

## The Arms Fixers

### *Preface*

#### **THE SMALL ARMS PLAGUE**

During the 1990s, millions have died in armed conflicts and in their immediate aftermath. Most of the victims have been civilians. And most of them have been killed by small arms such as automatic rifles, submachine guns, grenades and other weapons that a single person can easily carry and use.

The widespread availability of small arms is a global plague that rages more or less out of control. There is little systematic information about it, though the suffering it causes is well understood. Not only are small arms the commonest weapons in armed conflicts (as well as in crime and in political repression) – their very presence makes it hard for war-torn societies to recover from conflict. The easy availability of small arms can make war more likely in tense situations, more vicious once started, and harder to recover from once over.

This is a problem with many dimensions. There is both a legal and an illegal trade in small arms. One aspect that makes the trade extremely difficult to monitor, let alone control, is the role of the middlemen – the brokers and the shipping agents, the deal-makers who arrange for the shipment of quantities of small arms and associated military and paramilitary equipment, sometimes new, sometimes second-hand. This is one part of the problem about which there is particularly little information, and an aspect with which governments have not yet come to grips.

Arms brokers and gunrunners have been able to get hold of surplus stocks of weapons, no longer needed now that the Cold War has ended. The globalization of trade,

communications and finance has enabled them to push the envelope of legality, and take advantage of the gaps within and between national legal systems. Laws have not kept pace with their activities, so much of what arms brokers do takes place within a grey zone of legality. And if one country has inconveniently stiff laws, arms brokers simply locate part of their activities in a state that is more lax, exploiting the weakest links in the international chain.

The aim of this investigative and policy report is both to lift the veil on the world of arms brokers, and to suggest policies that can address the problem. What is needed is international agreement to control and restrict the activities of arms brokers, to close the gaps in the laws, to make sure they are as answerable to law as any other international trader.

Recent years have witnessed a growing international movement of nongovernmental organizations and some governments, who have formed a coalition aimed at bringing under control the international transfer of small arms from one country to another. The Norwegian Initiative on Small Arms Transfers (NISAT) was established in 1997, in the wake of the Ottawa Convention on the Prohibition of the Use, Stockpiling,

Production and Transfer of Anti-personnel Mines and on their Destruction. The

organizations that constitute NISAT – Norwegian Red Cross, Norwegian Church Aid, the Norwegian Institute of International Affairs, and the International Peace Research Institute, Oslo (PRIO) – joined other NGOs around the world in recognizing small arms as the next great humanitarian campaign after landmines. The British-American Security Information Council (BASIC) has been involved in research and lobbying on the small arms issue since 1994, when BASIC established its Project on Light Weapons. Recently, BASIC has been one of the driving forces behind the establishment of IANSA – the International Action Network on Small Arms – a global coalition of NGOs active on small arms. BASIC, NISAT and PRIO have worked together to produce this report.

*The Arms Fixers* is based on painstaking research over the past year conducted by Brian Wood and John Peleman, in which they interviewed primary sources, compiled the evidence, and identified the patterns. On the basis of that close examination of the problems, the authors make detailed proposals for controlling the activities of arms brokers worldwide. Unless specifically stated, no individual, company or other entity mentioned in this report is considered to have deliberately set out to contribute to serious crimes, and information is presented by the authors merely to illustrate the nature of the problem and what governments can do to address it.

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### The Arms Fixers

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## The Arms Fixers

### **Introduction**

Arms brokers and transport agents locate arms as cheaply as possible. Then some send them by circuitous international routes to the most conflict-torn countries and regions of human rights abuse in the world. This study looks at what they do, and makes proposals for stopping it.

The brokers and transport agents studied here systematically use Europe as a staging post for deals in the rest of the world, while also developing satellite posts with partners in other countries. Many authorities in Europe are of course aware that some of their citizens and residents are involved as brokers and transport agents trading arms via third countries to illegal and controversial destinations, but the most powerful governments – those who could set an example – have failed to close the loopholes in their national laws. Lack of international trust and cooperation, political inertia, public ignorance of the gravity of the problem, failure to develop professional law enforcement, and fear of the powerful arms industry lobby – these are some of the reasons that allow this deadly situation to continue.

Most agents try to ensure that the activities they conduct are purely legal – but ‘legal’ often has little meaning, because few states have strict laws and regulations specifically designed to control the international activities of such agents. Home authorities tend to assume that their foreign arms deals are controlled from other jurisdictions. Some brokers and transport agents in this study are shown to have arranged the ‘legal’ supply of arms to perpetrators of international crimes against humanity and war crimes. They have been allowed to circumvent United Nations mandatory arms embargoes and national arms control regulations, making a mockery of the rule of law.

Agents who broker and arrange the transport of arms outside their home countries, taking the profits through offshore accounts, can easily locate cheap supplies of arms in states that lack the capacity to control arms exports and surplus stocks properly, or whose governance is so weak that there is no manifest political will to exercise proper control. By using increasingly global networks, these ‘fixers’ can find customers – some in governments, some not – who will buy or barter small arms, light weapons and associated military equipment so as to engage in organized crime, suppress political opponents and fight civil wars, regardless of the high proportion of civilian casualties.<sup>1</sup> To cover up their trail – for legal or purely ethical reasons, but also to

secure their future business prospects from unscrupulous customers – arms fixers

establish intricate international networks of sub-contractors, front companies and

devious transport routes. Some also use the same techniques for trafficking in other controlled or illegal goods.

A growing body of research and published literature is emerging to address the worldwide problem of small arms and light weapons proliferation. Often, however, the analysis and policy solutions do not fully address the real world of international small-arms dealers and the methods used to carry out arms transfers on the fringes of the law. The only available data on international arms transfers concern those items sent or authorized from country A to country B. This information may be adequate for tracking large conventional arms, but not for identifying who is behind much of the modern trade in small arms. Moreover, most governments are insufficiently transparent about exports of small arms, light weapons and paramilitary equipment, making it very difficult for independent researchers to uncover and reliably document the hidden deals and complex routes used by arms fixers.

This study seeks to cast light on some recent cases of arms brokering and trafficking via third countries to regions of violent conflict and serious human rights abuse. We want to describe the activities of arms brokers and trafficking or transport agents (also known as shipping agents or brokers) and their associated sub-contractors, in order to examine what measures governments can take to prevent such activities from contributing to serious violations of international law. We also propose an agenda for change which includes a package of interdependent recommendations for priority action by governments.

Research on this topic is difficult because secrecy is *de riguer* in the arms brokering and supplying business, especially where illegitimate customers and controversial destinations are involved. Creating the documentation and laundering the money is a skill that brokers deploy for this purpose. Experienced transporters and shipping agents, some willing to risk their lives and freedom for a substantial undercover payment, are also central to the arms-fixing business; they try not to leave accurate records, especially not about their paymasters. The cases in this study should be read with that in mind.

## **Into the 21st Century**

During the Cold War, arms brokers and shippers developed outside the state system, but with close ties to competing national security agencies. They were used to make covert arms transfers to politically favoured recipients of the major powers. But with the growth of free markets in international finance and products, and changing technologies, a new breed of arms fixers has broken away from informal reigns of the old patrimonial state security systems. They are beyond control.

Arms brokering and trafficking have expanded virtually unchecked throughout and beyond the Cold War era. This

expansion seems set to continue into the next century unless governments can establish significantly better laws and regulations, as well as administrative and law enforcement systems to address the problem. Most European countries now have hundreds if not thousands of private brokering agents and companies that are registered or allowed to trade internationally in military and security equipment. They have used the deregulated European common market to seek opportunities to trade arms as part of the free transfer of goods within the European Union, and have taken advantage of other international agreements, such as the NATO treaty, to circumvent stricter export and import controls.

A new wave of arms brokering and shipping agents has emerged in the 1990s, located in hitherto less-developed countries. Learning the tricks of the trade from their counterparts in the better-off countries of Western Europe and North America, such brokers and shippers have the comparative advantage of being closer to the zones of violent conflict and hence to the demand side of the market for arms. Many in the new wave of brokers and trafficking agents are retired or even serving military and security officers who have started up their own companies, or who go into partnership with others with a business background. They might also be former employees of arms companies.<sup>2</sup> Sometimes these dealers and operators have emerged from the procurement wing of armed opposition groups like the Tamil Tigers. Alongside them are the growing band of private military companies that have a more specific arms brokering and shipping role. One such company, Executive Outcomes, has been based in South Africa and registered in the UK, but it was part of a wide international network of corporate interests providing military services for mining interests.<sup>3</sup>

The international community has agreed to exercise restraint and caution in considering arms transfers that may contribute to excessive and destabilizing accumulations of small arms and light weapons and ammunition.<sup>4</sup> Powerful Western governments, in particular, have led the calls for joint action to this end.<sup>5</sup> However, such calls for restraint and caution are meaningless unless backed up by strict laws and regulations, and effective law enforcement – because, in the real world, the senders and recipients of arms in countries chosen for business by unscrupulous brokers can be corrupt officials, or regimes that grossly violate human rights, or even armed opposition or criminal groups.

## Some Definitions

In this report, manufacturers of arms and arms dealers are defined as follows:

- *Manufacturers* develop, make, assemble, repair or convert small arms and light weapons and ammunition (and components). In many cases, manufacturing operations involve co-production and other licensing arrangements of an international nature.
- *Dealers* in arms engage in one of at least three types of commercial activity:
  1. retailing and wholesaling, acting as a merchant buying and selling quantities of arms;
  2. brokering, arranging or facilitating arms deals, so as to benefit materially from the deals, without necessarily taking ownership of the arms;

trafficking, contracting transport facilities, carriers and their crew to deliver arms cargoes, ensuring that storage, ports and routes are available to complete each deal, but not necessarily carrying out the actual transportation. Transport agents making such arrangements include ‘shipping agents and brokers’, ‘freight forwarders’ and ‘charterers’.<sup>6</sup>

In the following we will focus on the second and third types of dealers, which are closely interdependent.<sup>7</sup>

For the purposes of this study, ‘arms’ may include all types of military, security and police equipment and services, although many governments fail to include all such items. The focus here is on small arms, light weapons and associated explosives and equipment; the generic term ‘small arms’ will be employed as shorthand to cover this wide range of military and paramilitary equipment that is used in current civil wars, internal repression and violent crime.<sup>8</sup> ‘Arms transfers’ refers to all arms transferred outside the control of the state from which they are sent. All dollars are US dollars.

If governments wish to argue that such arms dealers have legitimate activities, they must strictly regulate all three types of arms dealing. Despite the millions of victims in the world who have suffered from the proliferation of small arms, most governments have failed lamentably in their duty to provide such regulation.

<sup>1</sup> International Committee of the Red Cross, *Arms Availability and the Situation of Civilians in Armed Conflict* (Geneva, June 1999).

<sup>2</sup> Ferial Haffajee, ‘New Black Guns Blast into Arms World’, *Daily Mail and Guardian* (South Africa), 1 August 1997.

<sup>3</sup> Journey Pictures, ‘The War Business’, Dispatches, Channel 4 Television, UK, April 1998.

<sup>4</sup> United Nations General Assembly, resolution 52/38 J, 9 December 1997, endorsing the recommendations of a report entitled ‘Small Arms’ prepared by a Panel of Governmental Experts.

<sup>5</sup> See, for example, the statement by 21 like-minded states under the auspices of Canada and

Norway, 'An International Agenda on Small Arms and Light Weapons: Elements of a Common Understanding', *Norway Information*, Ministry of Foreign Affairs, Oslo, July 1998; and the *Brussels Call for Action*, Conference on Sustainable Disarmament for Sustainable Development, attended by over 100 government representatives and 300 others, hosted by the Belgian Minister for Development Cooperation, October 1988.

<sup>6</sup> 'Shipping' can mean trafficking by sea, air or road. The vessels used are often leased or chartered. Some shipping agents call themselves shipping brokers. The generic term 'transport agents' is used here unless a more specific description is required. See *Report by a Consultative Group 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*, contained in Note by the Secretary-General, United Nations, A/54/160, 6 July 1999.

<sup>7</sup> In its White Paper of July 1998 on Strategic Export Controls, the UK government defines brokering as 'Acting, as an agent in putting a deal together between supplier and customer, or making the practical arrangements for the supply of the goods.'

<sup>8</sup> UN-agreed definitions: (a) small arms: include revolvers and self loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns below 20 mm in calibre; (b) light weapons: include heavy machine guns over 20 mm in calibre, portable anti-aircraft guns, portable anti-tank guns and recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems and mortars of less than 100 mm; (c) ammunition and explosive devices used for the above (Paragraph 26 of the *Report of the UN Panel of Government Experts on Small Arms*, UN Secretary General to the General Assembly, A/52/298, 27 August 1997). By 'associated military and paramilitary equipment', we mean items commonly used to facilitate the movement, communications and protection of warring parties, internal security forces and criminals who primarily use small arms and light weapons.

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## The Arms Fixers

### *Chapter 1*

#### **Arms Brokering Emerges from the Cold War**

Most governments have been very slow to change their controls on small arms and light weapons to meet the new economic, political and military challenges of the post-Cold War period. In today's complex global markets, more or less unregulated brokering agents can fairly easily arrange international arms transfers by bringing buyers and sellers together in an atmosphere of secrecy. The brokers do not necessarily buy and sell the arms themselves, but they make money from the transaction. The more controversial the deal, the more they go to considerable lengths to disguise the payments. Brokers have to make sure the arms are delivered, so they work closely in league with specialized transport agents. The latter make the arrangements by air, sea and road; if the cargo route is legally questionable or unsafe, the agent may engage in complex sub-contracting arrangements across several countries.

Under many existing national laws, international arms transfers are supposed to be initiated as a transaction only after an exporting agent has obtained the approval of the home government. However, it is rarely necessary to obtain such approval when the arms have been procured in a foreign country and do not enter the country in which the broker or shipping agent resides. This means that the activities of arms brokers and their shipping agents can remain outside the arms-control laws and regulations of their own country. This system was designed, often by default, around the time of World War II, when almost all arms transfers were state-to-state. [Tracing the Roots](#)

A look into the antecedents of modern arms brokering and shipping and its uses by senior authorities in powerful Western states can shed some light on the failure to regulate those activities properly. In 1997, NATO'S Secretary-General had to resign over a corruption scandal involving agents and brokers of Italian and French aircraft and helicopter sales to the Belgian armed forces. In the 1980s, Swedish, Danish, British, German, French, Spanish, Belgian and Dutch arms companies were exposed for their involvement in the 'munitions cartel' and the secret sale of hundreds

of tons of explosives and artillery to apartheid South Africa and the Iran–Iraq warring parties.<sup>2</sup> The ongoing confrontation with Iraq and several years of inspections of Iraq’s high-tech arsenal of weapons of mass destruction have shown that anything can be acquired in the secret world of the global arms trade, and that hardly any arms-producing country can claim its innocence.

Historically, state-owned companies and multinational companies have dominated the global arms business through ‘government-to-government’ contracts – although increasingly it is not government forces that have ended up with the arms. The contacts between the supplying government and the client government would normally run through official, though discreet, meetings involving business representatives and high-ranking military or embassy officials in the countries involved in the transfer. More and more, however, governments started using the services of well-connected and shrewd arms trade middlemen to establish personal contacts with the clients to create trust and obtain confidential information so as to maximize benefits and arrange the complex contracts and safe delivery. Over the years, some of these private middle-

men have made fortunes in commissions, consultancy fees or bribes, especially when the deals involve fierce competition among profit-hungry arms producers, or shipments to illegitimate, embargoed recipients.

The activities of a few famous arms brokers can illustrate their origins as agents for covert state security operations during the Cold War, as well as their links to international organized crime. In the 1970s, the Northrop and Lockheed bribery scandals erupted, involving companies that today are still listed among the world’s top-100 weapons producers. Governments from the USA to the Gulf and Japan were rocked. Some of the brokers involved, such as Lockheed’s agent for the Middle East, Adnan Khashoggi, remained actively involved in the rogue business after the scandals. Khashoggi, who is thought to live in Spain, was once said to be one of the richest men on earth.<sup>3</sup> Apart from his role in the sale of aircraft to Saudi Arabia in the 1970s, Khashoggi turned out to be a key player in the Iran-Contra case.<sup>4</sup> He was also a key figure in the US Senate report on the collapse due to fraud of the Bank of Credit and Commerce International,<sup>5</sup> as well as to numerous smaller scandals involving the arming of dictatorships and of US-favoured guerrilla movements in the Third World. In 1997, Thai authorities issued an international warrant for his arrest, in connection with the near collapse of the Bangkok Bank of Commerce Khashoggi was wanted on charges of falsifying documents and embezzling \$77 million.<sup>6</sup>

Recently, Rakesh Saxena, an acquaintance of Khashoggi and a former adviser to the Bangkok Bank, has been fighting his extradition in Canada. While being ‘the most wanted man in Thailand’ according to *Asiaweek*,<sup>7</sup> Saxena financed the \$10 million consignment of arms that were sent to UN-embargoed Sierra Leone by the British private military company Sandline International, causing considerable embarrassment to the British government.<sup>8</sup>

Another acquaintance of Khashoggi is the Syrian dealer Monzer Al-Kassar, described by the US Drug Enforcement Administration as one of the most important figures in the international drug trade. The US Senate investigation on the BCCI Affairs refers to Al-Kassar as a ‘Syrian drug trafficker, terrorist and arms trafficker’.<sup>9</sup> Al-Kassar was under investigation in Switzerland for violating the arms embargo on Croatia and Bosnia-Herzegovina.<sup>10</sup> He was involved in the ‘Irangate’ affair<sup>11</sup> and in the sale of weapons to Libya in 1983, was sought by Interpol for swapping weapons supplied by the Italian mafia for drugs in 1977, and was suspected of supplying weapons to the commando group that hijacked the *Achille Lauro* in 1985.<sup>12</sup> He was also named as a suspect in the terrorist attack on the passenger jet over Lockerbie.<sup>13</sup> Recently, he was named in political scandals involving the president of Argentina<sup>14</sup> and the mayor of the coastal resort of Marbella in Spain, where Al-Kassar – the ‘Prince of Marbella’ – owned a large residence.<sup>15</sup>

Already in the early years of the Cold War, intelligence services started using complex arrangements involving private airlines for clandestine weapons shipments to disguise their operations. In time, independent arms brokers and shippers simply copied these techniques, especially as the Cold War began to wane and former officers joined the private security markets. Air America, one of the biggest private airlines in the 1960s, was secretly owned by the US Central Intelligence Agency to camouflage its clandestine missions in Laos, Vietnam and Cambodia.<sup>16</sup> Other such airlines served the hidden agendas of the colonial powers during the wars of independence in Africa. Many of the pilots from the Western war effort in Indochina in the 1960s later supplied the favoured regimes and opposition groups in Central America, Africa, South Asia or the Middle East during the 1980s. In 1998, the CIA released a report on the agency’s policy towards the US-backed Contra guerrillas in Nicaragua.<sup>17</sup> It revealed that at least ten privately operated airlines and crews were involved. The final report of the Walsh Commission investigating the Iran-Contra affair also listed a few of the cargo companies involved in clandestine missions.<sup>18</sup> The CIA also used privately operated aircraft to arm UNITA in Angola. It was almost inevitable that, over the years, many of the pilots and operators of these secret missions would turn to business in the private sector and would simply apply the same tricks of the trade independently, wherever they could earn more money.

The former Soviet Union was long believed to be less reliant on brokers and private players, but this was not always true. Al-Kassar was as well connected in the Warsaw Pact countries as he was in NATO and allied countries. As soon as the Berlin Wall came down, more light was shed on the private networks used by Moscow and its satellites. In

December 1989, angry East German citizens accompanied by TV camera crews stormed a highly guarded site near Rostock and uncovered a huge secret arms and ammunition depot.<sup>19</sup> The depot had been under control of IMES GmbH, a little-known East German state company that was run by East Germany's deputy foreign trade minister, Alexander Schalck-Golodkowski.

The East German company had been a key part of an international smuggling network with secret bank accounts and shell companies in West Germany, Switzerland and Liechtenstein. The IMES company name had been exposed in the West back in 1985, when Swedish customs officials started investigating the activities of the 'munitions cartel' mentioned in the first section of this chapter. Some years later, Western intelligence agencies, including the US Iran-Contra arms and money networks, used IMES and the East German structure for secret weapons supplies to guerrilla movements in Central America.<sup>20</sup> Schalck-Golodkowski had reportedly been involved in a massive, decade-long smuggling operation of weapons, antiques and even drugs.<sup>21</sup> He was, however, only charged with the illicit import of military and dual-use items into East Germany between 1986 and 1989 and with the embezzlement of rather small amounts of foreign currency. He was sentenced to one year's imprisonment in January 1996, and to 16 months' imprisonment in 1997, respectively.<sup>22</sup> In April 1999, a higher court acquitted him on the latter of the two charges.<sup>23</sup> In Britain, David Stirling, founder of the Special Air Service (SAS), set up a company in 1967 called Watchguard, to 'tackle really important military objectives which couldn't be tackled officially because of questions in the House of Commons'.<sup>24</sup> It was registered on the island of Guernsey. He took his inspiration from Airwork Ltd, a subsidiary of the British Commonwealth Shipping Company. Airwork was a private airline, specializing in aircraft maintenance, pilot training and defence procurement and training. Between 1936 and 1954, Airwork trained some 35,000 air crew. By the 1980s it was employing 3,000 specialists, mostly on work for the UK Ministry of Defence, and it had ferried special force personnel to trouble-spots in the Middle East, West Africa and Malaya. Its anonymous charter flights and use of different names and uniforms sometimes appeared in the media. Airwork also specialized in the 'purchase of defence systems and the formulation of national defence policies' in Commonwealth countries.<sup>25</sup> It was also accused of sanctions-busting operations in white-ruled southern Africa, providing 400 British nationals to do maintenance work for the Rhodesian air force in the late 1960s.<sup>26</sup> By 1976, when Watchguard closed, the company was known in SAS circles as 'Plan-a-War'. Clandestine UK arms supply operations could also be subcontracted to a range of companies with SAS links. One was KMS Ltd., which was contracted by the Foreign and Commonwealth Office. In the wake of the 'Irangate' Tower Report, the *London Daily News* commented: 'KMS is no ordinary security company.' According to White House documents and Congressional Hearings, it 'had a contract to supply air crews to fly arms to Nicaragua.'<sup>27</sup> Other companies were Thor Security Systems and J. Donne Holdings, both specializing in brokering and delivering supplies of military and security equipment. The first managing director of Thor, established in 1976, was also a director of the Royal Ordnance Corporation, one of Britain's major arms and ammunition manufacturers. These UK companies set the scene for today's 'private military companies' like Sandline International and Executive Outcomes.

