

Toward a Convention on International Arms Transfers

by Oscar Arias Sánchez

The United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (July 2001) provides the international community with an excellent opportunity to reflect on all sorts of arms transfers in light of today's realities. The line between licit and illicit arms deals is often so thin as to be invisible. We must begin to ask ourselves what is more important: legalistic definitions or principles? When civilians are massacred by a paramilitary member, rebel group, or army in a civil war, does it matter if the weapons used were acquired legally? When a woman is murdered by her ex-soldier husband with his service weapon, does it matter whether he had a permit to own it?

In principle, I am sure we would all agree that the answer is "No." Yet, in the real world, we do need legal definitions, as the power of judgment is vested in our courts, which depend on those definitions, and their interpretations, to do the business of justice. How, then, shall we define legal transfers of weapons? Which transfers are illicit? These questions are so far without a convincing answer from the community of states embodied in the United Nations.

The July conference should be taken as an opportunity to explore these questions and build consensus around clear and definitive answers. In particular, I would like to see the UN member states seriously consider the Framework Convention on International Arms Transfers described in this article. I believe it presents a potential solution to the problem of definitions and, more importantly, a viable way of getting the "legal" arms trade under control. Any death from gun violence is one too many. There is no time to lose.

THE EXTENT OF THE PROBLEM

In the last decade alone, more than 380 companies in 64 countries manufactured small arms and light weapons (SALW), ammunition, and associated equipment. Due to the lack of transparency in the arms trade in most countries around the world, the actual figure may even be higher. The United Nations estimates that in the 1990s, conventional weapons were used to kill more than 5 million people and force 50 million to flee their homes.² Millions more lost their property, their livelihood, or their loved ones.

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Since 1945, around 26 million people have died as a result of the impact of SALW. As a result of today's "conflict demilitarization," the large majority of victims are civilians, not soldiers. Many of these are women and children.

Since the Kalashnikov (AK-47) was invented in 1947, more than seventy million of these weapons, the small arm *par excellence*, have been used in seventy-eight countries and produced in fourteen. There are around eight million units of the U.S.-made M-16 rifle, seven million units of the German G-3 rifle, and between five and seven million units of the Belgian-made FN-FAL. Also, there are approximately ten million units of the Israeli-made Uzi pistol. In the United States alone, more than four million light weapons (a million of which are imported) come onto the market every year.

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We know that in some cases, these weapons have been used against the interests of those who made and sold them, creating what has been deemed a "boomerang effect." For instance, U.S.-made weapons have been turned against U.S. troops in Somalia, Iraq, Panama, and Haiti, where unaccountable military leaders replaced former allies and inherited the arsenals acquired courtesy of the United States. Other arms-manufacturing countries, such as Great Britain and France, have experienced the boomerang effect as well. Ultimately, it was these deaths—deaths of first-world soldiers, rather than third-world civilians—that put the topic of controlling the arms trade on the international agenda.

It is not just gun deaths that ought to make us think twice about the legitimacy of the arms trade. In a world where 1.3 billion people live on less than one dollar a day, unrestrained commerce in weapons perpetuates this poverty. Each year, around \$20 billion is spent on conventional weapons transfers worldwide. Yet we know that just \$8 billion a year (the amount of money the world spends on military equipment and training in four days) would be enough to ensure that all children around the world had basic education. It is time that the world's arms merchants and their customers realize that the children of the world urgently need schools and health clinics, not machine guns and grenades.

The frequent use and misuse of weapons simply mirrors other deep-rooted problems of a more structural nature. The problem is not just the easy availability of weapons but also social and political circumstances—social fragmentation, exclusion of youth, unemployment, poverty, corruption, etc.—that generate a demand for means of violence and confrontation. Taking action to address these root causes is therefore essential to stemming the tide of increasing violence in the world. This means improving judicial systems, tackling corruption, overcoming the heavy burden of the geopolitical manipulation carried out during the cold war in many countries, adopt-

ing measures to put an end to economic exploitation, improving democratic governance, and regulating the role of private security companies, among other things.

