a binding nature.

### **The UN Group of Experts**

Pursuant to a General Assembly Resolution of December 1999 on the subject of “Small Arms,”<sup>33</sup> a Group of Governmental Experts was convened to examine “the feasibility of restricting the manufacture and trade of [small arms and light weapons] to the manufacturers and dealers authorized by states, which will cover the brokering activities, particularly illicit activities, relating to small arms and light weapons, including transportation agents and financial transactions,”<sup>34</sup> in advance of the UN Conference. The Group of Experts met formally three times between May 2000 and February 2001, during which time they solicited the views of NGOs and manufacturers. The report of the Group<sup>35</sup> was published during the Third Preparatory Committee to the UN Conference. Although the Report sets out a detailed analysis of all aspects of the problem of illicit arms brokering and transportation and on ways of addressing this, it stops short of recommending a particular set of controls. Nevertheless, the Report sets out a clear picture regarding the most effective mechanisms that have been employed by states – measures which should provide the basis for international action.

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# The UN Conference and the Development of an International Regime

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## Arms brokering and the draft Programme of Action

The issue of arms brokering is clearly an important one for many states. This is evidenced in the increasing frequency with which the issue has been debated in regional and international fora, and in the establishment of the Group of Experts to examine this issue. Unfortunately, states appear to be at different stages in their assessment of the problem and their appreciation of the need to act. Accordingly, to date, the recommendations that have been advanced have been largely of a non-binding nature. Whilst this undoubtedly means that many states will be slow to act in this area, there are positive signs that an increasingly large body of governmental opinion favours national, regional and international action to control the activities of arms brokering and transport agents.

In the second draft Programme of Action (L4/rev1) put forward for consideration by the Chairman of the Preparatory Committee to the UN Conference, the need to control arms brokering agents is referred to as follows:

“At the global level: To develop common understandings of the basic issues and the scope of the problems related to illicit arms brokering, with a view to regulating the activities of those engaged in arms brokering.”<sup>36</sup>

The issues is also raised in the context of the Follow-Up provisions of Section IV of L4/rev1 as follows:

“To consider the elaboration of an international instrument to restrict the production and trade in [small arms and light weapons] to registered manufacturers and brokers duly licensed or otherwise authorized by governments.”<sup>37</sup>

These provisions are welcome although they are minimal and need to be developed. As in the case of the UN Firearms Protocol, they are non-binding. States may well consider the elaboration of an international instrument to control arms brokers and conclude that it is not necessary or desirable, despite the clear evidence of the death and destruction that has resulted from the unregulated brokering and transportation of arms.

Moreover, whilst it is essential that common understandings of the nature of the problem be developed, it should also be noted that there is now in existence a substantial body of information – from both UN and non-governmental sources – that documents the nature and extent of unregulated arms brokering and transportation.

The provisions set out in L4/rev1 are disappointing in that they are weaker than those contained in the previous draft Programme of Action (L4) that contained a clear commitment to the negotiation of a legally binding instrument on the control of arms brokering and shipping agents. Whilst L4 did not elaborate on what such an instrument should contain, the commitment to pursue an international solution to what is an international problem, represented an extremely positive development.

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# The UN Conference and the Development of an International Regime

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## **Developing international action**

Ideally, the UN Conference Programme of Action should contain a commitment to negotiate an international legally binding convention on the control of arms brokering and transportation (as in the first draft Programme of Action, L4) by a specified date. The proposed biennial meeting of states in 2003 would be an appropriate deadline.

However, if agreement to negotiate a legally binding instrument proves impossible, the Programme of Action should at a minimum contain the following:

- i. An unequivocal acknowledgement in the text that unregulated arms brokering and shipping is a problem that needs to be addressed by all states.
- ii. A commitment by states to review, at the first of the biennial meetings of states, progress in arriving at a common understanding of the nature of the problem, and how to address it through the development of legislation and enforcement capacity. This should build on the work of the UN Group of Experts on Brokering.
- iii. A commitment to develop model regulations by the time of the first of the biennial meeting of states.<sup>38</sup> The draft Programme of Action should also state that such model regulations should be based upon registration and licensing and mutual respect for extradition arrangements in the context of enforcing controls on arms brokering and transport agents. This should be elaborated under paragraph 37 of Section II of the draft Programme of Action.
- iv. A commitment to establish a mechanism whereby states can learn from each other's experience in tackling illicit arms brokering and transportation. For example, by requiring states to exchange information on illicit or unregulated activities, possibly through Interpol. In this event, a commitment to strengthen and enhance the capacity of Interpol would also be required.
- v. A commitment to the strengthening the enforcement capacity of states through the provision of international assistance and training packages.