## The French Connection

Throughout the Cold War, French authorities made extensive use of business networks in the former French colonies to transfer arms secretly. As the only world power with a permanent military presence in several 'independent' African countries, successive governments in France kept a close eye on the arms supply and military support of its preferred heads of state.

When discretion was needed in supplying political clients, the private networks of Jacques Foccart and the influential lobbies and private intelligence structures of oil companies or French commodity traders could be activated. They tried to make sure developments in the newly independent states would stay in line with the interests of the former colonial power.<sup>28</sup> Until his death in 1997, Foccart, the mysterious architect and broker of French Africa policy since de Gaulle, maintained an obscure web of former intelligence and military experts for this purpose. These were people, often recruited from the French Foreign Legion or veterans of the de-colonization war in Algeria, who could be activated at any time.<sup>29</sup> Usually when the interests of Paris or the French business community in Africa were at stake, clandestine weapons shipments, the secret backing of unpopular leaders or the recruitment of mercenaries could all be arranged through a convenient and quasi-private network.

In May 1999 one of the world's most notorious mercenaries, Bob Denard, stood trial for his alleged involvement in the assassination of the president of the Comoros in 1989.<sup>30</sup> Denard, who had been involved in numerous operations and coup attempts all over Africa, had mostly acted with the blessing of Foccart and, discreetly, of the French presidency, according to his version of the facts.<sup>31</sup> In recent years, French

brokers, or decommissioned special force officers, have acted more independently and have incorporated themselves, competing with US, British, Portuguese, South African, Israeli or Russian private military-supply networks. The recent

allegations involving the oil giant Elf Aquitaine's brokering role in several major weapons transactions in France only add another chapter to the long list of scandals.<sup>32</sup>

Another spectacular case came before a Paris court in 1998 when a Portuguese arms dealer – with a company registered in Britain – was seeking payment of \$3 million for his role in a sanctions-busting transaction to South Africa during the apartheid era. He claimed to have brokered the sale of military helicopters to the Pretoria regime from French arms producer Aerospatiale, involving the Portuguese aerospace producer Ogma and Armscor, the state arms company in South Africa. The Portuguese dealer said he had arranged the smuggling of crates of helicopter engines and rotors from France, via Portugal, to embargoed South Africa in 1989, but had never received his 10% commission.<sup>33</sup> Such networks spawned a generation of South African arms brokers who have plied their trade in Africa and beyond.

## Small Arms and Mr Cummings

At the low-tech level of arms brokering, the international trade was long dominated by a US- and British-based trading company, the International Armament Corporation, better known as Interarms. The sole owner of the company, Samuel Cummings, was a former CIA agent who used his connections to run the operations from the time he set up the company in the USA in 1953 until his death in April 1998.<sup>34</sup>

Cummings began brokering private arms deals, buying and selling small arms at the age of 26. He later started subsidiaries in the UK, Canada and elsewhere. He made his first millions by buying surplus weapons left over from World War II in Europe and shipping them to the newly independent states of Africa, Latin America and the Far East. By 1960 Cummings was the most important private arms dealer in the world, boasting he could arm, within 24 hours, half a million men. Between 1953 and 1968, he bought more than 4.5 million guns and 500 million rounds of ammunition from European stocks. Most of his clients were Third World governments; he developed personal friendships with numerous dictators and heads of state, generating a turnover estimated at US \$80 million each year from buying and selling pistols, rifles, sub-machine guns and hand grenades.

Cummings was prepared to sell to anyone. He claimed never to have broken the laws of the USA and the UK, where his headquarters were based – which itself is an indication of how loose the laws have been. He was caught only once for breaking an

embargo, when he brokered a deal for Pakistan in 1965. The shells were flown from West Germany to Iran and then sent to Pakistan 'for repair'.<sup>35</sup>

In 1968, the US government passed the 1968 Gun Control Act prohibiting the importation of military weapons.

Anticipating the ban before it went into effect, Interarms went on a global buying spree that enabled Cummings to keep his US operations thriving for many years. When the ban finally came into effect, Cummings had some 700,000 small arms stored in his warehouses in Alexandria, Virginia. Interarms also supplied the massive American sports shooting market. Among Cummings' most profitable deals were the US franchises for Uzi sub-machine guns, and pistol sales for the Walther company in Germany. In the 1980s, the US Customs Service conducted a probe into the way in which the Walther pistols were being marketed, but all charges were eventually dropped<sup>36</sup>

## Changing Old Assumptions

The increasing globalization of trade and electronic info-commerce make it easier than ever for experienced arms dealers and operators to circumvent national arms control systems and to exploit the weakest links in a fragile international regulatory chain. Globalization has enabled the aviation industry to move away from traditional public ownership and regulation. Cross-border mergers between airlines, marketing alliances, leasing, chartering, franchising and offshore registration of fleets, crews and companies all make it very difficult to monitor and regulate the airspace and freighting

industry. Brokers and shipping agents have become skilled exploiters of these new market realities.

The news media and public are also increasingly aware that arms – especially small arms and light weapons – are being allowed to fall into the hands of violent criminal gangs, as well as unauthorized, unaccountable, untrained, and irresponsible soldiers and police. TV and radio broadcasts all too often recount horrific atrocities and preventable abuse carried out with small arms. As a result, nongovernmental humanitarian and other organizations working in the field are calling out, more frequently and vociferously, that loopholes in arms control systems and arms embargo regulations must be closed without delay. Some governments have acknowledged that they need to take proactive steps to provide a more effective regulatory system, but the majority still hesitate to rein in the arms brokers and their shipping agents.

When challenged, several powerful Western governments have retorted that these loopholes are not their problem –

because arms export cargoes 'should' be checked and approved by the authorities in the sending country as well as by authorities in the territory of trans-shipment or transit, and finally in the recipient country. However, officials do acknowledge that, in the real world, senders and recipients of arms in countries chosen for business by unscrupulous brokers may turn out to be corrupt

officials, or regimes that grossly violate human rights, or even armed opposition or criminal groups.

It is increasingly recognized that the real economic cost to arms-exporting countries of such activities can be measured in terms of lost export markets, lost opportunities for new productive investment abroad by civilian companies, and squandered development and relief assistance. This loss of potential income is massive compared to the very small income accruing from sales of cheap arms, much of it regarded as surplus. The World Bank estimated that armed conflict in Africa was responsible for poverty of at least 250 million people – nearly half the population of the continent.<sup>37</sup> This phenomenon is replicated, to a lesser degree, in other regions that also face chronic

problems of economic underdevelopment, armed conflict and violent crime.

Perhaps the worst-affected region has been Central Africa, from Burundi, Rwanda and Uganda across the Democratic Republic of Congo, to Angola and the Congo Republic (Brazzaville). Arms trafficking and direct military intervention in this region have become interlinked with those in neighbouring regions, including the Horn of Africa, Southern Africa and West Africa. Governments and armed opposition groups there bear responsibility for targeting civilians through acts of reprisal killing, arbitrary

arrest, abduction and torture. The most common weapons used in these crimes are small arms and associated equipment such as air and road military transport vehicles. Over the past five years, these items have flowed to the perpetrators of international crimes in Central Africa from over 20 member-states of the Organization for Security and Co-operation in Europe (OSCE), as well as from certain other states, such as China, Israel and South Africa.<sup>38</sup> Recent arms and equipment supplies have occurred in disregard of appeals by the governments of the European Union (EU) and EU Associated Countries, Canada and the USA, as well as international humanitarian and human rights organizations. Arms brokers and their associates have arranged the

supply of much of this military equipment, as some of the evidence presented in the following chapters will testify.

With the end of the Cold War, the role of arms brokers and trafficking agents in the market has been rapidly changing.

The cases in this study describe this shift, and show that arms brokers and trafficking agents are increasingly:

- businessmen with military and security backgrounds and contacts;
- motivated by economic gain rather than strategic political considerations;
- able to use loopholes and enclaves of weak regulation between national legal systems to conduct 'legal' but often unethical business via third countries;
- able to use agents and techniques developed in the modern international transport industry to conduct covert deliveries to sensitive destinations;
- able to arrange complex international banking transactions and company formations in many countries, including the use of tax havens;
- able to locate sources of cheap, easily-transportable arms for desperate customers in areas of violent conflict willing to pay much higher prices;
- reliant on personal contacts and networks more than corporate identities;
- thriving on corruptible officials and weak law enforcement;
- tempted in some cases to use fake documentation and bribery which can lead into an involvement with smuggling and organized crime.

The pace of redefining the common interests of the international community so that all states can bring arms brokers and transport agents into a strict national regulatory system is still very slow, when viewed in relation to the humanitarian crises and the growth of organized criminal networks. Officials do acknowledge that controls will have to be harmonized across frontiers, so that the problem is not simply chased away from one country to the next, but too many governments remain stuck in a Cold War mentality. Before such international cooperation can be realized, a great deal more political will needs to be generated. The most powerful states have already declared their support for effective measures to control international arms transfers.<sup>39</sup> However, as this study shows, the rhetoric far exceeds the reality.

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<sup>1</sup> United Nations experts agree: 'Just as they are key to the legitimate trade, some brokers also service the illicit trade. During the cold war period, brokers often served the Government-sanctioned 'grey markets' which provided them with a certain level of legitimacy. With the end of the cold war, their role in the market has changed.' *United Nations, Report of the Group of Experts on the problem of ammunition and explosives*, Note by the Secretary-General, A/54/155, 29 June 1999.

<sup>2</sup> 'International Connections of the Bofors Affair', Swedish Peace and Arbitration Society,

December 1987. Also: Documents and extracts of the Swedish customs investigation, 1985–86 (IPIS archives, Antwerp).

<sup>3</sup> On the scandals of the 1970s, including Khashoggi's early career in the business, see Anthony Sampson, *The Arms Bazaar* (London: Hodder and Stoughton, 1977). (Published in the USA by Bantam Books, New York, 1978.)

<sup>4</sup> Lawrence E. Walsh, Independent Counsel, *Final Report of the Independent Counsel for Iran/Contra Matters, volume I, Investigations and Prosecutions*, US Court of Appeals for the District of Columbia Circuit, Washington, DC, 4 August 1993.

<sup>5</sup> Senator John Kerry & Senator Hank Brown, *The BCCI Affair: A Report to the Committee on Foreign Relations*, United States Senate, December 1992 (Section 11, 'BCCI, The CIA and Foreign Intelligence').

<sup>6</sup> S. Sivaraman & P. Golub, 'Wild Goose Chase for Khashoggi', *Asia Times News*, 17 March 1997.

<sup>7</sup> Ian Mulgrew, 'Thailand's Most Wanted Man', *Asiaweek*, 31 July 1998.

<sup>8</sup> *Report of the Sierra Leone Arms Investigation* (London, Her Majesty's Stationery Office, 27 July 1998).

<sup>9</sup> The BCCI Affair (Section 23, 'Matters for Further Investigation, Witnesses and Writs').

<sup>10</sup> 'Lucky Al Kassir', *The Geopolitical Drug Dispatch*, No. 23, September 1993.

<sup>11</sup> *Final Report of the Independent Counsel for Iran/Contra Matters* (see note 4 above).

<sup>12</sup> 'El eterno arrendito', *El Mundo*, 21 June 1998; Tim Brown, 'Police Informer Shot Dead in Spain', *The Daily Telegraph*, 22 June 1998.

<sup>13</sup> Russel Warren Howe, 'What if the "Lockerbie Bombers" are Innocent?', *Daily Mail and Guardian*, 26 April 1999.

<sup>14</sup> 'Politics-Argentina: Cavallo Links Arms Dealer with Yabra', IPS, 27 May 1998; 'Argentina: President Menem's Scandalous Friendships', *The Geopolitical Drug Dispatch*, Number 23, Paris, September 1993 (<http://www.ogd.org/gb/47AARAA.html>).

<sup>15</sup> 'Anticorrupcion vincula a Gil con Al Kassir y la mafia siciliana', *El Pais*, 24 June 1997.

<sup>16</sup> W. M. Leary, *Perilous Missions: Civil Air Transport and CIA Covert Operations in Asia* (University of Alabama Press, 1984); F. Lert, *Les Ailes de la CIA* ('The Wings of the CIA') (Paris, Histoire & Collections, 1998).

<sup>17</sup> *Allegations of Connections between CIA and the Contras in Cocaine Trafficking to the United States, Report of Investigations, Volume II, The Contra Story*, Central Intelligence Agency, Inspector General, 1998 ([www.odci.gov/cia/publications/cocaine2/index.html](http://www.odci.gov/cia/publications/cocaine2/index.html)).

<sup>18</sup> *Final Report of the Independent Counsel for Iran/Contra Matters, Part V, Investigations and Cases: the Flow of Funds and the Private Operatives* (Washington, DC, 4 August 1993).

<sup>19</sup> Andreas von Bulow, *Im Namen des Staates: CIA, BND und die kriminellen Machenschaften des Geheimdienste* (München: Piper, 1998), p. 624.

<sup>20</sup> von Bulow, *Im Namen des Staates...*

<sup>21</sup> *Ibid.*

<sup>22</sup> *Bundesgerichtshof verwirft die Revision von Dr. Schalck-Golodkowski*, Pressemitteilung des Bundesgerichtshofs Nr. 47/1997 vom 09. Juli 1997. Urteil vom 09. Juli 1997 - 5 StR 544/96. (Press communiqué of the German Federal Court.)

<sup>23</sup> *Erfolglose Verfassungsbeschwerde von Dr. Alexander Schalck Golodkowski*, Pressemitteilung des Bundesverfassungsgericht Nr. 37 vom 25. März 1999, 2 BvR 1565/97. (Press communiqué of the German Criminal Court.)

<sup>24</sup> Quote in Jonathan Bloch & Patrick Fitzgerald, *British Intelligence and Covert Action* (Dingle, Co. Kerry: Brandon, 1983), p. 46.

<sup>25</sup> Bloch & Fitzgerald, p. 51.

<sup>26</sup> *Ibid.*, p. 185

<sup>27</sup> Quoted in Nigel South, *Policing for Profit: The Private Security Sector* (London: Sage, 1988) pp. 95–96.

<sup>28</sup> Roger Faligot & Pascal Krop, *La piscine: Les services secrets français 1944-1984* (Paris: Editions du Seuil, 1985); see also Antoine Glaser & Stephen Smith, *Ces Messieurs Afrique*, Vol. 1 & 2 (Paris: Calman-Lévy, 1992 for Vol. 1; 1997 for Vol. 2).

<sup>29</sup> Douglas Porch, *The French Secret Services: A History of French Intelligence from the Dreyfus Affair to the Gulf War* (New York: Farrer, Strauss and Giroux, 1995).

<sup>30</sup> Marc Pivois, 'Bob Denard, "le vieux" sur le banc', *Libération*, 5 May 1999; David Defresne, 'Bob Denard: les Comores aux assises', *Libération*, 4 May 1999; Parc Pivois, 'Bob Denard acquitté', *Libération*, 20 May 1999.

<sup>31</sup> Bob Denard, *Corsaire de la République* (Paris: Editions Robert Lafont, 1998).

<sup>32</sup> Hervé Gattegno, 'Un lien est établi entre l'affaire Elf et la vente par Thomson de frégates à Taiwan', *Le Monde*, 5 December 1997; 'France/Elf – Devier-Joncour accuse Dumas', Reuters, 4 March 1999; Cécile Prieur, 'La Suisse justifie son refus d'extrader l'ancien président d'Elf International', *Le Monde*, 13 March 1998; Hervé Gattegno, 'Affaire Elf: le labyrinthe des comptes suisses de Mme Devier-Joncours', *Le Monde*, 7 March 1998.

<sup>33</sup> Jose Vegar, 'Stuffed Arms Merchant Sues', *The Bulletin of the Atomic Scientists*, vol. 53, no. 6, November/December

1997.

<sup>34</sup> J. Y. Smith, 'Arms Dealer Samuel Cummings Dies', *The Washington Post*, 2 May 1998.

<sup>35</sup> Patrick Brogan & Albert Zarca, *Deadly Business: Sam Cummings. Interarms and the Arms Trade* (New York: W.W. Norton, 1984).

<sup>36</sup> J.Y. Smith, 'Arms Dealer...'

<sup>37</sup> World Bank News, Washington, DC, 18 July 1996.

<sup>38</sup> National Security News Service briefing for journalists, May 1998; selected publications on Central Africa by Amnesty International and Human Rights Watch.

<sup>39</sup> Principles underlying the arms control policies of most states have been set out in the 1996 UN Guidelines on Conventional Arms Exports, the 1993 OSCE Principles Governing Conventional Arms Transfers and in the 1991-2 European Union Criteria on Arms Exports, now elaborated in the 1998 EU Code of Conduct on Arms Exports. The 1996 UN Guidelines commit all members of the United Nations to establish: 'an adequate body of laws and administrative machinery for regulating and monitoring effectively their transfer of arms, to strengthen and adopt strict measures for enforcement, and to co-operate at the international, regional and sub-regional levels to harmonize, where appropriate, relevant laws, regulations and administrative procedures as well as enforcement measures, with the goal of eradicating illicit arms trafficking' (paragraph 10).

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## The Arms Fixers

### Chapter 2

#### **The Day it Rained Arms in India**

That today's control systems suffer from crucial failings is clearly seen from the following example of a complex illicit deal that went wrong. The main arms broker, a former UK intelligence officer, insisted that he had cleared the shipment with the UK military and police authorities – but things turned out rather differently.

In mid-1995, Peter Bleach, a military equipment broker living in North Yorkshire, heard from a Danish business friend who was living in Munich and trading in air services that another businessman he knew in Copenhagen was looking for a supplier of cigarettes.<sup>1</sup> Bleach contacted the Copenhagen businessman. After some weeks of talking about the prices of cigarettes, the businessman said he wanted to broker the supply of 2,500 Kalashnikov rifles and 1.5 million rounds of ammunition. As is customary in arms deals, he did not disclose the destination to Bleach, but indicated that the quote should be for delivery to Calcutta port. Within days, Bleach said, he provided the businessman with a quote of \$475,000 for purchasing and delivering AK rifles with ammunition to Calcutta. Payment was to be in advance, with a 100% irrevocable letter of credit. A few days later, the Copenhagen businessman agreed to the quote and invited Bleach to Copenhagen to sign the contract.

Peter Bleach, whose full name is Peter von Kalkstein-Bleach, was 46 years old at the time. He is a former corporal in British military intelligence and had served in the armed forces for over 20 years in, among other places, Southern Africa and Belfast. Although only three years in the arms brokering business, he knew that 'The skill in defence trading is in dealing with the appallingly complicated paperwork – supplying goods is easy, anyone can do that.'<sup>2</sup> He claimed that his own UK-based company, Aeroserve, had a licence to handle weapons from the UK Ministry of Defence.

## **The Third Man**

According to Peter Bleach, he flew to Copenhagen to attend a meeting in early August 1995. His Munich-based friend met him and drove him to a waterfront house. There he met his Copenhagen customer and two other business associates, another Dane and a third man who, for much of the meeting, remained anonymous on the deck of the house. As discussions proceeded, the other Dane consulted the third man separately about the negotiations. Gradually it became clear that the delivery was not for the Indian government, but for an insurgent group.<sup>3</sup> Bleach later said that he had to play along with the idea so as not to endanger his life, but that he had decided to inform the UK security services. He offered to work out another quote for the clandestine delivery. Then, to his surprise, before leaving he was introduced to the third man, but he was not given the man's name.

The third man showed Bleach the area on a map where he wanted the illegal arms to be delivered. It was just inside West Bengal. Bleach says the man alleged that 'his people' were peaceful but had been killed and abused by forces of

the Communist government of West Bengal, so he wanted the arms to hit back. Bleach advised that arms could be delivered to such an area only by parachute drop or by covert landing.<sup>4</sup> He insisted that only the pilot who was to deliver the arms should know the ultimate destination. 'I stressed from the very beginning', Bleach recalls, 'that, in order to be successful, it is most important that this resembles a perfectly, normal transaction in every possible way... No single contractor should be aware of the entire route.'<sup>5</sup>

Once back in the UK, Bleach says he contacted the Ministry of Defence through someone he knew in the Defence Export Services Organisation (DESO) and was put in touch with an official on the India desk, Colin Allkins, whom he fully informed of the secret plan.<sup>6</sup> Bleach claims that Allkins promised to refer the matter to the relevant authorities and told him meanwhile to carry on as normal and gather as much information as possible. Bleach says he told his Danish contact to increase the quotation price by \$50,000 to cover extra paperwork and bonuses for the aircrew. While Bleach was on a 'normal' business trip to Bangladesh, he received a faxed copy of a letter of credit from one of the Danish businessmen offering \$470,000. The letter was issued by a Hong Kong bank and signed by 'Kim P. Davey' – this turned out to be the third man.<sup>7</sup>

Friends of 'Davey' apparently called him 'Peter', but Interpol now believes that his real name is Niels Christian Nielsen, born in Denmark in December 1961. He took the name Kim Palgrave Davey from a New Zealand infant who died at the age of five weeks and managed to acquire a New Zealand passport in that name after visiting New Zealand.<sup>8</sup>

Copenhagen police records show that Nielsen was arrested in May 1982 for two robberies and money laundering, but escaped.<sup>9</sup> Interpol had wanted him since 1982 and claimed that since 1988 he has used 46 false names and been involved in gold and drug smuggling, money laundering and counterfeiting \$100 notes. Nielsen was described as a teetotaler and vegetarian, and a member of a religious sect,

Ananda Marga, founded in 1955 in India. This sect has been in dispute over land with the government of West Bengal for many years. The authorities there blame the sect for acts and threats of violence against Indian government personnel and property.