DEFINITIONS: FROM LICIT TO ILLICIT IN THE BLINK OF AN EYE

The UN conference to be held in July 2001 in New York is a major opportunity for the international community to agree upon a truly comprehensive, proactive action plan to prevent the spread and misuse of small arms and light weapons. For this plan to be truly comprehensive, it will have to reexamine the typical definition of an "illicit arms transfer." A commonly used definition of "illicit" covers those transfers that are not authorized by exporting, importing, and transit states. However, many arms deals that begin with the requisite authorizations are later diverted to illicit markets and end-users. In 1999, the UN Group of Governmental Experts on Small Arms clearly signaled the interconnection between legal trade and illicit transfers:

Illicit arms supply networks often involve legal arms purchases or transfers which are subsequently diverted to unauthorized recipients, or leakage from arms storage facilities. Arms brokers play a key role in such networks, along with disreputable transportation and finance companies. Illicit arms trafficking can sometimes be helped by negligent or corrupt governmental officials and by inadequate border and customs controls. Smuggling of illicit arms by criminals, drug traffickers, terrorists, mercenaries or insurgent groups is also an important factor. Efforts to combat illicit arms trafficking are in some cases hampered by inadequate national systems to control stocks and transfers of arms, shortcomings or differences in the legislation and enforcement mechanisms between the States involved, and a lack of information exchange and cooperation at the national, regional and international levels.³

There are a large number of case studies that reflect this reality. Let us examine just one of them. On June 5, 1998, the UN Security Council passed a resolution prohibiting the sale of arms and related material to nongovernmental forces in Sierra Leone. Despite this embargo, small arms continued to reach the Revolutionary United Front (RUF), which subsequently used them to commit massive and brutal human rights violations against the civilian population in Sierra Leone. UN secretary-general Kofi Annan appointed a panel of experts to investigate alleged violations of the embargo and the role of the trade in diamonds from rebel-held areas. The panel's report, released on December 20, 2000,⁴ details how 68 tons of weapons from Ukraine were transferred into the hands of the RUF. As an illuminating case study of how arms that originate in the legal market make their way into the illegal market, it deserves some examination here.

A shipment of 68 tons of weapons, including SALW, arrived at Ouagadougou, Burkina Faso, on March 13, 1999. The weapons were part of a contract between a Gibraltar-based company representing the Ministry of Defense of Burkina Faso and the Ukrainian state-owned company Ukrspetsexport. A Ukrainian license for sale of the weaponry was granted after Ukrspetsexport received an end-user certificate from the Ministry of Defense of Burkina Faso. The end-user certificate authorized the

Gibraltar-based company to purchase the weapons for the sole use of the Ministry of Defense of Burkina Faso. The document also certified that Burkina Faso would be the final destination of the cargo and the end-user of the weaponry. The weapons, however, were not retained in Burkina Faso. They were temporarily off-loaded in Ouagadougou, and some were trucked to Bobo Dioulasso. The bulk of them were then trans-shipped within a matter of days to Liberia, whose government is known to be collaborating with the RUF in Sierra Leone and has been the subject of UN sanctions for doing so. A few days after these events, the RUF rebels started a major offensive that eventually resulted in the destructive January 1999 raid on Freetown.⁵

CONTROLLING THE LEGAL TRADE

As an important element in combating illicit trafficking, therefore, governments must strictly control the “state-sanctioned” or “legal” trade. Such measures as import/export controls, end-use certification systems, postdelivery authorization, and controls on the activities of arms brokers are all necessary. Aside from combating the risk of diversion, however, there is a second reason why legal transfers must be controlled. Certain governments have defined the illicit trade as strictly those international transactions that are not authorized by either one or both of the states concerned in the transfers. In other words, only those arms transfers that take place on the “black market” are illicit. However, the United Nations, in the form of the UN Disarmament Commission, defines illicit trafficking more broadly as “that international trade in conventional arms, which is contrary to the laws of States and/or international law.”⁶ Under this definition, many arms transfers considered licit by the states involved are actually illicit under international law. So-called legal transfers of small arms have facilitated human rights violations and breaches of international humanitarian law, fueled conflict and violent crime, and undermined development and regional stability.

Principles of international law do support checks on legal arms transfers; however, the world’s governments have yet to codify these principles and turn them into practical reality. While states cling to their right to self-defense in order to acquire conventional weapons, they often disregard their obligations to international commitments and to limiting arms acquisition to legitimate security needs. More than fifty years ago, those countries that signed the UN Charter committed themselves to creating a mechanism for regulating arms transfers worldwide. Today, Article 26 of the UN Charter remains an unfulfilled promise.