If there is no agreement on the above, however, following the UN Conference, interested states should convene promptly to develop model regulations with a view to their elaboration and implementation. In addition, the first biennial meeting of states should then revisit the issue of brokering and commit to negotiate a legally binding international convention on the control of arms brokering and transportation with a timetable.

Finally, it is important that the Conference take action on other issues. Controls on arms brokers and transportation agents need to be supported by measures to enforce UN arms embargoes, international criteria to govern arms transfers and norms and standards for effective controls on the end use of arms. Such a holistic approach by states at the Conference is vital to combat, prevent and eradicate the illicit trade in small arms and light weapons in all its aspects.

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## Conclusion

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The rationale for international action to control arms brokering and transport agents is clear. If a large number of states establish comprehensive legislation prohibiting the unlicensed brokering and transport of arms by their residents or nationals, unscrupulous agents will find it much harder to conduct their business. If all states adopt and enforce such controls, these agents will find it impossible to continue. The regulation of arms brokering and shipping agents is a major issue for the international community; the UN Conference should not shrink from this challenge.

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# Endnotes

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- 1 Under US controls, as outlined in the International Traffic in Arms Regulations, a broker is defined as:  
“any person who acts as an agent for others in negotiating or arranging contracts, purchases, sales or transfers of defence articles or defence services in return for a fee, commission or other consideration...brokering activities include the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defence article or defence service, irrespective of its origin.”
  - 2 S/1998/318 Report of the Secretary-General on the situation in Africa, paragraph 28.
  - 3 UN Firearms Protocol to the Convention against Transnational Organised Crime.
  - 4 Final report of the UN Panel of Experts on Violations of Security Council Sanctions Against UNITA, S/2000/203, 10th March 2000.
  - 5 United Nations Security Council, resolution 864, 15 September 1993.
  - 6 Douglas Farah, “Russian Mob and Drug Cartels Joining Forces; Money Laundering, Arms Sales Spreading Across Caribbean”, Washington Post, 29th September 1997; Combating Illicit Light Weapons Trafficking: Developments and Opportunities, BASIC Report 98.1, Dyer & O’Callaghan, January 1998.
  - 7 Note by Secretary-General, containing a Report of a consultative meeting of experts on the feasibility of undertaking a study for restricting the manufacture and trade of small arms to manufacturers and dealers authorized by States, A/54/160, 6th July 1999.
  - 8 Ibid.
  - 9 “Small Arms Parts: Poor Controls Invite Widespread Theft”, GAO/NSIAD 94-21, General Accounting Office, 18th November 1993.
  - 10 See for example: “Eastern Europe’s arsenal on the loose: managing light weapons flows to conflict zones,” BASIC Papers, May 1998; “Arsenals on the cheap: NATO expansion and the arms cascade”, Human Rights Watch, April 1999; “Bulgaria: Money Talks, arms dealing with human rights abusers”, Human Rights Watch, April 1999; The Arms Fixers, *Op Cit*; “The Terror Trade Times”, Amnesty International, October 1999.
  - 11 “Loopholes on Guns Feared in Europe”, Ray Bonner, International Herald Tribune, 19th April 1998; “European Loophole Undermining US on Resale of Its Guns”, Ray Bonner, New York Times, 19th April 1998; The Arms Fixers, Wood and Perleman, *op. cit*.
  - 12 Review of Financial Regulation in the Crown Dependencies: A Report, Part 1, by Andrew Edwards, 24th October 1998.