Bleach says he continued to inform officials at DESO by fax and to ask for help.<sup>10</sup> On 14 and 22 September, and 8 December 1995, he met police Special Branch officers in North Yorkshire and told them about 'Davey' and his three Danish associates.<sup>11</sup> Bleach claims that the Special Branch officers responded by asking him to 'continue the deal for the time being whilst they contacted the Danish and Indian authorities and decided what to do. They warned that they might want the delivery to take place so that they could identify the recipients and arrest as many people as possible. I agreed to this, provided that I could keep any money paid to me in order to compensate for my time and trouble – and they agreed to that.'<sup>12</sup>

At a second meeting with Bleach, one of the Special Branch officers, Ian Lynch, said he told Bleach to distance himself from the operation. Fearing the repercussions of pulling out of the deal, Bleach says he told Lynch that he would arrange the aircraft and crew for 'Davey' but make him deal with the arms supplier.<sup>13</sup> It appears he told the Special Branch that 'Davey' had deposited around \$460,000 in a letter of credit in London for the aircraft and for the purchase and delivery of rifles, pistols, ammunition, grenades and rocket launchers. 'My assumption was the British would tell the

Indian authorities right away. In fact they didn't tell them until the end of November 1995', Bleach later protested.<sup>14</sup> However, the local UK Special Branch officers continue to claim they told Bleach: 'don't do it'.<sup>15</sup> Whatever the truth, Bleach continued to broker the deal.

On 24 September, Bleach and his Danish contact flew to Dubai and then on to Dhaka, Bangladesh, where Bleach said he had to attend to his 'normal' business.<sup>16</sup> On 27 September, they flew to Bangkok to finalize the new contract. Bleach said his contact told him on the journey that 'Davey' was in charge of the operation; furthermore, that he was a very rich businessman based in Hong Kong who had made his money out of smuggling gold and electronic goods. His Danish contact also alleged that one of the other Danish businessmen had inflated the price to over US \$600,000 with a \$150,000 advance, but that 'Davey' had given the businessman only a few weeks to repay the money, failing which he would take out a contract on his life.<sup>17</sup>

Attending the Bangkok hotel dinner meeting were 'Davey', his lawyer, his business partner, Bleach, his Danish contact, and an Indian called 'Randy'. 'Davey' wanted to know if the arms could be delivered by ship and then taken by road to Purulia in West Bengal. But Bleach said he convinced him that this method was too difficult, and that it was much better to use an aircraft. If the aircraft were bought, it could be resold or used for other things, and it was this idea that attracted 'Davey'. He wanted to base the aircraft in Dhaka.<sup>18</sup>

'Davey' arranged for Bleach to find a cargo plane to ferry the arms. This turned out to be an ageing Russian-built Antonov 26. A preliminary report of the Indian Central

Bureau of Investigation (CBI) claims that 'Davey' provided \$250,000 to buy the freighter aircraft from the bankrupt Latvian Airlines – previously part of the USSR state-owned Aeroflot – and to hire the five-person air crew and two ground engineers for three months.<sup>19</sup> Another report says Peter Bleach took \$30,000 from 'Davey' to hire the services of

the crew on the assumption that the plane would in future be based in Dhaka.<sup>20</sup> The Antonov 26 freighter was registered as AH 266 and was transferred to Carol Air Services Ltd, a company based in Hong Kong but registered in October 1995 in the Turks and Caicos Islands. Carol Air was reported to be a subsidiary of a Hong Kong company that had employed 'Davey'.<sup>21</sup> The Russian-built plane was based for the time being in Riga, Latvia, home of the five-person crew. These were Captain Alexander Klichine, the 44-year-old pilot, Igor Moskvitine (navigator), Oleg Gaidach (co-pilot), Yevgeni Antimenko (cargo operator) and Igor Timmerman (flight engineer). They were each offered a salary of about \$1,000 for three months, provided they would move in due course to Bangladesh. It is worth bearing in mind that the salary of a Latvian pilot is probably about one-thirtieth that of a pilot in Western Europe. On 21 November, the Antonov left Riga for India and Pakistan, but apparently did not visit Bangladesh.

By November 1995, Bleach was in touch with a UK weapons trading company, Border Technology and Innovations Ltd (BTI) of Hexham, England, to order the consignment on behalf of 'Davey'.<sup>22</sup> BTI claimed that it had agents in 22 countries in 1990 and has secured military and civil defence contracts in 15 countries including Angola, Bangladesh, Pakistan, Sri Lanka and Thailand. The company said that Bleach showed them what appeared to be a valid end-user certificate from the Bangladesh Ministry of Defence, but an invoice given to Bleach for the order mentions a request for parachutes: 'Peter... Total price is \$170,000... We need EUC quickly to effect

licences. Payment: \$85,000 in advance, balance by bankers draft. Commission: \$10,000 is in this for you. Parachutes not available.'<sup>23</sup>

In any case, BTI did not need to apply for a UK arms export licence from the Department of Trade and Industry because, as with so many other UK-arranged arms deals, the firm would purchase the arms abroad and not bring them into UK jurisdiction. BTI turned to a well-known Bulgarian arms manufacturer, KAS Engineering, whose subsidiary, the Arsenal Company, was in a position to sell pistols and Kalashnikov rifles at low prices.<sup>24</sup> Bleach later claimed that he distanced himself from the deal, put 'Davey' in touch with BTI and concentrated on finding the aircraft.<sup>25</sup>

## Collection and Delivery

On 10 December 1995, the Antonov landed in Burgas, Bulgaria, to collect the 77 wooden cases of arms.<sup>26</sup> Bleach says that when he departed for Burgas from Gatwick a plain-clothed UK customs officer met him and said he knew of the deal, encouraging him to believe that the UK authorities were ready to intervene at the right moment.<sup>27</sup> At first, the old Antonov was grounded in Burgas because it was thought to be not airworthy.<sup>28</sup> Both 'Davey' and Bleach boarded the plane before it took off with the arms cargo and headed for Karachi. Bleach subsequently claimed that his decision to go on the arms flight was because 'Davey' had threatened to harm Bleach's family if he did not board, since he knew too much. 'I went to Bulgaria as the agent for the sale of the plane – I had nothing to do with the sale of the arms', Bleach said later when he was arrested.<sup>29</sup>

Flying from Karachi on 17 December 1995, the old Antonov lumbered towards West Bengal, landing at Varanasi to refuel.<sup>30</sup> To Bleach's surprise, the Indian customs and police authorities there took no steps to search the plane or arrest 'Davey' and the others. It then took off again headed for Rangoon.<sup>31</sup> Close to midnight en route over Gaya in West Bengal, the crew claim that 'Davey' suddenly ordered them at gunpoint to fly low over the villages of Purulia in order to drop the arms. Defiantly, they did not fly very low, but the arms cases were nevertheless dropped and landed miles off target, using parachute rigging that had been bought in South Africa.<sup>32</sup> Cases were marked '*Technical Equipment*' and bore the name '*Central Ordnance Depot, Rajendrapur Cantonment, Bangladesh*'.<sup>33</sup> After the drop, the aircraft went back on track towards Rangoon, but was refused permission to land due to 'poor visibility'.<sup>34</sup> It then headed back to Calcutta, refuelled and took off towards Phuket, Thailand, where the plane landed in the early hours of 18 December. Seeing the parachutes falling from the sky, and finding with amazement the broken crates of arms and ammunition, the villagers of Purulia ran to tell the authorities, whose intelligence services had already been tipped off. Afterwards, it was revealed that on 10 and 17 November and 15 December 1995, the UK Home Office had reported the plan to their counterparts in India, the Research and Analysis Wing (RAW), and the CBI had taken over the case on 27 December, but the latter had obviously failed to intercept the freighter.<sup>35</sup> A security memorandum of 25 November from RAW to the Indian Government stated that a European-based businessman had wanted to deliver arms to Communist rebels in West Bengal. It said he had bought an Antonov 26, visited Riga for that purpose on 15 November and would try to land it at the airstrip of a disused coal mine in Dhanbad, near Purulia, called Panchet Hill.<sup>36</sup> It would appear that by 17 December 'Davey' had discarded the idea of landing, in

favour of the parachute drop, but that for some reason the Indian authorities were not prepared to stop the flight. On 21 December, the freighter re-entered Indian airspace supposedly en route to Calcutta, but because of 'bad weather' it changed course and landed at Madras, apparently to refuel for an onward journey back to Pakistan. Again, no action was taken by the Indian security services. It took off again at 10:45 p.m. the same night and headed for Karachi.<sup>37</sup>

Within two hours' flying time from Pakistan, the old Antonov was ordered to land by Indian air traffic controllers because it was on an unscheduled route. It landed at Sahar airport in Bombay at 1:39 am on 22 December and was ordered to park at a remote side of the airport for refuelling.<sup>38</sup> It was an hour before Indian officials turned up.<sup>39</sup> 'Davey' simply walked off the Antonov and quickly disappeared, while Bleach and the five Latvians were arrested and jailed. According to Bleach, 'Davey' took advantage of the lax security at the airport.<sup>40</sup> A Sahar airport official who had investigated the aircraft on landing said he had no knowledge of the arms drop at Purulia until Bleach told him. Up until then, all he knew was that the plane had flown off course from Thailand. According to the Indian police, a computer laptop found on the plane apparently belonging to 'Davey' showed 49 places over which the plane intended to fly.<sup>41</sup> In the days after the arms drop at Purulia on 17 December, India's news media were awash with speculation as to what had happened. Suspicion was directed mainly at Pakistan's secret service once it was known that the aircraft had flown in from Karachi, while the West Bengali authorities denied having received a warning. Ananda Marga and the Bangladesh Government dismissed any involvement in ordering the arms, and some journalists speculated on possible links to arms for the Tamil Tigers in Sri Lanka, but without proof.<sup>42</sup> Meanwhile, the Bulgarian government issued a statement rejecting any responsibility for the supply of the arms. Even so, within two weeks the Indian Government decided to switch its purchase of 100,000 assault rifles from Bulgaria to Romania.<sup>43</sup> The Indian security and aviation authorities were accused of being inept, and an inter-agency panel set up by the government recommended strict monitoring of all unscheduled cargo flights, but stopped short of requiring all freight service agents to register their clients.<sup>44</sup>

Peter Bleach and the five Latvians were transferred to a jail in Calcutta and charged on 24 December 1995 with 'abetting the waging of war against India and criminal conspiracy', a charge comparable to treason. The younger brother of 'Randy', Vinay Kumar Singh, was accused of waiting with his brother to transport the weapons and was also arrested and charged.<sup>45</sup> Indian police arrested eleven Ananda Marga monks, including three US nationals and a Greek and Irishman, but they were released after no incriminating evidence was found.<sup>46</sup> The CBI continued hunting for several Indian

nationals in addition to 'Davey', who was accused of running a network of corrupt officials in India.<sup>47</sup> If Bleach and the crew were found guilty, the minimum sentence would be life imprisonment, while the maximum would be death by hanging. They also faced charges under the Arms Act and Explosives Substances Act and the aviation laws.<sup>48</sup> The trial, still proceeding in late 1999, was expected to take a long time to complete, with over 250 witnesses to be called.

## Mystery Remains

Incarcerated, Peter Bleach continued to argue his innocence by saying that he was involved as an informer with the full knowledge of the British security services because they wanted to find out who else was involved before taking action. He produced faxes he had sent to UK government officials that he claimed would prove this. He alleged that the Indian security chiefs were warned long before the arms drop was made, but that they deliberately allowed the Antonov to shed its cargo in order to make political capital out of the result in West Bengal. One fax from Bleach to the UK MoD read: 'I was informed that my quote was acceptable and I was invited to discuss the final details with the buyers, who were acting on behalf of the end-user. This turns out to be an illicit deal and the end-user appears at this stage to be an insurgent group in India.'<sup>49</sup> Bleach also claimed that UK Special Branch officers had initially encouraged him to provide a delivery plane but advised him to stop short of supplying the weapons. Later, when he had found all the information they needed, Bleach says he was told to pull out altogether, but by then he claims it was too late because of his concerns for his and his family's safety.<sup>50</sup> Bleach maintains that he always believed the plane would be stopped before the drop and – thanks to his help – his name would be quickly cleared.

Bleach and his supporters accuse the British government of a cover-up over his failed deal and have demanded a statement admitting its role. One of those collecting evidence for Bleach's defence is his friend, Jo Fletcher. She says her efforts to help him were thwarted by Special Branch officers: '... the Police came round – twenty members of Her Majesty's Constabulary – at six thirty in the morning, banged on my door. They took all the documentation that I had brought down from Yorkshire, they took piles of my own paperwork and they also took my computer, which they broke – and Peter's computer...'<sup>51</sup> North Yorkshire Police confirmed to the BBC that they did 'collect evidence' from Jo Fletcher's home. According to the BBC, Ministry of Defence and Foreign Office officials could offer no contradiction to Bleach's story.<sup>52</sup>

Mystery remains as to the whereabouts and the exact role of Niels Christian Nielsen (alias 'Kim Davey'), who has not been seen since his disappearance from Sahar airport on 22 December 1995. Apart from the Indian authorities, those in several European countries want Nielsen on

charges ranging from armed robbery to counterfeiting. The Indian CBI told reporters that Nielsen had stayed in a hotel where he had made several phone calls to Bangladesh. They also believe that a Hong Kong-based businessman had financed the entire operation and that he was present in Riga with 'Davey' and Bleach when the deal to purchase the Antonov was struck.<sup>53</sup> The CBI

allege there were 14 others, including three Danes and a Bangladeshi military officer, who were involved.

On 17 January 1997, Indian police arrested a man on arrival from Singapore at Bombay's Sahar airport in connection with the Purulia case. The man awaiting questioning was believed by the police to be Joel Proren and was alleged by them to have helped Nielsen with the funds to purchase the Antonov in Latvia. Proren was said to be part of a gold smuggling syndicate with Nielsen ('Davey') and several Indians linked to the Purulia drop, especially 'Randy'— whom police thought to be Satyender Narain Singh, and whose younger brother Vinay had been arrested in connection with the Purulia drop.<sup>54</sup> The police said Proren was German-born, but then a US citizen who was resident in Kansas. An official from the US consulate visited Proren. When travelling from Singapore, he had used the name of 'Schneider Martin Conrad', but had been using six names – Ken Sando, Roy Dogen, Martin Olsen and Joel Proren. Asked what his real name was, he replied: 'Call me Hanu man.'<sup>55</sup>

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<sup>1</sup> This account is drawn largely from quoted documents, and the words of Peter Bleach, particularly his account of the affair published as 'The Copenhagen Connection', *Sunday* (reprinted from *Politiken*, Denmark), 11–17 May 1997, but also from the following accounts: Pranay Sharma, 'RAW had Warned About the Covert An-26 Mission', *The Telegraph*, 25 December 1995; Harinder Baweja, 'Straining Credibility', *India Today*, 11 March 1996; Chandan Nandy, 'Indian Mole May Have Fled to Colombo', *The Telegraph*, 30 December 1996; Special Correspondent, 'Vital Clues Unearthed in Purulia Case', *The Hindu*, 24 January 1997; Richard Norton-Taylor, 'Gun Running Briton Faces Indian Death Sentence', *The Guardian*, 21 August 1997; Stephen Grey, 'Ex-soldier Abandoned after Tipping off Police', *The Sunday Times*, 28 September 1997; Peter Popham, 'I was Betrayed by MoD, Says Briton Facing Execution', *The Independent*, 9 July 1998; Raymond Bonner, 'Legal Loopholes Make Arms Shipments Easy', *The Globe and Mail*, 15 July 1998; Saheli Mitra, 'The Mystery of Arms and Men', *The Telegraph*, 13 January 1999; Oxfam UK, *Out of Control*, 1999; Anish Gupta with Sourabh Sen, Soumen Dutta & Summit Das Gupta, 'A Twist in the Trial', Special Report, *Sunday*, 30 May–4 June 1999; and Tyne Tees Television, 'The Bleach Conspiracy', 25 August 1999. Where important details vary, an attempt has been made to indicate a particular source.

<sup>2</sup> Peter Bleach, 'The Copenhagen Connection'.

<sup>3</sup> *Ibid.* The other Dane has since denied that arms were discussed, claiming that they discussed the transport of prawns and turtles from Bangladesh to Hong Kong.

<sup>4</sup> *Ibid.*

<sup>5</sup> Peter Bleach, quoted by Bonner, 'Legal Loopholes...'

<sup>6</sup> Bleach faxed a detailed account of the planned operation to Colin Allkins at DESO on 18 August 1995, according to Gupta et al., 'A Twist in the Trial'. DESO is part of the UK Ministry of Defence and employs about 700 staff to help UK arms manufacturers market and sell their products abroad.

<sup>7</sup> Bleach, 'The Copenhagen Connection'. Bleach subsequently told the UK police that the letter of credit was worth \$460,000.

<sup>8</sup> Bonner, 'Legal Loopholes...'

<sup>9</sup> *The Hindu*, 24 January 1997; *Sunday*, 11 May 1997; Bonner, 'Legal Loopholes...'

<sup>10</sup> Bleach, 'The Copenhagen Connection'. A copy of Bleach's fax of 18 August 1995 to Colin Allkins at DESO was published in *Sunday*, 1–7 January 1997.

<sup>11</sup> Gupta et al., who quote from court evidence. Richard Norton-Taylor, 'Army Told of Indian Arms Deal', *The Guardian*, 12 September 1997, also quotes from Bleach's correspondence, saying Bleach gave the UK police the precise grid reference for the arms drop.

<sup>12</sup> Bleach, 'The Copenhagen Connection'.

<sup>13</sup> Tyne Tees Television, 'The Bleach Conspiracy'.

<sup>14</sup> Bleach, 'The Copenhagen Connection'; Peter Popham, 'I was Betrayed...'

<sup>15</sup> Stephen Grey, 'Ex-soldier Abandoned...'

<sup>16</sup> According to Caroline Lees & Simon Hinde, 'Sky Full of Rifles Alerts Indians to Brewing Revolt', *The Sunday Times*, 1 January 1996, Bleach had reportedly tendered to supply Russian-made helicopters to the Bangladeshi Ministry of Defence but had not won the contract.

<sup>17</sup> Bleach, 'The Copenhagen Connection'.

<sup>18</sup> *Ibid.*

<sup>19</sup> *The Hindu*, 24 January 1997.

- <sup>20</sup> Bonner, 'Legal Loopholes...'.  
<sup>21</sup> Ibid. In addition, Oxfam, *Out of Control*, claims that shares of Carol Air were transferred to an investment company registered in the Isle of Man in November 1995.  
<sup>22</sup> Gupta et al., 'A Twist in the Trial'. According to Oxfam and Grey, op. cit., BTI also had an address in Abingdon, Oxfordshire.  
<sup>23</sup> Oxfam, *Out of Control*. According to Grey, the Bangladeshi end-user certificate appears to have been a forgery. According to Bonner, Bleach claimed that BTI were paid \$165,000 for the first shipment.  
<sup>24</sup> Bonner, 'Legal Loopholes...'.  
<sup>25</sup> Gupta et al., 'A Twist...'.  
<sup>26</sup> Oxfam quotes from a fax 'between' BTI and Bleach on 10 November 1995 that defines the consignment from KAS engineering as 300 AK-47 Kalashnikov assault rifles, 15 Makarov pistols, two sniper rifles with night vision sights, 2 night vision binoculars, 25,000 rounds of rifle ammunition, 6,000 rounds of pistol ammunition, 10 RPG-7 rocket launchers, 100 anti-tank grenades, 100 ordinary grenades, and 25 PM79 anti-personnel mines. Another fax quoted by Oxfam from BTI to KAS Engineering [no date given] states that: 'Commercial invoice should describe goods as "goods as per contract No. 046-HPS 10.11.95" to keep within the ideal of our Swiss Bank.' Oxfam, *Out of Control*.  
<sup>27</sup> Tyne Tees Television, 'The Bleach Conspiracy'.  
<sup>28</sup> Pranay Sharma reports the Indian aviation authorities' allegation that the crew were allowed to make a trial 'dry run' flight to India in December 1995 before loading the arms for West Bengal, but this may be confused with the November flight from Riga. It appears that the crew and the Bulgarians were told the arms were for delivery to Bangladesh. Sharma, 'RAW had Warned...'.  
<sup>29</sup> Popham, 'I was Betrayed...'.  
<sup>30</sup> Norton-Taylor, 'Gun Running Briton'. Lees & Hinde, 'Sky Full of Rifles...', report that Bleach said half the arms consignment was left in Karachi.  
<sup>31</sup> Gupta et al., 'A Twist in the Trial'.  
<sup>32</sup> Tyne Tees Television, 'The Bleach Conspiracy'.  
<sup>33</sup> Sharma, 'RAW had Warned...'; Ashis A. Biswas, 'Still in a Maze', *Outlook (India)*, 26 February 1997.  
<sup>34</sup> Gupta et al., 'A Twist in the Trial'; Baweja, 'Straining Credibility'.  
<sup>35</sup> Gupta et al. 'A Twist in the Trial'.  
<sup>36</sup> Baweja, 'Straining Credibility'. Michael Howard, the UK Home Secretary, confirmed in January 1996 that his officials had informed the Indian authorities of the plan.  
<sup>37</sup> Gupta et al., 'A Twist in the Trial'.  
<sup>38</sup> Ibid.  
<sup>39</sup> Tim McGirk, 'Would-be Hero Poisoned by his Own Sting', *The Independent*, 11 September 1996.  
<sup>40</sup> For this account see Grey, 'Ex-soldier Abandoned...'; Nandy, 'Indian Mole...'; Bonner, 'Legal Loopholes...'.  
<sup>41</sup> Mitra, 'The Mystery of Arms and Men'.  
<sup>42</sup> Pranay Sharma, 'Pakistan Suspected in Arms Drop', *The Telegraph*, 22 December 1995.  
<sup>43</sup> Murali Krishnan & Sinjoy Chowdury, 'LTTE Theory Gaining Ground', *The Telegraph*, 30 December 1995; AFP, 'India to Buy Arms from Romania', 16 January 1996.  
<sup>44</sup> Murali Krishnan, 'Pvt Air Services to be Combed', *The Telegraph*, 30 December 1996.  
<sup>45</sup> *The Telegraph*, 11 December 1996.  
<sup>46</sup> Lees & Hinde, 'Sky Full of Rifles...'.  
<sup>47</sup> Mitra, 'The Mystery of Arms and Men'; Special Correspondent, *The Hindu*, 'Vital Clues...'; Bleach claims that 'Davey' had bribed all the necessary police in India to ensure that his gold smugglers were released within 24 hours (Bleach, 'The Copenhagen Connection').  
<sup>48</sup> Special Correspondent, *The Hindu*, 'Vital Clues...'; Tyne Tees Television, 'The Bleach Conspiracy'.  
<sup>49</sup> BBC Radio 4, 11 September 1998.  
<sup>50</sup> Christopher Hudson, who visited Bleach in 1997, told BBC Radio 4: 'He was dealing here with hardened criminals who were anxious that he knew too much. These were not the men to go back on a deal with. Having entered it, he couldn't just back off – as the authorities claimed could happen. That isn't the way it's done. Once you're inside the tent you stay inside because to venture out is to face death.' Hudson also claimed that Bleach's health was deteriorating in prison, with gangrene in his toes. 'It's a horrid, terrible prison. He has to defecate in a bucket. There's a smell of raw sewage everywhere.' The Latvian crew's relatives complained that the prison conditions for their men were worse than Bleach's, and that there were no legal representation or family or consular visits. Two of the men had serious medical conditions.  
<sup>51</sup> BBC Radio 4; Norton-Taylor, 'Gun Running Briton'.  
<sup>52</sup> Ibid.