REGULATING INTERNATIONAL ARMS TRANSFERS

Many SALW have been obtained through international arms transfers that could have been stopped. Since 1945, the international community has developed a number of binding agreements concerning human rights, humanitarian law, and peaceful coexistence. But when it comes to the international arms trade, such agreements seem to take a backseat to politics and profit-making.

Under the 1948 Geneva Conventions and its 1977 Protocols, governments are bound to respect and ensure respect for international humanitarian law. However, states often proceed with an arms transfer even when there is a clear risk that it could contribute to serious violations of these internationally agreed-upon, binding standards.

Article 26 of the UN Charter remains an unfulfilled promise.

The proposed International Criminal Court may prosecute perpetrators of war crimes, crimes against humanity, genocide, and serious human rights violations once the necessary sixty states have ratified its statute. But there is no equivalent international mechanism to prevent these individuals from receiving arms in the first place. States have yet to complement this effort against impunity with the obligation not to authorize arms transfers that would contravene the limitations imposed on them by international law.

The vicious cycle of arms sales, conflict, and human rights abuse can and must be stopped. With this goal in mind, a group of Nobel Peace Laureates, which I had the honor to lead, developed in 1997 the International Code of Conduct on Arms Transfers, which establishes a set of principles to control the legal arms trade. It is endorsed by eighteen individuals and organizations that have been honored with the Nobel Peace Prize.⁷ Drawing on existing international law, we called on all states to abide by a restrictive Code of Conduct on arms transfers, based upon the following principles:

- respect for human rights and international humanitarian law;
- commitment to promote regional peace, security, and stability;
- compliance with international arms embargoes, military sanctions, and transparency measures;
- opposition to terrorism; and
- the promotion of sustainable development.

A coalition of nongovernmental organizations (NGOs) has joined the Nobel Peace Laureates in this effort. For several years now, we have promoted the code and discussed it with governments. In order to make progress on this issue, in late 2000, this group⁸ joined with lawyers from the Lauterpacht Research Centre for International Law at Cambridge University to transform the principles endorsed by the Peace Laureates into a Framework Convention.

Once adopted, the Framework Convention will be a legally binding agreement that codifies states' obligations under existing international law. It sets out core principles and mechanisms relating to international transfers of arms, which at a later stage could be supplemented by protocols dealing with specific issues such as licensed production, end-use monitoring, transparency, and arms brokering. Like any other treaty, the Framework Convention would enter into force and become a binding international instrument once signed and ratified by the requisite number of states.

The basic obligation under this convention would be for states that have ratified it to adopt national mechanisms for the explicit authorization of international transfers of arms. As a minimum, each application for authorization would have to be analyzed on a case-by-case basis. States would not allow a transfer if:

- it violates the state's obligations under international law;
- there is a risk that its contents may be used to violate human rights and international humanitarian law or to commit war crimes, genocide, or crimes against humanity; or
- it undermines sustainable development, political stability, or regional security or facilitates crimes.⁹

The convention spells out the different types of limitations to which states must subject their arms exports, according to international law. These include express limitations, such as already existing treaties regarding specific classes of weapons (i.e., the Chemical Weapons Convention) and UN-established embargoes. It also includes limitations based on the anticipated use made of weapons by the final recipient, which is based on a state's obligation not to participate in the wrongful acts of the recipient state. The final class of limitations on weapons transfers includes those arising from the potential effects of the transfers on violent crime, political stability, regional security, or sustainable development.

The time has come for responsible measures to rein in the unchecked sale of death and misery on the international market.

Although based on sound principles of international law, the Framework Convention on Arms Transfers is not likely to be established overnight. The financial stakes for arms-exporting countries are high, and therefore many do not want voluntarily to slow down this prosperous industry in their countries. In addition, many arms-producing countries argue against refusing to sell weapons to human rights abusers with the logic that, "If we don't sell, someone else will." It is precisely because of this reality that a binding international agreement is called for. The community of nations must agree to a minimum set of standards for arms transfers, and each arms-producing country must then write these provisions into law. This is the only way to slow, and eventually stop, the current flood of SALW to dictators, rebels, and militias who show absolute disregard for humanitarian law and human rights.