  - 13 Ibid, S93 The Islands have developed large businesses as international company registration and administration centres. Around 90,000 companies are incorporated in the Islands. The Isle of Man has the largest number. Jersey and Guernsey have been more selective. Especially in Jersey and Guernsey, however, many more companies are administered from, but not incorporated in, the Islands.
  - 14 Ibid.
  - 15 Ibid.
  - 16 See “Destination unknown, strengthening end-use monitoring and control over arms exports”, Amnesty International UK/ Oxfam GB, December 2000; The Arms Fixers, Wood & Peleman, *Op Cit*.
  - 17 TIACATimes, Fall, 1998 as seen in The Arms Fixers.
  - 18 The Arms Fixers, Wood and Peleman, *Op cit*.
  - 19 The Arms Fixers, *Op cit*.
  - 20 “2 Truckloads of illegal arms found”, Valorie Alvord, San Diego Union Tribune, 14th March 1997. “Illegal weapons were well travelled”, Valorie Alvord, San Diego Union Tribune, 21 March 1997 & The Arms Fixers, Wood and Peleman.
  - 21 There are several know instances where arms have been transhipped from a country neighbouring a war-zone to an embargoed territory or party e.g. Zaire to Rwanda 1994; Zimbabwe to DRC 1999; Burkina Faso to Sierra Leone 1999.
  - 22 More information on possibilities for controlling the shipment of arms by air are set out in a forthcoming Saferworld – ISS report of a seminar hosted in November 2000.
  - 23 Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials, OAS General Assembly Resolution AG/RES.1 (XXIV-E/97), Twenty-Fourth Special Session, 13 November 1997.
  - 24 Ibid.
  - 25 The German government proposals for a Joint Action on arms brokering were not made publicly available.
  - 26 The seven UN categories of major conventional weapons are: Battle tanks; Armoured combat vehicles; Large calibre artillery systems; Combat aircraft; Attack helicopters; Warships; Missiles and missile launchers.
  - 27 The list of SALW set out in the 1998 EU Joint Action on Small Arms are:
    - (a) Small arms and accessories specially designed for military use
      - machine-guns (including heavy machine-guns)
      - submachine-guns, including machine pistols
      - fully automatic rifles
      - semi-automatic rifles, if developed and/or introduced as a model for an armed force
      - moderators (silencers)
    - (b) Man or crew-portable light weapons
      - cannon (including automatic cannon), howitzers and mortars of less than 100 mm calibre
      - grenade launchers
      - anti-tank weapons, recoilless guns (shoulder-fired rockets)
      - anti-tank missiles and launchers
      - anti-aircraft missiles/man-portable air defence systems.
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## Endnotes

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- 28 EU Plan of Action to Prevent, Combat and Eradicate the Illicit Trade in SALW in All Its Aspects, UN Document reference: A/Conf.192/PC/21, December 2000.
  - 29 OSCE Document on Small Arms and Light Weapons, UN Document reference: A/Conf.192/PC/20, November 2000.
  - 30 The Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of SALW, UN Document reference: A/Conf.192/PC/23, December 2000.
  - 31 "Revised draft Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime", UN Document reference: A/AC.254/4/Add.2/Rev.6.
  - 32 Proposals put forward by the Swiss and US governments at the June 2000 round of negotiations of the Firearms Protocol.
  - 33 UNGA Resolution A/Res 54/54 Vof 15 December 1999.
  - 34 Ibid.
  - 35 Report of the Group of Governmental Experts established pursuant to General Assembly Resolution 54/54V of 15 December 1999, entitled "Small Arms". UN Document reference: A/Conf.192/PC/33, 12 March 2001.
  - 36 UN Document reference: A/CONF.192/PC/L.4/Rev.1, 12 February 2001, L4/rev 1, Section II, paragraph 37.
  - 37 UN Document reference: A/CONF.192/PC/L.4/Rev.1, 12 February 2001, L4/rev 1 Section IV, paragraph 1 (d).
  - 38 UN Document reference: A/CONF.192/PC/L.4/Rev.1, 12 February 2001, L4/rev 1 Section IV paragraph 1 (b).
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