<sup>53</sup> Staff Reporter, 'Armsdrop Trial Begins Today', *The Telegraph*, 1 August 1997.

<sup>54</sup> Nandy & Murshed, 'RAW Tip-off to Arrest Arms Drop Suspect', *The Telegraph*, Calcutta, 22 January 1997; Special Correspondent, *The Hindu*, 'Vital Clues...'; Mitra, 'The Mystery of Arms and Men'.

<sup>55</sup> Special Correspondent, *The Hindu*, 'Vital Clues...'. Hanuman is the much-loved Hindu monkey-god who is invincible, the most intelligent being on earth and one of the very few Hindu gods who lives on earth in a physical incarnation at all times.

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## The Arms Fixers

### Chapter 3

#### **BROKERING ARMS FOR GENOCIDE**

The arms dropped in Purulia were, fortunately, not used. In Rwanda, however, brokers and transport agents arranged the supply of arms that were used to commit international crimes against humanity in 1994. Dealers managed to circumvent not only the national arms-control regulations of several of the most powerful states in the world, but also a mandatory UN arms embargo.

Documents from the military archives of the regime that planned and carried out the genocide in Rwanda, as well as interviews with some of those involved and evidence cited by the subsequent UN commission of inquiry, help piece together an incomplete yet shocking picture of what transpired. The main foreign brokers and shippers involved in arming the perpetrators of the 1994 genocide were based in the UK, France and South Africa. They employed networks of collaborators in other countries, including Albania, Belgium, Bulgaria, Egypt, Italy, Israel, Seychelles, former Zaire, and various offshore financial centres. The dealers evaded the inadequate national arms control laws in their home countries and disguised the routes of their deliveries, choosing to operate where there were shaky customs, transport and financial regulations so as to make their activities as 'legal' as possible. None of these brokers has been indicted for the crime of complicity to genocide.

## **Prelude to Genocide**

By March 1994, an atmosphere of civil war existed in Rwanda, with violent incidents occurring virtually on a daily basis. Lists of people regarded as enemies of the Hutu-dominated Habyarimana regime – either because of their perceived or imagined opposition or, in most cases, simply because they were ethnically identified as Tutsi – were drawn up. When the Rwandan Presidential aircraft was shot down on 6 April, random massacres of Tutsi and Hutus began in Kigali and several other areas, organized under the Hutu interim government. Evacuations of foreign nationals by Belgium and France were followed on 21 April by the withdrawal of the UN peace operation, UNAMIR, amidst ongoing massacres reported daily in the world's media. Eventually, on 17 May 1994, one month after the genocide began in Rwanda, the UN Security Council

imposed an international arms embargo. It was generally agreed that this embargo also applied to the ousted Hutu Rwandan regime-in-exile – although the UK government later denied this was the case, in order to avoid prosecuting known arms brokers acting from UK territory for the exiled armed forces and militia.<sup>1</sup> A massive exodus of the killers and hundreds of thousands displaced Hutus had begun in May; by mid-July about one million had crossed into the former Zaire around the town of Goma, and several hundred thousand more into other neighbouring territories.<sup>2</sup>

The attempt by the United Nations to stop arms from reaching the country was already too late. The tragedy was compounded when, even after the UN embargo was agreed, major states did not promptly incorporate it into their domestic law and take concerted action to enforce it. As a result, more small arms and ammunition were supplied to the mass killers via routes supposedly monitored by international observers.

Up to the outbreak of the genocide, the Rwandan government had secured its main arms supplies from companies in China, France, Egypt and South Africa, with a smaller role for Israel, Greece and Poland.<sup>3</sup> France, the biggest supplier of heavy military equipment, had sent troops to Rwanda in 1990 to help repel a military offensive by the Tutsi Rwandan Patriotic Front against the Habyarimana regime. Both sides committed atrocities. The French authorities were accused of using the supply of arms to control the regime.<sup>4</sup> During that time, Kigali was used a hub by French arms dealers for the supply of Iran and other countries.<sup>5</sup> Thus it was hardly surprising that the regime would try to use such dealers to obtain alternative sources of supply, at least for smaller weapons.

## **Trying to Stop Further Deliveries**

During and in the aftermath of the genocide, international speculation and isolated allegations continued as to where further arms could have come from. In mid-1995, Human Rights Watch and Amnesty International drew attention to reports of arms deliveries via airports in former Zaire, near the border with Rwanda.<sup>6</sup> After the Rwanda Patriotic Front took control of Kigali on 4 July, the airport at Goma, just next to the border with western Rwanda, became for a while the main delivery point for supplies to the massive numbers of refugees pouring out of Rwanda, as well as for the further supply of small arms and ammunition to the retreating armed forces (the ex-FAR – *Forces armées rwandaises*) and militia (the *Interahamwe*) of the exiled Hutu regime. As Goma came under suspicion during 1994, arms for the genocidal killers of Rwanda continued to be flown in to Kinshasa and then ferried to other airports in the Zairian border region, such as Bukavu. The Zairian authorities under President Mobutu collaborated in this buildup. Human Rights Watch focused in particular on the officially sanctioned Chinese and French arms deliveries and on supplies brokered from South Africa, while Amnesty International reported that UK-based arms brokers had arranged small arms deliveries from Albania, Bulgaria and Israel using secret international brokering and trafficking networks. Both warned that further deliveries from various sources were being reported locally. The Albanian, Bulgarian, French and South African governments denied any official knowledge of or involvement in violating the UN embargo.<sup>7</sup> These exposures in mid-1995 convinced the UN Security Council to establish an International Commission of Inquiry (UNICOI) to find evidence of breaches of the embargo imposed on 17 May 1994.<sup>8</sup> UNICOI did not, however, focus on complicity in genocide under the 1951 Convention on Genocide. This was assumed to be a responsibility of the separate International Tribunal on Rwanda, based in Arusha, Tanzania, although this has not been the case so far. UNICOI also lacked judicial powers to call witnesses, and it had limited resources. In addition, commissioners suffered from a lack of cooperation, to varying degrees, from governments and officials in the region, especially the authorities of former Zaire but also from some states in Western and Eastern Europe. However, with support from some officials, NGOs and journalists, UNICOI did manage to find credible evidence of arms flows to the region from Eastern Europe and Southern Africa even after the imposition of the arms embargo. It put awkward questions to European governments through its representations, and, even though these were never fully answered, its reports to the Security Council helped provide some impetus for UN action toward preventing small arms proliferation.<sup>9</sup>

## The South African Who Cleared a Million Dollars

In March 1993 a ship called the *Malo*, laden with Serbian small arms and ammunition on its way to Somalia, was inspected and held by the Seychelles authorities.<sup>10</sup> On 4 June 1994, Wilhelm Tertius Ehlers (known as Ters Ehlers) – a former senior official in the apartheid government – and Colonel Theoneste Bagosora – a senior official of the Rwandan Ministry of Defence of the Hutu government-in-exile – went to the Seychelles to negotiate the purchase of the arms. When interviewed in Goma in February 1995 by a Human Rights Watch researcher, Bagosora said he had met with South African officials at the end of May and early June 1994 to arrange weapons shipments to the former Rwandan military. These officials had refused to consider direct South African arms shipments but had offered to help to arrange shipments by other parties.<sup>11</sup>

On the nights of 16–17 and 18–19 June 1994, two planes of Air Zaire flew the weapons from the Seychelles government-controlled stockpile to Goma airport. These weapons were then transferred to the ex-FAR military forces in Gisenyi just across the border inside Rwanda.<sup>12</sup> The weapons included anti-tank and fragmentation grenades and high-calibre ammunition. According to Human Rights Watch, an Air Zaire DC-8 aircraft with the call sign 9Q-CLV had transported the arms from the Seychelles to the Zairian town of Goma in two separate flights. On arrival in Goma, the arms were

reportedly handed over for use by the ex-FAR armed forces that were still holding Gisenyi prefecture in Rwanda. In the spring of 1996, two UNICOI members visited Seychelles to discuss the allegations with the Minister of Defence, James Michel, and other senior officials of the Seychelles government. In a report presented by UNICOI to the UN Security Council, the Commission wrote that it had been provided with information that amply corroborated the statements made in the 1995 report by Human Rights Watch. Documents, and that information made available to UNICOI by the Seychelles government enabled the Commission to reconstruct the case of the arms purchase. In discussions with members of UNICOI, the Defence Minister of the Seychelles stated that the arms in question had been seized by his government because they were being transported to Somalia in violation of the UN arms embargo. The Seychelles government had tried to dispose of the arms, but Ehlers had approached them, saying that the Zairian government was interested in buying them.<sup>13</sup>

Ehlers described himself in the Seychelles as the director of a company called Delta Aero.<sup>14</sup> He had arrived from

Johannesburg on 4 June 1994 accompanied by a person afterwards known as Colonel Bagosora, 'whom the Seychelles authorities believed to be a Zairian'.<sup>15</sup> The two visitors inspected the weapons and agreed to purchase the entire shipment. Bagosora produced an end-user certificate that had apparently been issued by the Zairian Ministry of Defence. The document, a copy of which was made available by the Seychelles government, purported to be an end-user certificate signed on 13 June 1994 in Kinshasa by General Baoko Yoka, the then Vice-Minister for

National Defence of Zaire. It referred to Ehlers' company 'Delta' and described the weaponry as 'munitions' and 'TNT'.<sup>16</sup>

Ehlers and Bagosora had provided the aircraft in which to transport the arms, a civilian DC-8 cargo aeroplane with the registration 9Q-CLV, owned by the state company Air Zaire. To overcome an objection from the Seychelles Civil Aviation Authorities concerning the transport of military matériel in a civilian aircraft, Bagosora produced a document certifying that the aircraft had been chartered for military purposes. The document purported to place it under 'full military responsibility of the Ministry of Defence of the Government of Zaire'. The document bore the heading of the seal of the Ministry of Defence of Zaire and was dated 16 June 1994 and signed by Bagosora. The authorities of Seychelles were apparently unaware that the Colonel, although signing on behalf of the Zairian Ministry of Defence, was in fact a Rwandan national. However, Bagosora had declared himself as such on the immigration card he filled in when entering the Seychelles on 4 June 1994 to negotiate for the arms. In fact Colonel Bagosora was a high-ranking officer in the former Rwandan government forces,

reputed to be one of the main organizers of the genocide and the 'chief arms procurer for the ex-FAR'.<sup>17</sup>

Flight plans given to UNICOI by the transport authorities indicated that the Air Zaire DC8 aircraft had left Kinshasa on 16 June 1994 for Mombasa, Kenya, and had

returned on 20 June from Goma to Kinshasa.<sup>18</sup> This schedule corresponded with the information that the arms had been transported in two shipments, on 17 and 18 June 1994. Flight plans provided in Seychelles corroborated this. The government of the Seychelles provided lists of the rifles, grenades and ammunition contained in each of consignments airlifted to Goma. Bagosora had countersigned both of the documents on behalf of the Zairian armed forces – the *Forces armées zairoises* (FAZ). Each shipment weighed approximately 40–42 tons.<sup>19</sup> Realizing the fraud, the Seychelles authorities said they finally cancelled a third consignment, planned for 23 June 1994. Following the departure of the second consignment on 19 June 1994, reports in the Seychelles media had revealed that the armaments were being transported to Goma and not to Kinshasa, and that Bagosora was not Zairian but in fact a Rwandan officer in the ex-FAR who had ordered acts of mass killing of civilians. Afterwards, Seychelles officials told UNICOI that they had been under the impression the arms were to be airlifted to Kinshasa and that their suspicions had been aroused only after the subsequent press reports.<sup>20</sup>

## Swiss Banking Arrangements

Attempts to uncover the money trail shed more light on the deal, but still left some big questions. Basically, the arms were purchased with two separate payments into the

account of the Central Bank of Seychelles in the Federal Reserve Bank in New York.<sup>21</sup> Two amounts of \$179,965 and \$149,982.50 were sent to the Seychelles account from an account at the Union Bancaire Privée in Geneva. UNICOI's requests to the Federal Department of Foreign Affairs of Switzerland for information about the account-holder initially bore no results. 'Investigations are encountering numerous problems of a legal and practical nature', was the reply from the Swiss Federal Department to UNICOI.<sup>22</sup> However, in August 1997 the Prosecutor General of Switzerland sent UNICOI a letter notifying the Commission that an investigation on the financial transactions regarding the case had been opened. The Swiss government gave some specific details acknowledging that Ehlers was indeed the holder of a numbered account – 82-113 CHEATA – at the Lugano office of Union Bancaire Privée in Switzerland.

The Swiss Prosecutor General confirmed that the two separate payments, \$179,965 and \$149,982.50 respectively, had been paid on 15 and 17 June 1994, and stated moreover that on 14 June and 16 June 1994 the account of Ehlers had been credited with \$592,784 and \$734,099 respectively – in other words, about \$1 million more had been received in Ehlers account than had been paid to the Seychelles Central Bank in New York. The Prosecutor General told UNICOI that the large funds entering Ehlers' account had originated from an account at the Banque Nationale de Paris SA in Paris, which had in turn been acting on behalf of the 'Banque Nationale du Rwanda, Kigali'. So where had the money really come from?

The French newspaper *Le Figaro* tried to reconstruct these transactions in April 1998, but both the Banque National de Paris and the Union Bancaire Privée in Switzerland declined to comment on the issue. Representatives of the Federal Reserve Bank in New York referred *Le Figaro*'s journalists back to the Swiss bank.<sup>23</sup>

In September 1996, members of UNICOI travelled to South Africa to discuss the role of arms traffickers to the Great

Lakes. They interviewed Ehlers, who offered to provide a detailed account of the deal but claimed 'he had been assured that the arms were destined for Zaire and had been "shocked" to learn that the recipients were in fact the former Government forces'.<sup>24</sup> Ehlers said that he believed Colonel Bagosora had been merely a 'technical expert' who was to inspect the weapons on behalf of the Zairian officials who had approached him in Pretoria to buy rifles and ammunition for the Zairian armed forces.<sup>25</sup> That Ehlers was 'shocked' and so naïve is highly unlikely, because he was not an incidental player in the international arms market. He was the personal secretary of the South African President P. W. Botha until Botha's retirement in 1989,<sup>26</sup> and in this capacity he would have been aware of the role played by the Seychelles-registered company GMR as a front for sanctions-busting to South Africa.<sup>27</sup> (GMR are the initials of one of the Italian founders of the company, Giovanni Mario Ricci). The GMR conglomerate's network, controlled from executive offices in Switzerland (Lugano) and South Africa,<sup>28</sup> had played a role in the arms transaction between Ehlers, Bagosora and the Seychelles government.<sup>29</sup> One of GMR's original founders, Mario Benito Chiavelli, was a controversial Italian businessman who had cooperated with the apartheid authorities to circumvent the arms and oil embargoes on South Africa throughout the 1980s.<sup>30</sup> Ehlers had become managing director of the South African branch of GMR in 1990, after Botha had retired as South Africa's President one year earlier.<sup>31</sup>

*Le Figaro* contended that the transactions for the weapons bought through the Paris account of the former Rwandan government were not a coincidence.<sup>33</sup> The inventory of the weapons that were bought from the Seychelles government closely resembled a list that the exiled 'interim Minister of the Interior of the Rwandan government' had sent to the French government in May 1994. Both Bagosora and Ehlers were well connected in France. Bagosora had been the first Rwandan officer to be admitted to the French war academy in Paris. Ehlers, who had been an officer in the South African Navy before being seconded to President Botha, had received military training at a French submarine base between 1970 and 1972.<sup>34</sup>

In 1996, Ehlers was again reported to be involved in a clandestine shipment.<sup>35</sup> In February 1996 the Department of Transport of Namibia had grounded a Russian-registered Antonov 12 at Grootfontein airport, pending an investigation by police.<sup>36</sup> The plane was suspected of illegal cargo flights to UNITA in Angola, at a time when the country's rebel movement was under a UN embargo against receiving arms or fuel. Namibia's Deputy-Minister of Transport said that Ehlers had approached him to allow the aircraft to fly supplies to Angola, but the plane had started operating from the Namibian airport without permission.<sup>37</sup>

Ehlers denied any involvement in illegal cargo flights, but the Namibian authorities insisted that he was implicated in a series of illegal flights to Angola, Zaire and Botswana with thousands of litres of fuel.<sup>38</sup> The owner of the Antonov was a South African-based Russian national who faced charges in Namibia. His company, Yurand Air, had also skirted the law in Mozambique and South Africa, according to a South African official at the Directorate of Civil Aviation.<sup>39</sup> Ehlers reportedly stated that he had indeed 'investigated a business proposition' where the Russian owner of the aircraft was a potential 'supplier of services', but that the illegal operation had subsequently started without his knowledge.<sup>40</sup> In December 1997, Human Rights Watch published a report on military assistance and arms trafficking to Burundi.<sup>41</sup> The report described an offer made in September 1996 for a consignment of AKM assault rifles, hand grenades, anti-tank mines, rocket-propelled grenades and ammunition to Burundian buyers by a South African arms merchant. The person facilitating the deal was a South African national, acting on behalf of a supplying company, GMR Group, registered in South Africa. The facilitator used a business address in Kampala, Uganda, to approach the Burundi military authorities, but the negotiations were suspended after Burundi's neighbours imposed sanctions on Burundi in response to the military coup of July 1996.<sup>42</sup>

## The Anglo-French Offshore Method

UK brokers and traders used a host of sub-contracting companies based in offshore tax havens to conceal their Rwanda activities. This was revealed by interviews conducted by investigative journalists in late 1994 and 1995 with UK-based aircrew who were directly involved or who knew about arms deliveries to the exiled Rwandan armed forces and Hutu militia.<sup>43</sup>

Cargo aircraft registered in Africa but based in Europe helped conceal the arms trail. For example, a UK pilot and loadmaster stated that in May 1994 an aircraft managed by a company in the UK flew empty from Oostend in Belgium to Tirana in Albania, where small arms were loaded under the supervision of Israeli officers; the plane then flew to Goma in the former Zaire with no customs checks on documentation and cargo, despite a refuelling stop in Cairo. The crews said they were initially unaware that their flight was to carry arms cargo; they then thought that it was a government-to-government deal, until they saw there was no paperwork carried out in Kigali. Each pilot and loadmaster expressed remorse about what he had done, but claimed that his involvement was unintentional. They recalled other

flights from Albania, as well as Bulgaria and Israel, during that period, and gave names of persons and companies they thought were managing the operation.<sup>44</sup>

On 16 November 1996, as armed clashes escalated in eastern Zaire, two journalists working for the Italian newspaper *Corriere Della Sera* discovered military procurement documents from a lorry belonging to the exiled Rwandan Ministry of Defence near a refugee camp at Mugunga.<sup>45</sup> These documents corroborated the UK aircrew claims of a secret series of arms flights from Albania and Israel into Goma and Kinshasa airports brokered by agents in Western Europe, particularly in the United Kingdom. Seven large cargoes of small arms worth \$6.5 million were flown from Tirana and Tel Aviv between mid-April and mid-July 1994 to the forces as they carried out the genocide, even during the time when the mass killings were being reported daily by the international news media.<sup>46</sup>

The documents showed that a UK company, Mil-Tec Corporation Ltd, was involved in arms supplies to the Hutu regime at least from June 1993 to mid-July 1994. Mil-Tec had been paid \$4.8 million by the regime in return for invoices of \$6.5 million for the arms sent. The manager of Mil-Tec, Anoop Vidyarthi, was described as a Kenyan Asian who owned a travel company in North London and was in business with