Because of the scope and complexity of the problem that the Framework Convention seeks to address, and because of the powerful political and economic interests that sustain the international arms trade, a broad and dynamic campaign will be necessary to move forward on this issue. This campaign needs to be truly international in character and to benefit from the experience, perspectives, and expertise of NGOs from around the world. It will be a concerted and coordinated effort from global civil society based upon equal partnership, solidarity, and a common commit-

ment to alleviating the devastating consequences of irresponsible weapons sales. This movement is in the works, and it is my hope that more and more like-minded individuals, organizations, and governments will come on board to promote this logical, just, and humane effort.

CONCLUSIONS

There is much work to be done. The situation is daunting, and yet we have hope, because thousands of individuals, groups, and community leaders have already expressed their faith in an International Code of Conduct on Arms Transfers as both morally sound and politically necessary. It is these people, and the force of their convictions, that will turn possibility into progress, and this “impractical idea” into reality. Victor Hugo once said, “There is one thing stronger than all the armies in the world; and that is an idea whose time has come.” I am convinced, as are many others, that the time has come for responsible measures to rein in the unchecked sale of death and misery on the international market. To those who die at the hands of SALW, it does not matter whether the weapons were acquired legally or illegally. To courts of law, the definitions matter, and it is the job of all those concerned with human life and dignity to ensure that the definition of illicit transfers used by the international community encompasses the true scope of the problem. The Framework Convention on International Arms Transfers sets out a clear and comprehensive standard that all states should have the courage to adopt.



Notes

1 United Nations Development Programme, *Human Development Report 2000*, p. 36.

2 Report of the UN Group of Governmental Experts on Small Arms A/54/258, August 19, 1999.

3 Report of the Panel of Experts appointed pursuant to UN Security Council Resolution 1306 (2000), para. 19 in relation to Sierra Leone, December 2000.

4 For further details on this and other case studies, see “Combating the illicit trade in small arms and light weapons: Enhancing controls on legal transfers,” Briefing 6, British American Security Information Council (BASIC), International Alert, Saferworld, London, March 2001.

5 UN Disarmament Commission, “Guidelines for international arms transfers in the context of General Assembly resolution 46/36 H of 6 December 1991,” 51st sess., supp. 42 (A/51/42), 1996, para. 17.

6 Amnesty International, Adolfo Perez Esquivel, The American Friends Service Committee, Aung San Suu Kyi, Betty Williams, Rev. Desmond Tutu, His Holiness the Dalai Lama, International Physicians for the Prevention of Nuclear War, Jody Williams, John Hume, Jose Ramos Horta, Joseph Rotblat, Lech Walesa, Rigoberta Menchu, Mairead Maguire, Norman Borlaug, Elie Wiesel, and Oscar Arias.

7 American Friends Service Committee, Amnesty International, the Arias Foundation for Peace and Human Progress, BASIC, the Federation of American Scientists, Oxfam, Project Ploughshares, and Saferworld.

8 For further information and to read the full text of the Framework Convention, see www.armslaw.org.

Combating the Black-Market Trade

by Michael T. Klare

In recent years, the international community has devoted considerable attention to the problems posed by illicit transfers of small arms and light weapons. Although such sales represent a small share of the total trade in conventional weapons (when measured in dollars), the black-market weapons trade has a disproportionate impact on world security affairs because it is the main source of munitions for insurgents, warlords, ethnic militias, death squads, brigands, and other nonstate actors. Given that most of the violent conflict now taking place is occurring within, rather than between, states, belligerents of these sorts have assumed a central role in contemporary warfare. Controlling the global flow of illicit arms, therefore, is seen as an important component of international efforts to curb the incidence and intensity of internal warfare.

BACKGROUND OF THE JULY 2001 UN CONFERENCE

The critical role of illicit arms sales in sustaining internal violence was first given prominent attention in the 1997 report of the United Nations Panel of Governmental Experts on Small Arms. In a section on “illicit trade in weapons,” the report observed that “Illicit trafficking in [conventional] weapons plays a major role in the violence currently affecting some countries and regions, by supplying the instruments used to destabilize societies and governments, encourage crime, and foster terrorism, drug trafficking, mercenary activities, and the violation of human rights.”¹ In light of this assessment, the panel called on UN member states to intensify their own efforts to combat illicit arms trafficking and to work with their neighbors and the international community in developing more robust measures for this purpose.²

In its 1997 report, the Panel of Governmental Experts also proposed the convening of an international conference on the illicit arms trade in order to focus greater attention on this problem and facilitate the adoption of new international controls. Subsequently, on December 9, 1997, the UN General Assembly voted to request a study by the secretary-general on the feasibility of convening such a conference. The secretary-general subsequently reported on the potential utility of such a meeting, and on December 4, 1998, the General Assembly voted to authorize the convening of an “international conference on the illicit arms trade in all its aspects.” After further consultations, this conference was scheduled for July 9–20, 2001, at UN headquarters in New York City.