Rakeesh Kumar Gupta.<sup>47</sup> They both fled the UK shortly after the revelations. Mil-Tec documents show that the company had arranged the supply of rifle ammunition using an Israeli shipping agent, Trade and Maritime Services of Tel Aviv.<sup>48</sup> This deal was reportedly handled through Merstone Investments, a company registered in the Isle of Man.<sup>49</sup> Vidyarthi was linked to a UK arms dealer, Paul Restorick, who ran another arms brokering company, Mil-Tec Marketing, situated in Ashford, Kent. Restorick admitted that he had 'advised' Vidyarthi in 1993, but he denied any corporate connection with Mil-Tec Corporation and any involvement in arms supplies to Rwanda.<sup>50</sup>

The diffuse and nebulous structure of Mil-Tec Corporation Ltd was deliberate. The company's letterhead stated that it had 'Associates in – Europe – Israel – Korea – USA'. Correspondence between Mil-Tec and the Rwandan Ministry of Defence showed that Mil-Tec had continuously used an address in Hove, East Sussex, but was registered in offshore tax havens. Initially, the Hove address was the only one given on Mil-Tec's letterhead, for example in April 1993 when it was supplying batteries to the Ministry in Kigali from London. Then, as soon as the company was used to supply the ammunition from Israel in May, Mil-Tec's letterhead showed an address in

Douglas, Isle of Man. Vidyarthi had registered Mil-Tec as a company in Douglas in February 1993 through a local 'off the shelf' company-formation agent, and then in June 1993 had registered it with two local 'facilitator' directors on the Island of Sark.<sup>51</sup> In this way, Vidyarthi and his associates tried to ensure minimum public information about their activities.<sup>52</sup>

Mil-Tec's 'offshore' move coincided with the increasingly controversial trade. While the address in Douglas was retained on the letterhead throughout Mil-Tec's mid-1994 arms deliveries, the company continued to describe the Hove office as its 'correspondence address', and always displayed the Hove telephone and fax numbers. This office was used by a long-established accountancy firm run by Vinod P. Dhiri, who was in partnership with Varinder Singh and Ravinder Jain. The latter had recently joined the firm; he said that Vidyarthi had contacted the accountancy firm in 1992, and that they had met a few times on social occasions, but that no work was provided to Mil-Tec. A handwritten note of the contact in 1992 was in the files, and the firm denied any knowledge or involvement in Mil-Tec's arms deals.<sup>53</sup>

The shipping arrangements used by Mil-Tec were intentionally obscure. According to the air waybill documents attached to the correspondence, Mil-Tec used the Israeli company, Trade and Maritime Services, which in turn contracted Aeroflot aircraft to supply the ammunition to Kigali in June 1993. For the arms deliveries in mid-1994, however, Mil-Tec used a different shipping agent, one which could set up complicated route and over-flight arrangements in Africa. This was Jet Lease International (Bahamas) Ltd, run from a Jet Lease office in Windsor near London. The manager of Jet Lease, Donald Duke, was described as of Nigerian origin. Although Jet Lease used air waybill documents from a well-known Nigerian company, Okada Air Cargo, for the 1994 deliveries, Okada denied any involvement with the arms flights. Aircrew who flew to Goma claim that Duke and others sub-contracted the Mil-Tec deliveries to small air-cargo companies.<sup>54</sup>

One such company was Peak Aviation, with offices in Hove and then Brighton, Sussex. It operated a Boeing 707 registered in Ghana but based in Kent. A freelance pilot resident in the Channel Islands told UK television researchers that Peak Aviation had flown four arms flights to Goma in mid-1994 – one from Tel Aviv and three from Tirana – and this was broadcast in November 1994.<sup>55</sup> A second pilot said that the loading agent in Tel Aviv had told him the boxes of weapons were to go across the border into Rwanda for the Hutu government.<sup>56</sup> The owner of Peak Aviation, Alan Moffat, used an offshore company in Jersey called D.C. Marketing Ltd.<sup>57</sup> Peak Aviation was dissolved in December 1994, and Moffat left the UK when confronted by the television crew about his involvement in the arms flights.<sup>58</sup>

Financial arrangements make the picture look more complex. Mil-Tec Corporation used a North London branch of the National Westminster Bank to receive payments.<sup>59</sup> Rwandan officials of the extremist regime had facilitated payments

to Mil-Tec initially from Kigali in mid-April, then from the Cairo embassy and from two Belgian banks in May, and finally from the Paris embassy in mid-July. Lieutenant-Colonel Cyprien Kayumba, director of financial services in the Rwandan Ministry of Defence, wrote that he had left Kigali on 17 June 1994 to supervise the unloading of the first arms delivery in Goma; then, until the last delivery on 18 July, he had toured Nairobi, Cairo, Paris (where he stayed for 27 days), Nairobi, Kinshasa, Cairo, Tunis, Tripoli, Paris, Cairo and Nairobi in order to facilitate the purchases.<sup>60</sup>

However, in a letter to the exiled Rwandan Minister of Defence in December 1994, several months after the genocide, Mil-Tec complained of not having received payment for the ammunition shipment from Israel in June 1993, and of a payment from Cairo for the shipment from Albania in July 1994 being blocked by the Bank of New York:

Your Excellency, as you are well aware, we have been suppliers to your Ministry for over 5 years, and were able to assist you with supplies during your time of need....we were approached for very urgent supplies on the 10<sup>th</sup> of April, after the tragic death of His Excellency the President, ...as you see our first shipment was delivered 8 days later...Payments were made to us from Kigali, Belgium, France and Cairo, we also received 1 payment of 450,000 dollars from one of your suppliers (DYL INVESTMENTS) who was unable to fulfil his delivery commitments to you, but had been paid by your Ministry...A transfer of US dollars 578,654 was effected from Cairo for our last shipment on 18/7/94, we however never received the payment...We believe the blockade was initiated by the U.S. due to the situation in Rwanda at that time ... may we also add that we are able to assist you in the future if you so require.<sup>61</sup> The payment by DYL Investments refers to a French arms brokering company owned by Dominique Lemonnier.<sup>62</sup> In 1991, he began working with arms suppliers in Poland through his Polish father to supply Burkina Faso, and then on 3 May 1993 managed to secure a \$12,166 million contract with the Kigali regime to supply a large array of arms. Lemonnier registered his company in the Turks and Caicos Islands on 19 May after getting the contract.<sup>63</sup> Nevertheless, he continued to operate from Cran-Gevrier, Haute-Savoie, in France, and used a cover address in Geneva, where he opened an

account with the Banque Internationale de Commerce. Between May and September 1993, DYL received four payments into the Geneva account from Kigali, each for \$1,064,525. Deliveries of arms to Kigali were reportedly made from Poland and from the Israeli company, Universal, using East Africa Cargo airlines.<sup>64</sup>

However, Lemonnier made the mistake of including DYL's French address on the contract instead of only the British offshore tax haven.<sup>65</sup> Unlike the situation faced by Mil-Tec in the UK, DYL was supposed to have obtained prior authorization from the French Ministry of Defence. When his Polish source dried up, Lemonnier tried to activate the Israeli one, but he was unable to secure an air shipping agent or carrier with the right to overfly countries between Tel Aviv and Kigali. When DYL failed to make two-thirds of the arms deliveries, Lemonnier faced legal action in France to recover the \$1,647,864.<sup>66</sup> By early May, DYL had to pay Mil-Tec \$450,000.<sup>67</sup> According to Mil-Tec records, this payment met costs for the third arms shipment to Goma. It also brought into play the services of an Afghan agent in Rome, Dr Ghazi Tamiz Ud Din Khan, who signed himself 'Consulate General Rwanda in Rome'. After meeting Colonel Kayumba in Paris, he promised that the \$970,000 order of ammunition and grenades was 'ready...please wait tomorrow for the next fax, tonight we will listen to the phone'.<sup>68</sup> UK aircrew collecting arms in Tirana at this time said Israeli supervisors had arrived in Tirana from Rome.

## Who Cares About the Missing Million?

Since intentional obfuscation is the order of the day in the arms brokering and shipping business, many lingering but important questions inevitably remain unanswered, not least the origin of the funds used to purchase the arms for the before, during and after the Rwanda genocide. The \$1,196,898 claimed by Mil-Tec from the Hutu regime for its arms deliveries appears to match the \$1,197,864 owed to the regime by DYL. Why did a senior French official pursue this repayment on behalf of the Hutu regime? And did the \$900,000 remaining in Ehlers' Geneva account reflect a desperate attempt in June by the Hutu extremists to switch to another arms broker? Or was Ehlers more involved at a higher level from the start? And what happened to the money in Ehlers' account? Whatever the answers, the actions of the collaborators are still unaccounted for under international law, while Ehlers and Vidyarthi remain free to continue arms dealing – unlike Lemonnier, who died of a heart attack in France in April 1997, only 44 years old.<sup>69</sup>

The arms deals continued to be brokered and shipped for the retreating Hutu forces. On 15 April 1994, around the same time as the Mil-Tec deal, Colonel Gratien Kagiligi signed a \$4.7 million contract for rifle ammunition, grenades, rockets and mortars with Oriental Machineries Inc. of Hong Kong and China. The contract specified that the arms would be delivered in C130 or Antonov 12 aircraft to destinations decided by the purchasers.<sup>70</sup> Europe, too, continued to be used as a platform as if nothing had happened. The Russian-Israeli owner of TIG Bulgaria and Phoenix Air Bulgaria later admitted in a UK news programme that a British company based at Gatwick had chartered his aircraft to fly arms to Goma in 1995. He said that he assumed it was a government-to-government delivery: 'We fly if the documents are

right. We don't check the papers...we just check the export certificates.'<sup>71</sup>

In 1996, UNICOI received disturbing evidence of forcible fund-raising by the ex-FAR forces and their *Interahamwe* militia amongst Rwandan refugees, and of the production of counterfeit money in Kenya by exiled officials.<sup>72</sup> These and other findings were not published for over a year, but leaked out and received significant international media coverage. However, two of the Commission's most important recommendations – that arms monitors should be stationed at all ports of entry near Rwanda, and that arms traffickers operating from third countries with impunity should be confronted with new laws – were quietly ignored by governments.<sup>73</sup>

In November 1998, UNICOI published a final report, warning that the exiled Rwandan armed forces had scattered to many countries in Central and East Africa, and were not only launching attacks in Rwanda but also fighting in neighbouring Congo on the side of the new government's armed forces and its allies. UNICOI reported a lack of cooperation by many governments in the region in tackling arms flows, and said that further illegal arms transfers had taken place during 1997 and 1998, but it did not publish any details.<sup>74</sup>

In answer to a letter from UNICOI asking what action the UK government was taking on Mil-Tec, the Minister of State for Foreign Affairs replied on 9 October 1998 that there had been 'delays and omissions in implementing the United Nations arms embargo' in 1994. He went on to state that it had also concluded that 'because the legislation imposing the embargo in the United Kingdom did not fully cover the supply of arms to neighbouring countries, the Customs and Excise investigation was unable to take forward criminal proceedings against Mil-Tec..'<sup>75</sup> It should be recalled that by the last week of April 1994, humanitarian organizations were estimating that over 300,000 Rwandans had been killed. The UK government made no mention of a possible prosecution under the 1951 Genocide Convention.<sup>76</sup>

Likewise, the South African government told UNICOI that it had no previous powers to prosecute the offenders, but that it had passed a new law and was still investigating new reports of trafficking to Central Africa. The last UNICOI report did not state whether it had sent any letters to the governments of Albania, China, Israel and Italy regarding the further receipt of evidence of arms deliveries in breach of the embargo. The Bulgarian and French governments simply denied the further involvement of their nationals. Today the recommendations and future existence of UNICOI remain in doubt, but the Commission certainly prompted international awareness of the catastrophic consequences of small arms proliferation in Central Africa.

Meanwhile, in 1996 and 1997 the new government armed forces of Rwanda acquired significant quantities of arms from Romania, using a broker in Israel.<sup>77</sup> The Tutsi-dominated government also took delivery of arms from Bulgaria, China and South

Africa, as well as US military combat training, while carrying out numerous arbitrary killings of civilians, especially in eastern Zaire, where an estimated 200,000 Rwandan refugees were reported disappeared.<sup>78</sup> Officials in the supplying countries attempted to justify these arms shipments on the grounds that the armed opposition, including the perpetrators of the genocide, was still killing and abusing defenceless Rwandan civilians. Apparently, no lessons had been learned.

## **Bartering Arms for the Brazzaville Massacres**

During 1997, the ethnic fighting spread from both the Great Lakes region and Angola towards the Congo Basin. The acquisition and circulation of weapons and ammunition was linked to the changing fortunes of opposing armed groups and their suppliers. Ex-FAR and *Interahamwe* killers retreated and scattered, some fleeing across the Congo River to support the rebellion in the Congo Republic (Brazzaville) in exchange for food and money. On the other side, the Congolese government army and its Israeli-trained militia<sup>79</sup> welcomed Mobutu's retreating troops and Angola's UNITA rebels. Their base in Zaire was under threat from the advancing forces of Kabila and the Rwandan and Ugandan armies.<sup>80</sup> The Brazzaville (and new Kinshasa) political leadership resorted to bartering or mortgaging national assets or future production in

exchange for arms – and, unfettered, international arms brokers were ready to help, as the following account shows. Fighting involving deliberate attacks on civilians erupted in Congo-Brazzaville in June 1997. By early October 1997 it had reached catastrophic proportions. Even the personnel of the International Committee of the Red Cross had to withdraw from Brazzaville for a time, and it is claimed that as many as 15,000 Congolese civilians were killed and many more injured.<sup>81</sup> The belligerents used small arms and heavier weaponry, including attack helicopters. Some of the equipment was supplied through West European dealers operating within Africa who took advantage of the fact that no arms embargo had been imposed on the Republic.

Documents found in the offices of the ousted government of Congo-Brazzaville showed that, between June and September 1997, a German arms broker and an arms trader allegedly of Belgian nationality supplied millions of dollars worth of military equipment to the forces of the beleaguered President Lissouba.<sup>82</sup> The German dealer negotiated orders totalling \$42.4 million, and received \$27.1 million.<sup>83</sup> Both dealers operated from South Africa using several companies

registered in various countries, with French, Belgian and UK bank accounts.<sup>84</sup> In addition, between January and July 1997, Italian traders supplied Congo-Brazzaville with 15 tons of cartridges apparently worth over \$5 million.<sup>85</sup> This shipment was delivered at a time when the rivalry between political militias in the Congo was increasing and observers were warning of an outbreak of fighting and the probable slaughter of many more civilians.

Amongst the documents seized from the presidential palace by the militia of the new head of state, Sassou-Nguesso, is a letter dated 8 December 1997 from the former Congolese Prime Minister to the Director of Ebar Management & Trading Ltd in Pretoria, South Africa. The letter informs him about the visit of a mission on behalf of the Congolese Prime Minister, Bernard Kolelas, to discuss the purchase of planes, helicopters, trucks and an oil contract between the company in Pretoria and the Congolese government. The announced mission included the son of the Prime Minister and two other officials of the Prime Minister's cabinet.<sup>86</sup>

The director of Ebar, a German national based in South Africa, signed all but one of the proforma invoices sent to the Congo government between 1 June and 19 September 1997. The first was issued by CED Marketing based in Johannesburg, whose

director was the same German national, but was issued 'on behalf of Support Systems Corporation (Pty) Ltd. and Exotek'.<sup>87</sup> It mentions an amount of \$19.9 million for the supply of four Puma SA 330 L transport helicopters. It specifies that the aerospace corporation Denel Aviation of South Africa would 'recondition' these helicopters prior to delivery, after payment of half the price. In September, the director of President Lissouba's cabinet, Claudine Munari, wrote that \$10 million had been transferred to Ebar and a further \$9 million to Ingwe Traders, another company linked to the German dealer.<sup>88</sup> Other companies for which this dealer signed as a director are CED Marketing SA of Johannesburg and Caprivi Cargo – the latter being a South African freight company based in Namibia that was allegedly used for shipment to Pointe Noire in Congo-Brazzaville.<sup>89</sup>

The other invoices relate to the registration of Antonov AN-24 and AN-26 aircraft, to the costs of the crews required to pilot them, and to the supply of Unimog and IVECO trucks. One invoice states that: 'all items are sourced, shipped and delivered via SAPROD Namibia.' Arms appear also to have been shipped from South Africa and from some Central Asian republics using large Ukrainian-registered Ilyushin 76 cargo aircraft which flew via airports in Namibia and Egypt.<sup>90</sup>

Another document dated 27 June 1997 and signed by the German broker as chairman of CED Marketing acknowledged an order from the Congo-Brazzaville government for the purchase of two MI-17 IV transport helicopters. This deal was reportedly made through the Belgian manager of a company called Sablon Trading, which had an account at the First National Bank in Johannesburg.<sup>91</sup> According to the letter, the helicopters were ordered from an 'East European' supplier. Other documents show that a contract existed between the Kirghiz Republic (Kyrgyzstan) and the Brazzaville government for the purchase of five MI-8 and three MI-24 attack helicopters.<sup>92</sup>

A fax sent by the Belgian trader to Lissouba's secretary mentioned another order of five helicopters. A technical note specifies that the MI-17 IV helicopter can be used as a combat helicopter with rockets, guns and bombs. This bears handwritten notations on the cost of the rockets. Combat helicopters piloted by East European mercenaries reportedly began firing indiscriminately on civilian areas in Brazzaville on 19 August, and were allegedly used to bomb civilians in the Mpila and Poto-Poto districts of Brazzaville on 26 August 1997 and again on 10 September.<sup>93</sup> The new Congo-Brazzaville government said that this was a crime against humanity and submitted evidence to the United Nations, as well as to the French, Belgian, German and US governments.<sup>94</sup>

The documents also indicate that President Lissouba's government concluded an oil-for-arms deal with the German broker to obtain these helicopters. On 2 October 1997 the German signed a contract for a loan of \$100 million with the then ministers of economics and oil of the Congo. In this contract, the Congo government committed itself to provide Ebar with 160,000 barrels of crude oil per month over five years from 1 November 1997. The first disbursement of \$50 million should have been made on 17 October, two days after Lissouba was overthrown.<sup>95</sup>

All of the above might explain why the documents reveal that on 30 June 1997, President Lissouba asked the director of Fiba, a bank reported to be the 'in-house bank' of the French oil giant Elf Aquitaine,<sup>96</sup> to make three transfers. First, \$5.7 million was to be paid into 'La Belgolaise' account in Brussels of a Belgian company; secondly, \$1.8 million was to be paid into the Commercial Bank of Namibia account of Support Systems Corporation (linked to CED Marketing, Exotek and to the German broker); and thirdly, \$5.8 million was to be paid into the Barclays Bank account in Jersey of Ebar Management and Trading. On 23 September, the Congolese cabinet secretary told the German dealer: 'there are at your disposal in our bank in Paris (Fiba) two cheques of \$500, 000 each (no 1601 and no 1602 American Express) payable to BD International and CED.'<sup>97</sup> Two days later, the German dealer acknowledged receipt.

Sassou-Nguesso was sworn in as President of Congo on 25 October. The following day, he met the President-Director of Elf Aquitaine, and it was reported that Fiba stopped the accounts of the former regime.<sup>98</sup> On 20 November 1997 it was reported that Lissouba had filed a complaint at the High Court in Paris against Elf for its 'aid to General Sassou for

the execution of his coup' against him. His lawyer told French newspapers that Lissouba had access to documents proving the use of the Fiba (French) and Belgolaise (Belgian) banks for the purchase of arms by Sassou-Nguesso. The French judge reportedly declared that he had 'no jurisdiction to hear the matter'.<sup>99</sup> In mid-1998, President Nguesso's government published a report detailing what it called genocide and war crimes by forces of former President Lissouba, but failed to address its own widespread abuses. Armed clashes resumed in August 1998 with the killing of hundreds of unarmed civilians.<sup>100</sup>

<sup>1</sup> UN Security Council Resolution 918, S/RES/918, 17 May 1994.

<sup>2</sup> The first published account of the genocide by an independent Rwandan writer is Andre Sibomana, *Hope for Rwanda* (London: Pluto Press, 1999), based on conversations with Laure Guilert and Herve Deguine, translated, with a postscript, by Carina Tertsakian, and including a preface by Alison Des Forges.

<sup>3</sup> Papers from the archive of the former Rwanda Ministry of Defence found in eastern Zaire in November 1996 [referred to hereafter as ex-MOD papers]; Report of the French Parliamentary commission of inquiry into France's role before and during the Rwanda genocide, 15 December 1998, 1,500 pages; see especially testimony of James Gasana, former Minister in the Habyarimana regime, to the commission of inquiry, as reported by *Le Monde*, 12 June 1998; Human Rights Watch, 'Arming Rwanda: The Arms Trade and Human Rights Abuses in the Rwandan War', New York, January 1994.

<sup>4</sup> Gasana testimony (see note 3 above).

<sup>5</sup> Sibomana, *Hope for Rwanda*.

<sup>6</sup> Amnesty International, *Rwanda: Arming the Perpetrators of the Genocide*, London, June 1995; Human Rights Watch, *Rwanda/Zaire: Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide* (New York, May 1995).

<sup>7</sup> However, in each case, the denials of these nations' involvement turned out to be qualified. In the case of France, Bernard Debré, the French minister for overseas cooperation at the end of 1994, subsequently admitted that France had continued to supply arms to the Hutu regime for up to ten days after the genocide began. This accords with observations by senior UN military officers stationed in Kigali at the time. However, the charge had been denied by the former French Prime Minister, Edouard Balladur, including in his testimony to the French parliamentary commission of inquiry in 1998. See 'France and Rwanda: Humanitarian?', *The Economist*, 25 April 1998. Israeli officials refused to comment when it was revealed that Israeli nationals had been involved.