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The stage has now been set for a major international effort to eradicate or at least constrain the illicit trade in small arms and light weapons. To be successful, this effort will have to address the distinctive characteristics of the black-market trade. Almost by definition, such transfers are conducted in secrecy, making it that much more difficult to monitor and block them. By the same token, black-market sales usually entail many small, easily hidden transactions, further complicating the task of control. Adopting new constraints on this trade will not, therefore, prove an easy task.

DYNAMICS OF THE TRADE

Ultimately, it will not be possible to devise effective measures for combating the illicit commerce in small arms without first developing a clear understanding of the nature and dynamics of this trade.³ This is so because the illicit arms trade operates in a very different fashion from the legal arms trade, and so measures that are designed to regulate the legal trade may not prove effective in curbing the illicit trade. To fully appreciate this point, it is necessary to further consider the differences between the two forms of commerce.

The *legal* arms trade involves a direct relationship between two sets of factors: suppliers and recipients. In a typical arms-transfer relationship, the prospective recipient approaches likely suppliers and arranges for the exchange of money or some other goods for the desired weapons. Efforts to control or regulate this trade can occur on either side of the relationship, by restricting supply or by curbing demand.

Black-market weapons trade has a disproportionate impact on world security affairs.

The *illicit* arms trade, by comparison, involves three sets of factors: producers, recipients, and traffickers. The two outer sets in this relationship, the producers and recipients, rarely have any direct contact with one another; rather, the relationship is mediated by the middle party to these transactions: the arms traffickers. This is so because the intended recipient is an insurgent group, ethnic militia, warlord, or other such entity and is therefore (in most cases) barred from acquiring arms through legal channels. Typically, the recipient approaches the trafficker for assistance in obtaining arms and ammunition. Then the trafficker employs various forms of deception or thievery to obtain the desired weapons from the (presumably) unknowing supplier. Once the arms are acquired, moreover, the trafficker arranges for delivery to the intended recipient, usually with the assistance of complicit shippers.⁴

As in the case of legal sales, one could seek to control the illicit trade by addressing the supply and demand sides of the equation. And, to the degree possible, this should be the aim of the July 2001 conference. This could entail the adoption of strict, uniform controls on the transfer of arms so as to exclude illicit transactions; and the crafting of programs to reduce demand by encouraging economic development in troubled areas and the peaceful resolution of disputes. The conference should also

adopt measures for the successful collection and destruction of weapons made surplus by the end of war, thereby preventing their recycling into new areas of conflict.⁵

Such measures could have a significant impact in reducing the level of illicit sales. But they are not likely to prove fully effective unless steps are taken to eliminate the third component of the illicit-trade relationship, the trafficker. This is so because these actors have become very adept at circumventing existing national and international controls on arms transfers in their efforts to satisfy the demand in areas of conflict. We see this clearly in such existing conflict situations as those in Angola, Burundi, Colombia, Congo, Sierra Leone, Sudan, and Sri Lanka, where the various belligerents have proven relatively successful in obtaining significant supplies of arms and ammunition despite ongoing efforts by the international community to prevent them from doing so.⁶

Like international drug traffickers, those who engage in the illicit commerce in arms have established sophisticated transnational networks for the procurement, financing, and delivery of illicit materials. Unless we can identify, monitor, and disable these networks, we will not succeed in curbing the illicit trade in small arms and light weapons.

Unless we can identify, monitor, and disable transnational networks, we will not succeed in curbing the illicit trade.

At present, however, the international community has a very limited capacity to perform these functions—that is, to identify, monitor, and disable illicit arms-trafficking networks. Some states do, of course, employ their police and intelligence services to keep watch on suspected traffickers who operate in their territory, or otherwise threaten their national interests; but many states—especially those in the developing areas—lack the resources to do this effectively. Moreover, aside from INTERPOL, there is no international body that has this as one of its primary responsibilities—and INTERPOL currently possesses a relatively limited capacity to monitor and suppress illicit arms networks.