<sup>8</sup> The UN International Commission of Inquiry was established pursuant to Resolution 1013 (1995) of the United Nations Security Council, to 'investigate, inter alia, reports relating to the sale or supply of arms and related materiel to former Rwandan government forces in the Great Lakes region in violation of Council Resolution 918, 997 and 1011'. The following reports were published: Interim Report (17 January 1996) UN Doc. S/1996/67, released 29 January 1996; Second Report (13 March 1996) UN Doc. S/1996/195, released 14 March 1996; Third Report (1 November 1996) UN Doc. S/1997/1010, released 24 December 1997; Addendum to the Third Report (22 January 1998) UN Doc. S/1998/63, released 26 January 1998; Interim Report (18 August 1998) UN Doc. S/1998/777, released 19 August 1998; Final Report (18 November 1998) UN Doc. S/1998/1096, released 18 November 1998.

<sup>9</sup> Authors' interviews with Commissioners of UNICOI, 1996–99.

<sup>10</sup> Reuters, 7 March 1993.

<sup>11</sup> Human Rights Watch, *Rearming with Impunity*, p. 14.

<sup>12</sup> *Ibid.*, pp. 10–11.

<sup>13</sup> UNICOI, Second Report, March 1996, par. 29.

<sup>14</sup> *Ibid.*, par. 29.

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*, Document annexed '*Certificat de destination finale*'.

<sup>17</sup> Sibomana, *Hope for Rwanda*; and information from Kathi Austin, Human Rights Watch, and Brian Johnson-Thomas, a freelance journalist, who both interviewed Bagosora in Goma in early 1995. The quote is from *Rearming with Impunity...*, p. 4, footnote 12.

<sup>18</sup> UNICOI Report, March 1996, par. 27.

<sup>19</sup> *Ibid.*, paragraph 33 and annexed copies of the documents concerned. The first consignment, handed over on 16 June and airlifted on the 17 June, consisted of 2,500 AK-47 rifles, 500,220 pieces of 7.62 mm calibre ammunition, 2,560 hand grenades and 33,696 pieces of 12.7 mm FIE ammunition. The second, signed for on June 18 and airlifted the next day, consisted of 6,000 pieces of 60 mm mortars, 624 pieces of 82 mm, 4,800 pieces of 12.7 mm HE ammunition, 5,440 pieces of 37 mm, 7,600 pieces of 14.5 mm ammunition and 5,600 fragmentation rifle grenades.

<sup>20</sup> UNICOI Report, March 1996, par. 31–32.

<sup>21</sup> *Ibid.*, par. 35.

- <sup>22</sup> UNICOI Third Report, October 1996, par. 62–63 (dated December 1997).
- <sup>23</sup> ‘Quatre ans après la tragédie rwandaise (5): Les armes du génocide’ *Le Figaro*, 3 April 1998. The French daily produced a series of five articles on the alleged involvement of France in the 1994 genocide in Rwanda.
- <sup>24</sup> UNICOI Report, October 1996, par. 24–29.
- <sup>25</sup> *Ibid.*, par. 29.
- <sup>26</sup> Stefaans Brummers, ‘PW’s Man Who Bust the Rwanda Arms Ban’, *Mail & Guardian*, 15 November 1996.
- <sup>27</sup> R. Hengeveld & J. Rodenburg, *Embargo: Apartheid’s Oil Secrets Revealed* (Amsterdam University Press/ Shipping Research Bureau, 1995), pp. 260–266.
- <sup>28</sup> Brochure of the GMR Group.
- <sup>29</sup> Interviews with members of UNICOI. Ehlers acknowledged his GMR connection in Caroline Dumay & Patrick de Saint-Exupéry, ‘Les armes du génocide’, *Le Figaro*, 3 April 1998.
- <sup>30</sup> Hengeveld & Rodenburg, *Embargo: Apartheid’s Oil Secrets Revealed*, pp. 260–266.
- <sup>31</sup> Stefaans Brummers, ‘Ehlers Linked to Flights in Namibia’, *The Weekly Mail & Guardian*, 8 March 1996. Ehlers acknowledged his GMR connection in *Le Figaro*, 3 April 1998.
- <sup>32</sup> Authors’ interviews with UNICOI officials, October 1999.
- <sup>33</sup> *Le Figaro*, 3 April 1998.
- <sup>34</sup> *Ibid.*
- <sup>35</sup> Brummers, ‘Ehlers Linked...’.
- <sup>36</sup> The incident is described in Alex Vines, *Angola Unravels, The Rise and Fall of the Lusaka Peace Process* (Human Rights Watch, 1999).
- <sup>37</sup> Brummers, ‘Ehlers Linked...’. See also Stefaans Brummers, ‘A Complex Tale of Illegal High-flying’, *Weekly Mail & Guardian*, 15 March 1996.
- <sup>38</sup> Brummers, ‘A Complex Tale...’.
- <sup>39</sup> Interviews and correspondence with South African aviation official, April/May 1999.
- <sup>40</sup> Stefaans Brummers, ‘A Complex Tale of Illegal High-flying’, *The Weekly Mail & Guardian*, 15 March 1996. The same Russian pilot who owned Yurand Air was arrested in Zambia in August 1999 with other East European aircrew for suspected illegal arms trafficking. Their Ilyushin 76, en route to Uganda, was grounded at Lusaka airport.
- <sup>41</sup> *Stoking the Fires: Military Assistance and Arms Trafficking in Burundi* (New York: Human Rights Watch Arms Project, May 1997).
- <sup>42</sup> *Ibid.*, pp. 74 and 78.
- <sup>43</sup> Interviews and documents from Brian Johnson-Thomas and researchers with 20/20 Television, 1994, and Carlton Television, 1995. See also Amnesty International, *Rwanda: Arming the Perpetrators...*
- <sup>44</sup> *Ibid.*
- <sup>45</sup> Interviews with journalists from *Corriere Della Sera*, November 1996 and June 1998.
- <sup>46</sup> Ex-MOD papers. Details of arms shipments arranged by Mil-Tec Corporation have sometimes not been accurately reported. They were: 6 June 1993 (\$549,503 of ammunition from Tel Aviv to Kigali); 17–18 April 1994 (\$853,731 of ammunition from Tel Aviv to Goma); 22–25 April 1994 (\$681,200 of ammunition and grenades from Tel Aviv to Goma); 9 May 1994 (\$1,023,840 of rifles, ammunition, grenades, mortars and rifles from Tirana to Goma); 18–20 May 1994 (\$1,074,549 of rifles, ammunition, mortars, RPG rockets and other items from Tirana to Goma); 13–18 July 1994 (\$753,645 of ammunition and rockets from Tirana to Kinshasa). The date on the air waybill appears first, and the invoice second. The additional costs of delivering batteries (\$511,415 in 1993 and \$56,000 in 1994) and the cost of airport delay at Kinshasa were added to the above by Mil-Tec, yielding a total sales figure of \$6,615,313. To this total, Mil-Tec added interest bank charges of \$254,062 due in December 1994 for the failure of the Rwandan MOD to pay \$1,708,313 for deliveries in 1993.
- <sup>47</sup> Michael Gillard, David Connett & Jonathan Calvert, ‘London Businessman Made \$1 Million in Arms Deals with Hutu Extremists’, *The Observer*, 24 November 1996.
- <sup>48</sup> Ex-MOD papers. A Mil-Tec letter to the MOD on 7 December 1994 claims that the invoice for nearly \$550,000 was unpaid for the June 1993 delivery of ammunition worth nearly \$550,000 using the Israeli shipping agent.
- <sup>49</sup> Gillard et al., ‘London Businessman...’.
- <sup>50</sup> Richard Duce, Arthur Leathley & Michael Evans, ‘Arms Dealer Tells How He Advised on Trade with Rwanda’, *The Times*, 19 November 1996.
- <sup>51</sup> Richard Duce, Daniel McGegory, Ian Murray & Jon Ashworth, ‘How the Mil-Tec Trail Led from Sussex to Sark’, *The Times*, 19 November 1996. There is no company tax on Sark.

<sup>52</sup> For more on the UK offshore tax havens, see Chapters 9 and 10.

<sup>53</sup> Duce et al., 'How the Mil-Tec Trail...'; Sam Kiley, 'British Company Supplied Arms to Hutu Militia', *The Times*, 18 November 1996.

<sup>54</sup> Testimony of aircrew who flew arms to Goma in 1994, 20/20 Television, 1994, and Carlton Television, 1995.

<sup>55</sup> 'The Big Story – The Gun Runners', 20/20 Television for Carlton Television, 17 November 1994.

<sup>56</sup> David Pallister, 'UK Pilots Tell of Grenade Flights', *The Guardian*, 17 November 1994.

<sup>57</sup> Interviews by 20/20 Television, 1994.

<sup>58</sup> Oxfam named two other air cargo companies suspected of links to the Mil-Tec deliveries, Orchid Aviation based in Gatwick, UK, and Overnight Cargo Airlines registered in Nigeria but with offices in Newmarket, UK. Oxfam, UK: *Out of Control* (London, 1999).

<sup>59</sup> Letter from National Westminster Bank of Kilburn, London, to Mil-Tec Corporation Ltd, c/o Isle of Man, dated 11 November 1994.

<sup>60</sup> Lt. Colonel Kayumba's report on his travels and payments is part of the ex-MOD papers, and is quoted by Patrick St Exupéry, 'France–Rwanda: Silence of State', *Le Figaro*, 14 January 1998.

<sup>61</sup> Letter dated 7 December from Mil-Tec to the exiled Ministry of Defence, Rwanda, in Bukavu, Zaire.

<sup>62</sup> 'Un Français est écroué pour trafic d'armes de guerre avec le Rwanda', *Le Monde*, 2 February 1995.

<sup>63</sup> Ibid.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

<sup>66</sup> In April 1995, a CNN television crew filmed a meeting in a Nairobi hotel between an alleged arms trafficker from overseas and persons purported to be the exiled Rwandan Ministers of Foreign Affairs and Finance, and a Lt. Colonel of the ex-FAR. CNN could not identify the arms trafficker, but linked the meeting to a letter concerning the DYL legal case in France.

<sup>67</sup> The DYL payment to Mil-Tec was also recorded in an annex to a letter from Mil-Tec to the former Minister of Defence of Rwanda, 7 December 1994, and in a report by Lt Colonel Kuyumba on his travels in 1994, quoted in *Le Figaro*, 14 January 1998.

<sup>68</sup> Copy of correspondence between Dr G.T. Khan in Rome and Colonel Kayumbu of the Rwanda Ministry of Defence, 19 May 1994, concerning the 'urgent' supply of arms.

<sup>69</sup> Ibid.; Patrick St Exupéry, 14 January 1998.

<sup>70</sup> Ex-MOD papers. Contract No OMI/RWA940095.

<sup>71</sup> HTV Bristol, news team interview with Simon Spitz (also known as Shimon Lahav), 30 April 1998.

<sup>72</sup> UNICOI, Third Report, October 1996 (released officially on 24 December 1997).

<sup>73</sup> The recommendations are contained in the second and third reports of UNICOL.

<sup>74</sup> UNICOI, Final Report dated 18 November 1998, Doc. S/1998/1096. Part V of the Report states that, due to lack of time and lack of cooperation and support from key governments, 'the present report should be considered as incomplete.'

<sup>75</sup> Ibid. Par. 74. The UK government's claim requires further examination of the Order in Council on Rwanda, Statutory Instrument 1994 No 1637 United Nations (amending Statutory Instrument 1993 No 1787), which came into force on 24 June 1994. The UK government also indicated that the previous government had not acted promptly in May 1994 to implement the UN arms embargo on Rwanda in the many UK dependent territories and the three Crown dependencies of Jersey, Guernsey and the Isle of Man.

<sup>76</sup> Article 3e of the 1951 Convention on the Prevention and Punishment of the Crime of Genocide defines 'complicity in genocide' as a punishable act.

<sup>77</sup> AFP, 30 January 1998, quoting from *Evenimentul Zilei*, and AFP 1 May 1998.

<sup>78</sup> On 12 July 1997, the UN team investigating the massacres of Hutu refugees and local civilians in eastern Zaire called them 'a crime against humanity'. See the following reports by Amnesty International: *Rwanda: The Hidden Violence* (AI International Secretariat, London, June 1998); *Rwanda: Ending the Silence* (September 1997); *Rwanda: Civilians Trapped in Conflict* (December 1997); and *Democratic Republic of Congo: War Against Unarmed Civilians* (November 1998). Also John Pomfret, 'Massacres Were a Weapon in Congo's Civil War', *Washington Post*, 11 June 1997, and 'Rwandans Led Revolt in Congo', *Washington Post*, 9 July 1997. US officials denied combat training, but later admitted it. See Lynne Duke, 'Africans Use Training in Unexpected Ways', *Washington Post*, 14 July 1998.

<sup>79</sup> The 'Aubevillois', as the militia members of President Lissouba were originally called, were trained from 1994 on by Israeli specialists. The Israelis left, however, on the eve of the outbreak of the civil war, and a US major and a French mercenary contingent were hired to replace them. The Aubevillois (also called the 'zoulous' in several media) then became the 'COCOI' – 'companies of commandos of intervention'. Mercenaries from the South African company Executive Outcomes were reportedly hired as personal bodyguards for Lissouba. The militias of the other contestants,

the current President Sassou-Nguesso and the former major of Brazzaville, Bernard Kolélas, were known as the 'Cobras' and the 'Ninjas' respectively. A fourth belligerent party's militias were called 'Les Requins' (the 'Sharks').

<sup>80</sup> Amnesty International, *Republic of Congo: An Old Generation of Leaders in New Carnage*, (Amnesty International Secretariat, London, 25 March 1999, AI Index: AFR 22/01/99). Amnesty International reported that the Israeli company Lordon-Levdan had trained hundreds of militia loyal to President Lissouba before March 1997.

<sup>81</sup> Ibid.

<sup>82</sup> Government of the Republic of Congo, 'The Civil Wars of Congo Brazzaville, Documents of History', November 1993–January 1994, 5 June–15 October 1977. The Nguesso government in Brazzaville compiled the documents and published this three-volume 'White Paper' on the wrongdoings of former President Lissouba. President Nguesso and his Cobra militia had their own networks of arms suppliers, some of whom seem to overlap with those in Lissouba's supply network who are accused in the White Paper (hereafter WhP). We have used the documents reproduced in the White Paper, not the annotations.

<sup>83</sup> WhP, Vol. 1, Document copies reproduced on pp. 124–125.

<sup>84</sup> FIBA, Belgolaise and Barclays Bank.

<sup>85</sup> R. Orivio, 'Ulivo in guerra per l'export d'armi', *Corriere Della Sera*, 6 July 1998, p. 3; information from Osservatorio sul Commercio delle Armi e sull'applicazione della legge 185/90.

<sup>86</sup> WhP, Vol. 1, Copy of letter reproduced on p. 107.

<sup>87</sup> Ibid., document copy reproduced on p. 124.

<sup>88</sup> Copy of document reproduced in Jean-Philippe Remy & Stephen Smith, 'Professeur Folamour et les vendeurs d'armes', *L'autre Afrique*, 18–24 February 1998, p. 30.

<sup>89</sup> Ibid., pp. 28–31.

<sup>90</sup> E.B.A.R. Management and Trading, Proforma Invoice, dated 5 August 1997. Copy of letter reproduced in WhP, Vol. 3, p. 796.

<sup>91</sup> An invoice from his company was sent to the Presidential cabinet on 12 June 1997, including 'Bank Details' with a request to transfer \$1.8 million to the account of Sablon Trading at the First National Bank in Johannesburg. A copy of the document is in WhP, Vol. 1, p. 48.

<sup>92</sup> 'Congo-Brazza: Les vraies questions', *Jeune Afrique*, No. 1915, 17–23 September 1997, p. 15. The 'Belgian' dealer we refer to is the one called 'French' by *Jeune Afrique*.

<sup>93</sup> 'Ukrainian Helicopters Make Brazzaville More Dangerous', APS, 1 September 1997; Communiqué issued by the office of Denis Sassou-Nguesso, Paris, 28 August 1997; 'Many Casualties Reported in Congolese Army Raid North of Brazzaville', *Radio France*, 12 September 1997; Amnesty International, *Republic of Congo...* (25 March 1999).

<sup>94</sup> Most of the documents referred to in this case-study are included in the first three volumes of evidence that were distributed by the new Congo government.

<sup>95</sup> 'Contrat de Pret', Copy of document reproduced in WhP, Vol. 1, p. 126.

<sup>96</sup> 'Lissouba attaque Elf en Justice', *Libération*, 26 November 1997.

<sup>97</sup> Quoted in Remy & Smith, 'Professeur Folamour...', p. 30.

<sup>98</sup> 'Jaffré (Elf) a rencontré Sassou Nguesso a Brazzaville.' Paris, Reuters, 27 October 1997.

<sup>99</sup> 'Lissouba attaque Elf en Justice'.

<sup>100</sup> Amnesty International, *Republic of Congo*.

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## [The Arms Fixers](#)

### Chapter 4

#### Shopping in the Shadows

Today, an important aspect of Europe's key role in international arms brokering routes is to be found in Eastern Europe. Here we find companies that are significant international suppliers of cheap small arms, ammunition, grenades, military vehicles, armoured personnel carriers, and attack and transport helicopters for clients in conflict zones. Surplus stocks from former Soviet military bases all over Eastern Europe have turned into warehouses for weapons brokers based in Western Europe. Shopping lists circulate between traders and suppliers; when a recipient is found who cannot buy in the mainstream government markets, the weaponry is shipped by civilian cargo companies to a transit point, from where it is transported to a final

destination in a war zone. Once the war is over, large quantities of weapons are stockpiled or exported abroad, often through the same brokering channels that were used as supply channels during the war.

Before his arrest in March 1998, Geza Mezosy was such a broker. He has a Belgian passport but his parents were immigrants from Hungary and Yugoslavia. Using his Central European background, he started to broker arms deals from Belgium, Luxembourg and Hungary for suppliers in Eastern Europe.<sup>1</sup> His company Eastronicom SA was registered in Belgium in 1989, and he obtained a licence to import, sell, store and export weapons in the same year. He also had a company called Laser in Hungary, as well as several companies based in Luxembourg. He opened up business contacts in Central and Eastern Europe to serve a transcontinental list of clients. On the local level Mezosy was also supplying black-market circuits in Belgium.<sup>2</sup> The sales register of his company shows that his main supplier of the weaponry in the early years of his business career was the now liquidated Hungarian company Technika.<sup>3</sup> Mezosy lost his dealer's licence in Belgium in 1993 after the police had searched the premises of another weapons dealer where Mezosy kept a small stock of samples to demonstrate to his clients.<sup>4</sup> A number of weapons had not been declared and Mezosy was arrested shortly after the raid. One month later he was released, but the Governor of the Province of Brabant (Belgium) nevertheless refused to grant him a new licence in February 1994, because Mezosy remained under suspicion while a police investigation was in progress.<sup>5</sup> A few weeks before Mezosy's stock was confiscated, an article in the American magazine *Forbes* about the illegal trade in ex-Soviet arms had named Mezosy and his company Eastronicom. *Forbes* reported that Mezosy was acting as a middleman for the sale of illicit sale of weapons, supplied by the Bulgarian company Kintex, to the former Yugoslav republic of Bosnia.<sup>6</sup> The magazine had found his company's name on a \$15 million order with Mali as the official destination, but the embargoed government forces in Bosnia were the real recipients.<sup>7</sup> 'After first denying any involvement, Mezosy now says he sells Soviet-standard weapons to Bosnia for "humanitarian reasons"', *Forbes* reported.

The loss of his Belgian dealer's licence did not stop Mezosy from going on with his trade. Through a company registered in Luxembourg but with offices in Belgium, he remained active on both the national and the international levels.<sup>8</sup> Invoices to the company in Luxembourg, to the attention of Mezosy and a French partner, dated May 1995, confirm orders by the company of several hundred pistols and a number of submachine guns, with an import licence for Luxembourg.<sup>9</sup> Mezosy and his partner, although acting through the Luxembourg company, were running their business from an office in Brussels and using the Luxembourg company letterhead, as other correspondence from the same period shows.<sup>10</sup> A fax transmission from the Luxembourg company's Brussels representative office to Eastronicom, dated 7 December 1995, again confirms that the lack of a Belgian dealer's licence did not seriously hamper Mezosy's activities, and that he even still used his old Belgian-registered company for these purposes.

In May 1996, three years after Mezosy had lost his Belgian licence, a suspect was arrested near Brussels international airport. In his car the police found 25,000 ecstasy tablets, 10 CZ-pistols and a Yugoslavian-produced Uzi-submachine gun with silencer.<sup>11</sup> Further investigations in Belgium led to nine other arrests and the seizure of hundreds of illegally imported military firearms, grenades, ammunition and explosives.<sup>12</sup> During questioning the suspects mentioned Geza Mezosy. In the course of the surveillance operation by the police at Brussels airport that led to the arrest of the suspect, another man had showed up in a car with a Luxembourg licence plate. The description of the man and the licence plate again pointed in the direction of Mezosy.<sup>13</sup> Consequently, Mezosy's premises in Belgium were searched and several documents were confiscated, but no arms were found. When questioned, he denied having anything to do with the drugs or weapons found in the car at Brussels airport or at the premises of the other suspects. The police did not arrest him.<sup>14</sup> In December 1996, ten individuals connected to this case, most of whom already had previous convictions for arms-trafficking charges, were convicted and given severe prison sentences.<sup>15</sup> Some of the accused had confessed that they were functioning as couriers and straw men for Mezosy. They explained that Mezosy had introduced them to his arms suppliers in Croatia.<sup>16</sup> They were supposed to drive to Croatia by car to pick up small quantities of weaponry and to deliver these to Mezosy in Belgium, who paid them a commission. During interrogation, two of the suspects also mentioned large quantities of M-16s, US-produced rifles that were leftovers from the Vietnam War. A contact of Mezosy in Croatia, a Frenchman, had access to the US-produced assault rifles; the suspects were expected to find clients for the weaponry.<sup>17</sup> The suspects claimed the weaponry that the police had found were only samples, given to them by Mezosy.<sup>18</sup> One suspect also mentioned a British supply line of Ingram submachine guns.

Although no business connection could be established between the British company and Mezosy, an invoice for the British company was found when the police searched the premises of a relative of Mezosy.<sup>19</sup> In December 1996, Mezosy was convicted together with the other suspects to three years' imprisonment, but he had already fled Belgium soon after having been questioned.<sup>20</sup>

Mezosity had found refuge in South Africa, where he arrived in May 1996 on a temporary residence permit. Upon arrival in South Africa, he wasted no time. The domestic market for pistols was expanding very rapidly, in parallel with gun-related crime, and gun licences were easy to obtain. He immediately started prospecting the South African market and established a new trading company, BEZA Import & Export.<sup>21</sup> He applied for an arms dealer's licence. The 'date of commencement of business' mentioned on the application was 1 June 1996. The South African Police granted the licence in November 1996.<sup>22</sup>

On 8 July 1996, six weeks after his arrival in South Africa, Mezosity mailed a letter to several gun dealers in various parts of South Africa, presenting himself as a major importer of Spanish-produced firearms from the company Llama Gabilondo Y CIA, S.A.<sup>23</sup> A letter from the Spanish company to Mezosity's company BEZA shows that the Spanish company was not pleased with Mezosity's mailing in South Africa, noting that 'Mezosity had absolutely no right to make the claim' that he was Llama's exclusive agent.<sup>24</sup> Other correspondence with the company shows that Mezosity was persistently trying to

convince the directors of the company in Spain to recognize his marketing talents and that he was placing large orders for hundreds of firearms to the company.

Although several letters point to business transactions going on between the two companies,<sup>25</sup> Mezosity was advised not to overestimate his marketing potential in South Africa: 'Are you really sure that Mr. Mezosity, who is new in the market, will really be able to maintain 6 shipments for a total quantity of 1,500 pieces throughout this year?', the Managing Director of the company in Spain is quoted as saying in one of the letters to Mezosity.<sup>26</sup> Apart from the 1,500 guns, mostly 9 mm and .45 calibre handguns, Mezosity also wanted to import significant amounts of spare parts and ammunition. An invoice from Llama, dated 10 December 1996, totalled 1,200,000 pesetas in arrears payments. In January 1997, Mezosity wrote to the commercial director in Spain saying that he intended 'to push the product to a maximum on the market'. In order to do that, Mezosity claimed he had worked out a profit-sharing system with a company in South Africa called Centurion, with branches in Cape Town, Johannesburg, Durban and Port Elizabeth, to distribute the 1,500 pistols from Llama. In a remarkable request by Mezosity, he wrote: 'Of course we would like to receive the goods in kit but maybe you will have to put in the guns "assembled in RSA" and allocate other serial numbers than yours.'<sup>27</sup>

When the Public Prosecutor in Brussels issued an international warrant for his arrest in January 1997, Mezosity's permit to stay in South Africa had already expired, but Belgian authorities did not initially know he was living there. By the time they found out, Mezosity had applied for asylum in South Africa. In March 1998, he was eventually arrested in South Africa on an Interpol warrant issued by Belgian authorities.<sup>28</sup>

According to press reports in South Africa, Mezosity was arrested on an Interpol warrant but was also 'suspected of trafficking arms from the Czech Republic to several African states, including Uganda, the Democratic Republic of Congo, Sudan, the Central African Republic and Ethiopia'.<sup>29</sup> According to a report in *The East African*, Mezosity was suspected of supplying modern weapons, such as AK-74's and old US leftovers from the Vietnam War to conflicting countries in Africa.<sup>30</sup> The weekly

reported that this could be deduced from a personal computer database of Mezosity, which referred to a great number of African countries.

Interviews with the police officer who arrested and questioned Mezosity in South

Africa and with a Belgian police officer investigating the case confirm that Mezosity's digital diary contained a list of over 20 African and Latin American countries under a heading 'M-16 A'. On the basis of the confessions of several of Mezosity's accomplices in Belgium who had referred to 'large quantities of M-16s',<sup>31</sup> the police in Belgium and South Africa were led to believe that Mezosity was indeed a major illegal weapons supplier of African conflicting parties, but apart from the evidence in the digital diary, no proof could be found to charge him with these offences. It seems more likely,

according to the investigating officers, that Mezosity was prospecting to find clients for the M-16s from his Croatian-based supplier, and that the list of African countries in his digital diary referred to the national arms inventories of those countries where the M-16 is already in use.<sup>32</sup>

In May 1998, Mezosity was extradited to Belgium, where his original conviction was confirmed. He was sentenced to two years' imprisonment. The charges were fraud and illegal arms trafficking to and from the former Yugoslav Republics of Croatia and Bosnia-Herzegovina – at a time when both these republics were under UN embargo – and the illegal importation, delivery and sale of arms in Belgium. Mezosity also confessed, in October 1998, that he had supplied the Norinco-gun that was used in a brutal murder case in Belgium. Mezosity had met the suspected killer in 1991 and they had become friends because they had 'a common interest: the arms trade', he told the police after being confronted with the invoices for the sale of the Norinco-gun to the suspected killer.<sup>33</sup>

On the day of Mezosity's arrest at his luxurious home in Midrand, South Africa, a business partner of his was also present – a man who signed himself 'captain' on fax transmissions from South Africa. 'Captain' was a partner in Mezosity's

South African company Beza.<sup>34</sup> He was identified as a former Belgian convict<sup>35</sup> who had fled to Latin America in the 1980s, later moving to South Africa, and is suspected of being a key player in a series of brutal armed robberies and killings in Belgium.<sup>36</sup> Soon after Mezosy's arrest, 'Captain' left South Africa for an unknown destination in Southern Africa. Mezosy is still in prison.

## Exploiting Western Government Surpluses

It is not only in Eastern Europe that states fail to keep proper records of arms stockpiles, and that uncontrolled surpluses left over from the Cold War get siphoned off into the international marketplace. For example, in 1996 the Austrian Ministry of Defence sold 40,000 obsolete StG-58 assault rifles to a Swiss trading company called Brügger + Thomet Feinmechanik.<sup>37</sup> The Austrian Interior Ministry authorized the export of the weapons to Switzerland; but, while these remained stored in Austrian military warehouses between March 1997 and September 1998, the Swiss company sold 17,000 of them to foreign customers.<sup>38</sup>

Under Austrian law, military assault rifles have to be deactivated or demilitarized before being exported, unless the Cabinet explicitly authorizes the sale of military equipment to a foreign client. Cabinet authorization should result in the issuance of an export certificate. However, Brügger + Thomet was able to re-export the rifles from Austria to its clients without such approval. Part of the weaponry sold to foreign clients was demilitarized, but much of it was not.

A large proportion of the rifles were actually exported from Austria with Swiss transit documents, but without any specific export authorization from the Austrian government.<sup>39</sup> Recipients were the military and the prison service in Botswana, as well as various arms dealers in the Netherlands, Romania, Switzerland, Austria, Italy and the USA. In September 1996, the Austrian authorities had issued an export licence for the 40,000 assault rifles to Switzerland with a written remark containing a list of the

'possible destinations' of the StG-58s. But no export licences had been issued in Austria when the actual sale of the weaponry to private companies in these countries took place.<sup>40</sup>

Remarkably, a letter dated 23 November 1998 from the Swiss company to the Austrian Ministry of the Interior requested certificates for the export of 1,575 StG-58 assault rifles and later one hundred StG-58s to Botswana, but the Swiss transit documents for these weapons were issued in November 1996 and February 1998 respectively. Attached to the request, the Swiss company provided copies of three end-user certificates from a commander of the Botswana Defence Force and a commissioner of the Botswana Prison Service, dated 10 June 1997, 17 July 1997 and 6 January 1998. The documents mention 1500, 100 and 75 items respectively. According to the end-user certificate for the two shipments to the Botswana Defence Force, another private company, 'Beaverpride Holdings', is stated as the supplier. The Botswana Defence Force is stated as the end-user. On the sales register of Brügger + Thomet, the transactions with clients in Botswana are dated October 1997 and April 1998.

According to this register, another deal by the Swiss company was the sale on 9 July 1997 of 1,000 rifles to the AcvilaGroup, a company in Bucharest, Romania.<sup>41</sup> At the time of the sale, the original company Brügger + Thomet Feinmechanik had been deregistered in Switzerland. A new company Brügger + Thomet AG was not registered until six weeks after the indicated sale. Switzerland only issued a transit certificate in March 1997 for the transport of the weapons from Austria to Romania. The transit document mentions 5,200 FN FALs, including accessories. No export licence was

issued in Austria or in Switzerland. It is not clear whether a Romanian import certificate or an end-user certificate was issued.<sup>42</sup>

There was also the sale of 400 assault rifles shown on an import certificate issued by the Dutch Department for Import and Export of the Ministry for Economic Affairs, dated 22 October 1998.<sup>43</sup> The importer in this case is mentioned as 'J.F.Y. PO BOX 145, 3632 ZT Loenen Aan De Vecht'. The exporter is said to be the Austrian Ministry of Defence with a PO Box in Vienna, but no export licence was issued by Austria for the transaction.<sup>44</sup> The deal was brokered by Brügger + Thomet in Switzerland. No end-user certificate was issued in the Netherlands either. The sales register of the Swiss company listing the sales of the assault rifles includes three similar exports to the same PO Box in the Netherlands.<sup>45</sup>

None of the entries in the sales list mentions the demilitarization or deactivation of the weapons, nor is there a copy of the 'deactivation protocol' required under Austrian export regulations.<sup>46</sup>

On 4 November 1998, the successor company Brügger + Thomet AG received a letter from the Austrian Ministry of the Interior in Vienna containing a reminder of the original contract agreement and referring to Austrian export regulations and restrictions. It was generally understood that the 40,000 assault rifles had been sold after being deactivated (demilitarized), and possibly sold to the collectors' markets in

Japan, Belgium, the Netherlands, Canada, the USA, France, the UK and Northern Ireland. The weapons could be sold

without Austrian government approval, provided they were exported – after deactivation – to Switzerland.<sup>47</sup> Brügger + Thomet acknowledged these contract restrictions in a written reply of 23 November 1998, but the company was under the impression that no further authorization by the Austrian government for transactions was required for re-export.<sup>48</sup> ‘It goes without saying’, the letter states, ‘the prison guard/service of Botswana only procures fully operational StG 58’s.’ The company further provides the annexed list of the 24 transactions of the assault rifles that took place up to September 1998. Deactivation of the exported rifles is mentioned with regard to only three out of the 24 listed cases. The letter also includes a wish list of Austrian export licences for the past transactions, in order to regularize the past illegal sales as well as to proceed with several new sales to Italy, France and Switzerland.<sup>49</sup> Anticipating further deliveries to Italy, Spain, France and the Netherlands, the Swiss company requested ‘a generalized export authorization for the entire European Union, Switzerland and the US.’ The company stressed the need for speed, ‘preferably before 10 December 1998, in view of the entering into force of new Swiss arms legislation on 1 January 1999.’ These cases illustrate why United Nations experts concluded in 1999 that states generally do not keep precise, centralized and accessible records and accounts of existing stocks of small arms and light weapons, including ammunition, deemed surplus to national requirements, obsolete or unserviceable.<sup>50</sup> The lack of careful management of surpluses is yet another attraction to brokers eager to find cheap sources of supply to maximize their profit margins.

<sup>1</sup> We collected information through several contacts with officials, private investigators, law-enforcement officers, researchers and journalists in Belgium and South Africa; we were also able to inspect documents, including correspondence between Mezosy’s companies and some of his clients and suppliers.

<sup>2</sup> In 1996 Mezosy was charged in absentia in Belgium on charges of fraud, illegal arms trafficking to embargoed Bosnia-Herzegovina and the illegal importation, delivery and sale of arms in Belgium.

<sup>3</sup> Copy of Trade Register listing suppliers and clients for the period 1989–91.

<sup>4</sup> This dealer was later reported to be a major supplier of weaponry and mercenaries for the ousted president of Congo Brazzaville, Pascal Lissouba. See Gary Jones, ‘Blood On Our Hands’, *The Mirror*, 8 March 1999.

<sup>5</sup> Interviews with the investigating police officers in Belgium, February 1999.

<sup>6</sup> The European Community decided to ban all arms deliveries to Yugoslavia on 5 July 1991. The UN Security Council imposed an international arms embargo against Yugoslavia on 25 September 1991 (UN Security Council Resolution 713). This embargo was subsequently reaffirmed in UNSCR 724, 727, 740, 743 and 787. All the warring parties on the territory of the former Yugoslavia, whether recognized states or non-state parties, were subject to the arms embargo.

<sup>7</sup> Peter Fuhrman, ‘Trading in Death’, *Forbes*, May 10 1993.

<sup>8</sup> Copy of the Warrant for his Arrest, April 1997. Additional information: ‘Onrust over wapenhandel vanuit ex-Joegoslavië’, *De Morgen*, 23 May 1996.

<sup>9</sup> Copies of invoices are in our possession.

<sup>10</sup> Copies of invoices.

<sup>11</sup> ‘Onrust ....’, *De Morgen*.

<sup>12</sup> Ibid.

<sup>13</sup> Copy of ‘Warrant by Default. From the Public Prosecutor of the District of Brussels, April 1997’. Additional interview with police officers in Belgium and South Africa.

<sup>14</sup> Copy of Police document No. 101758, dated 21 June 1996, Rijkswacht BOB Asse (Special Branch of the Belgian National Guard), Asse.

<sup>15</sup> Conviction by the 51st Chamber of the Correctional Court of Brussels, 10 December 1996.

<sup>16</sup> Warrant by Default. Additional interview with police officer in Belgium, February 1999.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Interview with Belgian police officer, February 1999.

<sup>20</sup> Ibid.

<sup>21</sup> The company was registered in South Africa under registration number CK 96/24313/23.

<sup>22</sup> Application for a Licence to Deal in Arms and Ammunition, South African Police, and Licence to Deal in Arms and Ammunition, Date 7 November 1996. We were able to inspect both these documents.

<sup>23</sup> Copy of the letter. We are in possession of the correspondence between Mezosy and the Spanish company’s representatives in Spain. We wish to point out that nothing in this correspondence suggests that the Spanish company was aware that Mezosy had a criminal record. In his capacity as a South African-registered arms dealer he was considered a legitimate client or agent for the Spanish company.

<sup>24</sup> Letter from Llama Gabilondo to Mezosy, dated 13 July 1996.

<sup>25</sup> A letter from the Spanish company addressed to Mezosy, dated 29 July 1996, reads ‘Our Bank has not yet received any transfer from you’. Several other letters over the period from July 1996 to early 1997 contain similar complaints from the Spanish company.

<sup>26</sup> Letter from Llama to Mezosy, dated 21 January 1997.

<sup>27</sup> Letter from BEZA Import & Export to the Commercial Director of Llama Gabilondo, dated 21 January 1997.

<sup>28</sup> ‘South Africans hold Belgian on Gun-Running Charges’, Sapa-AFP, 6 April 1998.

<sup>29</sup> Ibid. Also ‘SA Police to Launch Investigation into Belgian National’, Sapa, 7 April 1998; Sonja Deysel, ‘SA lewer man uit aan België’, *Beeld*, 7 May 1998.

<sup>30</sup> Chris Erasmus, ‘Uganda Link in Belgian Arms Exporter’s Web’, *The East African*, 9 April 1998.

<sup>31</sup> Interviews, also Warrant by Default, From the Public Prosecutor of the District of Brussels, April 1997.

<sup>32</sup> Interviews. The list corresponds with the ‘National Inventories’-pages of the 18th Edition (1992–93) of the specialized *Infantry Weapons Yearbook* of the London-based Jane’s Information Group. A Belgian police officer confirmed that a copy of this Yearbook was found during searches of Mezosy’s premises.

<sup>33</sup> Interview with the Belgian police officer who questioned Mezosy in October 1998. Also: Roger Huisman, ‘Gerecht kent leverancier moordwapen Van Noppen’, *Gazet van Antwerpen*, 19–20 June 1999.

<sup>34</sup> The application for BEZA’s Licence to Deal in Arms and Ammunition mentions him as one of the applicants.

<sup>35</sup> Walter de Bock, Maarten Rabaey, ‘Belgen betrokken bij wapensmokkel naar Centraal-Afrika’, *De Morgen*, 11 May 1998. We were able to inspect a copy of a document from Interpol South Africa, confirming these facts.

<sup>36</sup> The ‘warehouse murders’ carried out between 1982 and 1985 involved the deaths of 28 people and wounding of several others. The series of robberies was apparently connected to a right-wing destabilization campaign, and remains one of Belgium’s unsolved judicial mysteries. Mezosy’s partner also has a criminal record in Belgium for aggravated theft and murder.

<sup>37</sup> The *Stg-58* or *Sturmgewehr-58* is an Austrian-produced assault rifle, based on the original Belgian FN-FAL. Originally Austria imported such rifles from the Belgian Fabrique Nationale, but in 1958 the Austrian producer Steyr-Daimler-Puch started manufacturing the StG-58 as a standard rifle for the Austrian Army. Three decades later, a modified version, the StG-77, became the new standard military rifle and the older weapons were mothballed and stockpiled.

<sup>38</sup> ‘FN Fal StG-58 Verkaufsnachweis’, a document listing 24 transactions, was attached to a letter from Brügger + Thomet AG to the Austrian Ministry of the Interior, dated 23 November 1998.

<sup>39</sup> For some of the transactions explicit export licences were eventually granted, but only a year or even 18 months after the weapons had been sold abroad, ‘Verkauf van 40.000 gebrauchten StG-58 auf dem Weltwaffenmarkt durch das Bundesministerium für Landesverteidigung’, Pressekonferenz, Der Grüne Klub im Parlament, 9 December 1998. (Most documents and a detailed chronology of the facts were distributed during this Press Conference, organized by the Green Party in the Austrian Parliament.)

<sup>40</sup> ‘Sicherheit/Bundesheer: Verteidigungsminister hat Kriegsmaterialgesetz eingehalten’, OTS-Presseaussendung, OTS219 5 II 0185 NLA002, 9 November 1998 (Communiqué of the Austrian Defence Ministry on the case).

<sup>41</sup> The list was attached to a letter that Brügger + Thomet AG sent to the Austrian Interior Ministry on 23 November 1998.

<sup>42</sup> ‘Verkauf van 40.000 gebrauchten StG-58...’ (See note 39 above.)

<sup>43</sup> Internationaal Importcertificaat, Koninkrijk der Nederlanden, Belastingdienst/Douane, Centrale Dienst voor In- en Uitvoer, 22 October 1998.

<sup>44</sup> ‘Verkauf van 40.000 gebrauchten StG-58’... Acknowledgments to Dr. Peter Steyrer, Parliamentary Advisor on Peace and Security, Green Party in the Austrian Parliament for information obtained.

<sup>45</sup> Fifteen went to JFY Arms in July 1997, 75 in August 1979, and another 75 in October 1997. When we discussed the issue with an official of the Dutch Ministry of Economic Affairs, Export Controls Department, it seemed that the Dutch authorities were not aware that no export licence had been granted. The Dutch authorities did, however, check the P.O. Box company, and found that it did belong to a registered arms dealer (telephone conversations 18–19 June 1999).

<sup>46</sup> Some of the documents list the producing company of the obsolete weapons as the exporting party, implying some of the weapons may have been upgraded from semi-automatic to automatic rifles.

<sup>47</sup> Answer of the Austrian Defence Ministry before the Austrian Parliament, 100057 AB, 23 June 1995.

<sup>48</sup> Letter from Brügger + Thomet AG to the Austrian Ministry of the Interior, Spiez, Switzerland, 23 November 1998.

<sup>49</sup> Ibid.

<sup>50</sup> *Report of the Group of Experts on the Problem of Ammunition and Explosives*, UN General Assembly, A/54/115, par. 59–61.

## The Arms Fixers

### *Chapter 5*

#### **Flying the Company 'Flags of Convenience'**

Beneath a cargo plane's external paintwork and its simple registration number lie the intricacies of the international aviation business. Especially in poorer countries, the limited capacity of national aviation authorities to monitor and regulate the increasingly complex business makes it easy for weapons trafficking networks to operate.

According to the US International Air Cargo Association, the international rules governing cargo planes are archaic and inconsistent.<sup>1</sup> Airfreight businesses want faster procedures and simpler regulations, but many countries lack the resources for stringent airport monitoring of dangerous cargoes. Electronic tagging systems akin to those for international passenger baggage would be fast – but costly. Currently, airfreight documents such as air waybills and cargo manifests do not require detailed descriptions or cross-referencing of the goods described in arms export and import licences. The routes, names of sub-contractors, the ultimate supplier and customer do not need to be specified. Arms have been found described as 'agricultural equipment', 'mining equipment', 'spare parts', 'fish', 'tents', and 'second-hand clothing', so it is easy to see how the absence of comprehensive records makes it exceedingly difficult for law enforcers to quickly identify all those who may be involved.

It is not only cargo that needs international monitoring. An aircraft registration number and the name of the airline leasing or operating the plane can be switched so as to conceal an operation. A cargo aircraft might typically be registered in one country, then leased and chartered by companies registered in another, while their crews can be hired in yet other countries. In addition, the plane might be serviced and based for practical purposes somewhere else, with the main operating offices of the airline or the handling agency based in yet another country or countries. The sub-leasing of international overflight permissions means that one air carrier can use another carrier's call sign, and this has been used to obfuscate arms deliveries.