It appears, therefore, that any future drive to curb the illicit trade in small arms and light weapons must include as one of its major components an effort to strengthen the international capacity to identify, monitor, and disable transnational trafficking networks. This will require cooperation between those who study the arms trade and those whose responsibility is the effective enforcement of law, and by officials at every level of governance. Ideally, the United Nations should play a central coordinating role in these efforts.

A PROGRAM OF ACTION

Given the complexity of the illicit arms trade, it is apparent that no single law or measure will successfully address all aspects of this problem. Rather, a comprehensive approach is needed, entailing coordinated efforts at the national, regional, and global

levels. This approach should encompass the following steps, each of an increasingly vigorous and focused character.

1. *A comprehensive study of the illicit arms trade in all its aspects.* Although some research has been conducted on the illicit arms trade by specialists in this field, we still know very little about how international arms-trafficking networks operate on a day-to-day basis—to procure arms, to secure financing, to obtain the necessary documentation, and to transport weapons from their point of origin to the point of delivery. Without knowing more about these processes, we cannot devise effective methods for attacking them at the appropriate place and time. As a first step in combating this trade, therefore, the United Nations should conduct a comprehensive study of the dynamics of the illicit arms trade, aimed in particular at illuminating the methods by which such transactions are usually carried out. This study should be based on a systematic examination of police and intelligence data on illicit trafficking operations.

Ideally, the United Nations should appoint an international panel of experts to conduct this study and call on member states to provide the panel with information gleaned from their investigation and prosecution of known traffickers. To the extent possible, this information should be filed in a computerized form, so that analysts could identify frequently used trafficking routes, transshipment points, ports of entry and egress, sources of illicit documentation, and so on. Once available, this information should be provided to those responsible for crafting policies for curbing the illicit arms trade at all levels. Ultimately, this information should form the basis for an on-line database of known and suspected illegal traffickers, financiers, shipping agents, and so on.

2. *Establish a clearinghouse for information on known and suspected illicit arms dealers.* The next step should be to establish a central point of contact for the collection and dissemination of precise information on known and suspected illicit traffickers, financiers, and shippers. This information should be stored in computer form and made available on a real-time basis to authorized governmental agencies—police, customs agents, bank inspectors, and so on—around the world. Police and customs agents and others who oversee arms exports and imports should be encouraged to consult this on-line service when dealing with suspicious transactions, and to continually update the database with new information gleaned from their own investigations and seizures.

The idea for such a clearinghouse first appeared in a speech given to the UN Security Council by U.S. secretary of state Madeleine Albright on September 24, 1998.⁷ Speaking specifically of the situation in Africa, she said, “We should move now to curb arms transfers to zones of conflict.” Such efforts, she declared, should include a “voluntary moratorium” on arms sales to these areas, along with moves aimed at “strengthening the capacity of African governments to monitor and interdict arms flows.” To this end, she added, the UN could “develop a clearinghouse for technical information [on regional arms flows] and for rapid exchange of data on possible violations.”

Provisions for the exchange of information on illicit trafficking operations and for the establishment of a point of contact for the collection and dissemination of such information are also incorporated into the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials. Under Article 13, parties to the convention are obliged to exchange information on such matters as “the means of concealment used in the illicit manufacturing of or trafficking in firearms” and “routes customarily used by criminal organizations engaged in illicit trafficking in firearms.” Also, under Article 14, the parties are obliged to establish “a national body or a single point of contact to act as a liaison” in facilitating the exchange of relevant information.⁸ These provisions could provide a useful model for the adoption of similar measures at the global level.

No single law or measure will successfully address all aspects of this problem.

3. Establish uniform, easily authenticated documentation for arms transfers. From what is currently known of illicit arms transactions, it is clear that traffickers often use false end-user certificates to obtain government approval for sales to nonpermitted recipients, or bribe officials in allowable recipient countries to lend their name to illicit transactions. (It is now believed, for example, that senior Peruvian military officials, including former intelligence chief Vladimiro Montesinos, supplied false end-user certificates for the planned delivery of thousands of surplus Jordanian AK-47 assault rifles to guerrillas in Colombia.⁹) It is imperative, then, that the international community devise a uniform end-user certificate that is difficult to counterfeit and require importers and exporters to employ these certificates in all arms transactions. It should also be possible for government officials to authenticate the validity of certificates presented to them by importers and exporters, ideally by consulting a real-time information-exchange system linking police and customs officials around the world.

4. Enhance the capacity of developing nations to monitor the flow of arms into, through, and from their territory. While many developing countries have expressed their desire to participate in international efforts to curb the illicit trade in small arms and light weapons, they often lack the resources and expertise to effectively monitor the flow of arms into, through, and from their territory. This makes it that much easier for traffickers to circumvent UN arms embargoes and other international curbs on illicit arms deliveries, even when the states involved have pledged to abide by such measures. It is essential, then, that the international community—and especially the wealthier and more developed nations—provide such states with the equipment and training they require to effectively carry out their international obligations in this regard. This could include the provision of computers, communications links, devices for detecting explosives, and so on, along with training in customs inspection and investigation procedures.

In fact, the provision of such assistance is called for in a number of the recent initiatives taken by the international community to address the problem of illicit

arms trafficking. For example, the Inter-American Convention cited above calls on the states, in Article 15, to “cooperate in formulating programs for the exchange of experience and training among competent officials” and to “provide each other assistance that would facilitate their respective access to equipment or technology proven to be effective for the implementation of this convention.” Likewise, the EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms calls on member states of the European Union to take “concerted action to assist other countries in preventing and combating illicit trafficking in arms,” specifically by assisting other countries in adopting “an adequate body of laws and administrative measures for regulating and monitoring effectively transfers of arms” and in deploying “an adequate number of appropriately trained police and customs officials.”¹⁰ Again, these measures could provide the model for similar initiatives at the global level.

5. *Declare known and suspected illicit arms traffickers persona non grata throughout the world.* From our research on the illicit arms trade, it has become apparent that illicit arms traffickers move from country to country to carry out their activities. Typically, a trafficker located in one country acquires arms from a second country, obtains false documents in a third, conducts banking activities in a fourth, hires shippers based in a fifth, and uses transshipment points in a sixth before delivering arms to their intended recipients in a seventh. (In 1995, for instance, a Danish national, Niels Christian Nielsen, employed the services of a British arms dealer, Peter von Kalkstein-Bleach, who bought a plane in Latvia, had it flown to Bulgaria, loaded it there with 300 AK-47 assault rifles and other weapons, and then flew the loaded plane to India, where he air-dropped the weapons to antigovernment insurgents in an area near Calcutta.¹¹) Clearly, it will not be possible to curb the illicit trade in small arms and light weapons unless steps are taken to prevent traffickers from operating in this fashion.

To accomplish this, appropriate legal means must be found to declare known and suspected traffickers *persona non grata* in every country that might be used as a base for one or another facet of the illicit arms trade. People who have been convicted of selling arms illegally in one country should not be allowed to set up business in another country, or to use banks and shipping agencies in other countries for potentially illegal arms transactions. How, exactly, these proscriptions are to be framed and implemented will require further study, but it is quite evident that some measures of this sort are needed to prevent traffickers from circumventing steps taken by the international community to curb the illicit trade in small arms and light weapons.


6. *Establish mechanisms for collaborative multilateral efforts to track and disable illicit trafficking networks.* Ultimately, all of these other efforts will only prove fruitful if concerned states employ the measures described above as the basis for joint action to identify, monitor, and disable illicit arms-trafficking networks. A major goal of the July 2001 UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects must, therefore, be to establish mechanisms for cooperation between member states in efforts to actively combat the illicit arms trade.

Ideally, this should entail cooperation between intelligence services in monitoring the activities of known and suspected traffickers, plus joint efforts by law-enforcement personnel to apprehend and bring to trial those found to be engaged in illegal trafficking activities. As in the case of anti-narcotics efforts, moreover, cooperative action is needed to prevent traffickers and their clients from using the international banking system to finance their illicit transactions.

Again, we find that authorization for such cooperative action is embodied in a number of recent international initiatives, notably the Inter-American Convention. Under Article 14, we find, "States parties shall cooperate at the bilateral, regional, and international levels to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials." To this end, provision is made for consultation and information exchange among the appropriate law-enforcement bodies in OAS member states. These provisions should provide the model for global efforts of this sort.

CONCLUSION

Participants at the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects will have a historic opportunity to take concrete action to curb the illicit flow of arms and ammunition to areas of conflict and civil violence. As has been argued above, these efforts must include measures aimed not only at suppliers and recipients of illicit arms but also at those who manage the flow of weaponry from one to the other. Without such measures, efforts to curb the illicit trade are likely to fail.

In addressing this aspect of the trade, moreover, it will be necessary to adopt a comprehensive approach aimed at identifying suspected traffickers, mapping their modes of operation, and taking steps to terminate their activities. As noted, this will require cooperation between officials and specialized personnel at every level—local, national, regional, and global. This is a demanding requirement, but, with sufficient political will, the international community can lay the groundwork for such an effort at the forthcoming UN 2001 conference. 

Notes

1 UN General Assembly, "General and Complete Disarmament: Small Arms, Report of the Panel of Governmental Experts on Small Arms," UN Doc. A/52/298, August 27, 1997, p. 17.

2 For background on UN efforts in the small arms field, see Graciela Uribe de Lozano, "The United Nations and the Control of Light Weapons," in Jeffrey Boutwell and Michael T. Klare, eds., *Light Weapons and Civil Conflict: Controlling the Tools of Violence* (Lanham, MD: Rowman and Littlefield, 1999), pp. 161–72.

3 For background on the illicit arms trade, see "The Covert Arms Trade," *The Economist*, February 12, 1994, pp. 21–23; Michael T. Klare, "The Thriving Black Market for Weapons," *Bulletin of the Atomic Scientists*, April 1988, pp. 16–24; Klare, "The Subterranean Arms Trade," in Andrew J. Pierre, ed., *Cascade of Arms* (Washington, DC: Brookings Institution Press, 1997), pp. 43–71; Edward J. Laurance, "Political Implications of Illegal Arms Exports from the United States," *Political Science Quarterly*, vol. 107, no. 3 (Fall 1992), pp. 109–40; Lora Lumpe, ed., *Running Guns: The Global Black Market in Small Arms* (London: Zed Books, 2000); UN General Assembly, "Illicit Traffic in Small Arms," Report of the Secretary-General, UN Doc. A/54/404, September 24, 1999.

4 For information on the mechanics of illicit arms trafficking, see the essays in Lumpe, *Running Guns*, especially those by Brian Johnson-Thomas, Brian Wood and Johan Peleman, and R.T. Naylor.

5 For discussion of such measures, see Jeffrey Boutwell and Michael T. Klare, "Light Weapons and Civil Conflict: Policy Options for the International Community," in Boutwell and Klare, eds., *Light Weapons and Civil Conflict*, pp. 217–30. See also Klare, "Stemming the Lethal Trade in Small Arms and Light Weapons," *Issues in Science and Technology*, Fall 1995, pp. 52–58.

6 For background and discussion, see Kathi Austin, "Light Weapons and Conflict in the Great Lakes Region of Africa," and Tara Kartha, "Controlling the Black and Gray Markets in Small Arms in South Asia," in Boutwell and Klare, eds., *Light Weapons and Civil Conflict*, pp. 29–48 and 49–61, respectively. See also Human Rights Watch Arms Project, *Stoking the Fires: Military Assistance and Arms Trafficking in Burundi* (New York and Washington, DC: Human Rights Watch, 1997).

7 Madeleine Albright, "Statement to the UN Security Council Ministerial on Africa," United Nations, New York, September 24, 1998 (available: <http://secretary.state.gov/www/statements/1998/980924.html>).

8 Organization of American States, General Assembly, "Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials," AG/RES. 1 (XXIV-E/97), November 13, 1997. For discussion of this treaty, see James P. McShane, "Light Weapons and International Law Enforcement," in Boutwell and Klare, eds., *Light Weapons and Civil Conflict*, pp. 173–82.

9 Tim Golden, "C.I.A. Links Cited on Peru Arms Deal That Backfired," *The New York Times*, November 6, 2000.

10 "European Union Programme for Preventing and Combating Illicit Trafficking in Conventional Arms," December 10, 1996 (available: <http://www.prepcom.org/low/pc2/pc2a6.html>).

11 Raymond Bonner, "The Murky Life of an International Gun Dealer," *The New York Times*, July 14, 1998.