The more complex the arrangements, and the less capacity there is to monitor them, the simpler it is for operators, agents and sub-contractors to find ways of denying their involvement in illicit trafficking. A national authority that registers an aircraft to fly under its flag may fail to ensure the airworthiness and safety of that plane. Airlines, planes and aircrew may not all be required to register, and foreign operator permits may carry minimal responsibilities. Even where several aviation authorities try to carry out routine checks on an aircraft's filed flight plan, they will usually not have legal powers to act decisively against all serious abuse. This in turn serves to discourage such checking.

Conversations with pilots, loadmasters and aviation inspectors show how easy it is to evade existing controls in countries that lack regulatory resources. A cargo plane was named as flying in at an airport with one registration number and then flying 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 when a cargo plane using a certain flight schedule arrived very late at its stated destination: the plane had in fact made an illegal landing on the way to its destination, unloading illicit cargo without reporting it. More often, non-scheduled landings are used to load illicit cargo en route, and then ship the additional load under cover of the legal cargo.

Sub-Saharan Africa, in particular, lacks sufficient 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.<sup>2</sup> Smaller freight operators often use older aircraft that can evade long-range radar. Moreover, the communications systems of ex-Soviet aircraft are not always compatible with those of other aircraft, making it necessary for pilots to be able to guide themselves.<sup>3</sup> Thus, pilots with military training are in demand. Sub-Saharan air traffic control has been highly dependent on the selective intelligence and satellite capacity of the former colonial and major world powers, and on the alertness of thinly-spread airport inspectors and customs agents.<sup>4</sup> In such an environment, arms smuggling thrives.

## **Air Trafficking to UNITA**

The experience of Angola illustrates many of these problems. A UN arms and fuel embargo against the UNITA rebel movement was agreed in 1993, but air cargo companies have been easily able to punch holes in it.<sup>5</sup> Initially, few attempts were made to enforce the embargo. The rebels rejected the 1992 UN-brokered election results and, after escalating civilian atrocities, a peace agreement was finally signed in Lusaka in November 1994. Despite UNITA's pledge to disarm and demobilize its troops, as foreseen under the agreement, the movement was rearming from 1996 onwards at an alarming pace. This led to the widening of the UN mandatory embargo in October 1997 and again in June 1998, and

belated attempts to enforce it.<sup>6</sup>

UNITA is a magnet for international traffickers because it can generate several hundred million dollars every year. The rebel movement's ability to acquire arms, fuel and other goods has been based upon its control of a considerable diamond trade and a sophisticated logistical presence, including several large airstrips, in eastern and central Angola.<sup>7</sup> Arms brokers and suppliers based mainly in Africa and Europe have used these resources to provide the rebel movement with tanks, armoured personnel carriers, artillery, missiles, infantry weapons, small arms, ammunition and anti-personnel landmines, primarily of Eastern European origin.<sup>8</sup> The constant logistical challenge for these arms fixers is how to transport arms into UNITA-held territory without being seen or caught, and how to switch regional access routes to avoid detection.

In March 1997, it was reported in Kinshasa that 'Mobutu's top aides provided protection to a dozen arms traders, including Zairians, Lebanese and at least one Portuguese, according to Zairian journalists and Western sources. The traders run a clutch of airlines from Kinshasa's N'Djili International Airport, using about 15 planes and crews hired from Russia.'<sup>9</sup> A major source of this weaponry was Bulgaria. In May 1997, this Kinshasa pipeline was rapidly shifted to Pointe Noire in the Republic of Congo (Congo-Brazzaville) because of the downfall of Mobutu's regime. It was business as usual – during July 1997, the scaled-down UN observer mission in Angola reported 120 flights landing at UNITA-controlled airstrips.<sup>10</sup> But, with the fall of Lissouba in October that year, UNITA's procurement chiefs and their middlemen had to find or reactivate other arms routes.<sup>11</sup>

From late 1997, UNITA developed at least two major arms-supply strategies. Each could reinforce the other. First, there were new routes and deals within the surrounding sub-region. In particular, UNITA's traditional brokers and carriers based in South Africa – some with US, West or East European nationality – shifted their operations to enable land, sea and air routes via Zambia, Mozambique, Tanzania and neighbouring territories. The Luanda and Pretoria governments had some success in countering this, but not enough. In December 1997, there had been 186 illegal flights into Angola, mostly out of South Africa, but this number had fallen to about 40 flights during January–February 1998.<sup>12</sup> Angolan government forces captured the South African crew of a DC-4 aircraft in January that had been chartered in South Africa from an untraceable Brazzaville owner. Before being released, the pilot had admitted to over 300 covert flights into UNITA areas, mainly to the towns of Ballundo and Andulo.<sup>13</sup>

The second strategy was to encourage long-distance flights to UNITA airfields from Eastern Europe using larger freighters. An example given by a captured UNITA colonel in December 1998 was of an Ilyushin 76 delivery from Bulgaria to Andulo.<sup>14</sup> Such flights would normally require refuelling stops in the sub-region; for this purpose, local air-cargo companies with East European owners were well placed to assist. Cargo aircraft identified in UNITA areas in September 1997 showed registration markings from the former Soviet Union (Ukraine, Russia and Moldavia) and West Africa (Liberia and Sierra Leone).<sup>15</sup> Many of these operators were based in Southern and Central Africa, shifting northwards like a flock of birds when the authorities became suspicious. At the time of writing, they were settling at airports in the United Arab Emirates, the Central African Republic, Uganda and Equatorial Guinea.

## Ex-Soviet Business Steps In

In May 1998, the South African authorities announced the expulsion of over 20 pilots and few private air cargo companies operating from a large northern airport near Pietersburg. They were charged with over 100 breaches of civil aviation regulations and accused of transporting fuel tanks, food, clothing and mining equipment to UNITA.<sup>16</sup> Most of those involved were from the former Soviet Union. During the 1990s, such air cargo operators had established themselves in easy-to-register aviation authorities in Lesotho, Malawi, Namibia and Swaziland.<sup>17</sup> Some seemed to have their eyes on rewards of future mineral concessions if they won the war.<sup>18</sup> As the South African company Executive Outcomes had shown their East European counterparts, the rewards could be spectacular, but they depended upon air power and logistics.<sup>19</sup>

The case of one Russian operator, Viktor B.,<sup>20</sup> and his partners serves to illustrate the trend. Viktor B., according to a police officer in South Africa, is thought to be a former officer of the Russian KGB.<sup>21</sup> By 1999, he operated a cargo fleet of over 20 aircraft through several companies based in various countries.

Viktor B.'s operating office was based in Belgium between 1995 and 1997, where he, together with a Belgian pilot and a French partner, ran two companies – a handling agency called the Trans Aviation Network Group (or TAN Group), and an office for an air-cargo company, Air Cess, the planes of which were registered in Liberia. An operating address also existed in Sharjah in the United Arab Emirates and in Geneva, Switzerland.<sup>22</sup> Viktor B. lived near the airport of Oostend, where the planes were maintained.<sup>23</sup> In late 1996 the rent for the offices of the TAN Group at the airport was cancelled and Air Cess took them over. A few months later, the latter company also left Oostend.<sup>24</sup> The sudden departure coincided

with the publication of an international report<sup>25</sup> and articles in the Belgian press,<sup>26</sup> focusing on the role of the cargo airport of Oostend in sanctions-busting activities to Central Africa, and the arming of the perpetrators of the Rwandan genocide.

In 1997, the Liberian Minister of Transport appointed the Belgian pilot, who had flown for the Saudi royal family, as Chairman of the Liberian Aviation Authority's agency in the United Kingdom.<sup>27</sup> Liberia has been a flag of convenience for the fringe air-cargo industry because of its lax licence and tax laws. A company incorporated there can locate its executive offices in another country, conducting business activities at any location. Names of corporate officers or shareholders need not be filed or listed, and there is no minimum capital requirement. A legal existence can be obtained in one day. The country also has lax maritime and aviation laws and regulations that provide owners of ship and aircraft maximum discretion and cover, with minimal regulatory interference. Aviation officers and pilots have suggested that aircraft registered in

Liberia should not be allowed landing or operating rights, and have doubted the seriousness of air-worthiness and air-safety inspections of the Liberian aviation registry.<sup>28</sup> The UK agency lasted about two years, after which Viktor B. and his Belgian pilot were looking for other 'flags of convenience'.

In August 1997, Air Cess Swaziland (Ply) Ltd., directed by Viktor B., was granted a two-year licence by the Swaziland Civil Aviation Authorities.<sup>29</sup> But in 1998 the

government of Swaziland ordered an independent investigation into the registration of certain aircraft in the country suspected of involvement in illegal acts. As a result, 47 aircraft operated mostly by former Eastern European businesses were grounded and later de-registered, while a senior Swazi Civil Aviation officer was suspended on charges of bribery concerning the covert payment of commissions on aircraft registration into a Swiss bank account.<sup>30</sup> In January 1999, the former Minister of Transport of Swaziland said in an interview that the grounded aircraft had been ex-Liberian or ex-Russian aircraft, and some were known to be involved in weapons trafficking to Angola and the Democratic Republic of Congo. Abandoned cargo in one of the grounded aircraft included two Russian-made military helicopters labelled as 'machine spare parts'.<sup>31</sup> The investigating authorities suspected that the helicopters were

destined for a country in Central Africa, and Rwandan officials arrived later to inspect them.<sup>32</sup>

Air Cess was one of these de-registered companies. It was accused in Swaziland of being involved in gunrunning between Mozambique and Angola using the revoked

licence.<sup>33</sup> A confidential monitoring report in the possession of the UN had also recorded an Air Cess freighter landing in UNITA territory in mid-1997, as well as an Antonov freighter belonging to Flying Dolphin, a Russian-operated cargo company registered in Liberia and using southern African airfields. The Air Cess plane was an Antonov 12 with registration number EL-RDL.<sup>34</sup> Although registered in Liberia, the aircraft was found based at the Pietersburg and Lanseria airports in South Africa. Soon after the UN had spotted the Air Cess and the Flying Dolphin Antonovs in UNITA

territory, the Flying Dolphin plane was re-registered in Liberia as a division of Santa Cruz Imperial Airlines, while the Air Cess plane was re-registered in the Central African Republic with a new registration number – 3D-RDL<sup>35</sup>. Ten other aircraft operated by one of Viktor B.'s several other companies were also registered in the Central African Republic, where many former members of the Mobutu regime have fled. In addition, four of the planes in Viktor's fleet were registered in Equatorial Guinea.<sup>36</sup>

Some of the other UN-inspected Russian- or Ukrainian-built aircraft using the Swazi register as a flag of convenience were reportedly operating from airports in South

Africa, Lesotho, Malawi, Rwanda, Uganda, and the UAE. Several planes that had fraudulently obtained a licence in Swaziland could not even land at the Swazi national airport and be inspected.<sup>37</sup> Air Cess Swaziland was supposedly wound up after the scandal, but the 'company' was found still operating freighters that were not registered anywhere. Several Air Cess planes were subsequently grounded in South Africa, and by mid-1999 the company appeared to have moved the base of its Africa operations to the north and east of the Central African crisis zone.<sup>38</sup>

In 1999, the main operating office of Air Cess and the TAN Group continued to be Sharjah in the United Arab Emirates, even though the aircraft were based in several other African countries.<sup>39</sup> The Belgian pilot, who was co-owner of the two Belgian registered companies and the chief executive of one, was also reported to have another address in Sharjah.

Viktor, who also lived in Europe, appeared to be using a last name in Sharjah that differed slightly from the one he used for his registration in Belgium.<sup>40</sup> According to officials in southern Africa, Viktor B. uses five different passports, two of which are Russian.<sup>41</sup> In late 1998, the aircraft operated by his trading and handling agency in Sharjah were reportedly using Russian or Ukrainian crews based at Kigali airport, in Rwanda, and were accused of loading supplies for the armed opposition groups in war-torn eastern Congo and Angola.<sup>42</sup> An Angolan news source also refers to Viktor B. as 'the current spearhead' in the sale of weapons for Jonas Savimbi, UNITA's leader.<sup>43</sup> In 1999, 'a man whose name resembles one of Viktor B.'s many aliases' was also reported to be involved with an Ugandan airforce training operation.<sup>44</sup>

A human rights researcher also reported on Viktor B.'s sanctions-busting activities from South Africa to UNITA.<sup>45</sup> According to his report, aviation authorities at South Africa's Pieterburg Airport visited AirPass in April 1998 and, after assessing its documentation, issued '200 charges for violations of the Civil Aviation Act', including transporting 'fuel tanks, tow trucks, boots, ponchos, food and mining equipment' to UNITA-held areas.<sup>46</sup> AirPass is a subsidiary of Air Cess and is run by Viktor B. and a Russian business partner.<sup>47</sup> No arrests or confiscations in the case were made, this report goes on, because 'individuals involved in sanctions-busting operations via South-Africa use foreign-registered companies' and 'they can not easily be touched as these fall outside South Africa's legal jurisdiction.'<sup>48</sup> AirPass has since moved some of its planes to other national registers.

Belgian aviation and political authorities have made similar remarks when questioned over the use of Belgian airports by companies such as Air Cess.<sup>49</sup> Viktor B.'s company left Belgium in 1997 with a number of other companies, all using old aircraft,

including Skyair and Air Atlantic, both of which had been under investigation by the British customs service in connection with a disputed shipment worth \$10 million to Nigeria.<sup>50</sup> All were accused of flying arms in inter-locking arrangements: 'Like Sky Air, Barrett-Jolley often used the services of former KGB major Viktor Bout,<sup>51</sup> whose fleet of planes has delivered arms to African wars for many years.'<sup>52</sup>

In January 1999, a plane belonging to Viktor B. was also allegedly used in conjunction with planes from Skyair and Occidental Airlines – a partly Belgian-owned but UK-run charter company – to ferry arms from Bratislava via Liberia and the Gambia to a bush airstrip for the Revolutionary United Front [RUF], the Sierra Leone armed opposition that was committing horrific atrocities against civilians.<sup>53</sup> Viktor B. has usually leased his freighter aircraft to other operators, so would claim ignorance of any such dealings. And the reluctance of the UK authorities to prosecute Sky Air and Sandline<sup>54</sup> for helping arm the Sierra Leone government forces meant that there would probably not be legal action to enforce the arms embargo against the RUF rebels either. When the British Prime Minister was challenged in February 1999 to close the loopholes on UK arms flights, he replied, 'We have been leading the way on arms control in the European Union. It is true that the rebels have been rearmed, but they have not been rearmed by this country.'<sup>55</sup> No one would take responsibility for the bloodied flags of convenience.

## Flying the Red Sea Routes

Inside the cargo plane, along with the cargo itself, sit the aircrew. They work in secrecy and often in danger. Their stories of moving the arms cargoes can reveal more than the false paper trails of the arms brokers themselves.

In late 1998 a largely British crew flew an old Boeing 707 freighter with 42 tonnes of arms and ammunition from Bratislava in the Slovak Republic to Khartoum.<sup>56</sup> The arms were for the Sudanese army, which was perpetrating systematic abuses against civilians as part of its campaign against Southern insurgents. If the British and Slovak government authorities inquired, the crew would say they were delivering the arms – 100 mm explosive shells – not to a country embargoed by the European Union, but to the government of Chad.<sup>57</sup> In reality, documents and interviews with former crew

obtained by a UK newspaper show that this was just a cover story. 'When we landed at Khartoum the Sudanese army was waiting for us at the tarmac', said a former crew member, who insisted on anonymity. 'They unloaded a series of long green crates and drove off. I assume the weapons were for their own use but they could equally well have been planning to sell them to someone else.'<sup>58</sup> The arms brokering company for this deal was registered in Damascus, Syria.<sup>59</sup> Between December 1998 and February 1999, members of the crew said that there had been several arm flights to Sudan; each delivery was said to be worth approximately \$55,000, to be split between the crew and the Belgian charterer of the old Boeing. However, on 7 February 1999, the old Boeing ploughed into the mud at the end of the runway at Bratislava airport. The Swiss owner of the Boeing, who had registered the plane in Cyprus, said he did not know anything about illicit arms flights. He said that the Belgian had chartered the plane to ship frozen fish from Tanzania to Austria.<sup>60</sup> This was not the first time that a largely British crew had flown arms towards the Red Sea using a cover story. In 1994, another British pilot told a UK television company that he unwittingly flew arms to the Yemen and Angola. Both countries were at the time subject to international arms embargoes and devastated by wars in which large numbers of civilians were being deliberately targeted. As with the most recent deliveries, the flight documents were dodgy and the routes were deliberately devious, to get around any suspecting authorities.<sup>61</sup>

Describing one episode in 1994, the British pilot said:

We actually left the United Kingdom flying a charter flight carrying relief goods down to Kilimanjaro in East Africa...for the Rwandan crisis. ...While we were in Kilimanjaro we were given instructions to proceed to a place I'd never heard of before, Plovdiv in Bulgaria. We weren't told what the nature of the operation was. It was just another charter. We flew from Kilimanjaro to Plovdiv where we embarked on a series of arms flights...I do not know on what point we became aware...I guess we knew they were arms flights when we actually saw the aircraft being loaded...with

what we were told was government-to-government cargo. ... Although there was no paperwork accompanying the boxes, it was quite clear that's what's in them.<sup>62</sup>

The instructions to the pilot and his crew to go to Plovdiv in Bulgaria came from the offices of a UK company, Peak Aviation, which was at the time also involved in arms flights to the armed Hutu extremists in eastern Zaire (see Chapter 3). The refuelling of the Peak Aviation aircraft en route from Bulgaria took place in Cairo. On arrival in Plovdiv, the pilot says he was told to give the destination of the aircraft as N'Djamena in Chad, but when arriving in Cairo he was told to file a new flight plan giving the destination as Muscat, Oman. Once the plane was on its way to Oman, the crew were told to divert to Mukalla airport near Riyan in South Yemen, and then to fly a specific circuitous route over Saudi Arabian airspace:

We flew out to sea and we descended over the sea when we could, and did a very steep approach with no power on, so that if they were firing heat seeking missiles, there's a bigger chance they wouldn't actually connect with the engines. We maintained radio silence, all the lights switched off. ... I lost one and a half stone in the ten flights, which is probably an indication of how nervous it made me.

A company called Phoenix Bulgaria chartered all of the flights that the British pilot flew to Yemen. He said that Phoenix paid Peak Aviation of the UK approximately \$386,000 for the flights; the bonus for each flight was \$7,000, which was split

between the crew. He also remarks:

The big bucks in the rather sort of darker world of this arms dealing seems to be around civil wars... because landing in the wrong country or for the wrong side you could end up you know losing your life ... there's a very limited number of companies that would actually touch any kinds of arms flying at all, even government-to-government arms flying... and there's an even smaller number of firms that would get involved in a civil war type operation ... it is just so dangerous. Peak Aviation seem to have specialised in this recently.

The aircraft used by Peak Aviation was not registered in the UK but used 'an African flag of convenience'.<sup>63</sup> The crews were British and the airline was controlled from Burgess Hill in the UK. The aircraft technical log-book ('captain's voyage report') was used by the British pilot to record all his flights for Peak Aviation. All the manifests for the cargo on these particular flights were in sealed envelopes carried by a Bulgarian who would not let the crew look at them. Several different Bulgarians flew on the arms flights to South Yemen. They would pay only for the flying that was done against the captain's voyage report, which the pilot says he submitted to Peak Aviation. He assumed that Peak got paid by submitting those voyage reports to back up their invoices.

According to the pilot, there were several Saudi Arabians at the South Yemen airport during the time the Peak Aviation aircraft was being off-loaded. On one occasion there was a VIP Boeing 727 parked alongside, with a delegation of what appeared to be very high-ranking diplomatic and military people on board. He said that this helped explain another peculiar feature of the arms flights he carried out involving the USA:

Following the Gulf War, the United States government stationed a number of AWAC aircraft – the Boeing 707s with the big ray guns on top – in the Gulf area. And on two of the flights we did across Saudi we actually saw two of them flying along with us. So we must have been observed, and I'm sure the United States government must have known exactly where we took off and where we were going.

Asked if he would do this again, the pilot replied:

I mean government-to-government flying, no problem at all, but I would not wish to be involved in anything to do with civil war ever again. ... One of the things that really shocked me about this flying was that, after the second flight, they turned the airport terminal in Mukalla near Riyan in the Yemen into like a MASH field hospital ... I've never actually fought in a war and I found it particularly upsetting to see rows of very badly injured troops and civilians and children, lying there being fed by saline drips [in a] very, very poor state of medical care. By our tenth flight the numbers were really quite phenomenal ... they were the people that were injured on our side ... there was no feedback at all about what happened in North Yemen...

By November 1994, the British pilot had set up his own UK company, Phoenix Aviation, to fly live cattle to France and the Netherlands from Coventry airport in the UK. However, the following month his leased Boeing 737 crashed near Baginton airport, narrowly missing a housing estate and killing all five crew.<sup>64</sup> He continued his air cargo business by leasing two Russian ex-Aeroflot planes, but by May 1995 Phoenix Aviation was apparently in financial trouble and he had to suspend the flights. In April 1996, he bought a small BAC 1-11 freighter that was due to be scrapped, and persuaded the British authorities to allow him to fly it to Oostend, supposedly to sell the parts. Once there, however, he reportedly put the plane on the Liberian register and formed a new company, Balkh Air, to fly goods to a warlord's territory in northern Afghanistan.<sup>65</sup>

Meanwhile, the flooding of Yemen with arms has continued, reflecting the growth of Eastern European companies involved in the private markets. On 9 April 1999, the Moldavian authorities detained a Ukrainian cargo plane in Kishinev

which was

allegedly carrying a secret load of weapons on board. Local customs authorities said that the accompanying papers in the aircraft indicated that it was en route from Hungary to Yemen and was carrying oil-production equipment. However, a customs search revealed about 5,000 undeclared pistols on board. The freighter was an Antonov 25 that reportedly belonged to Ukraine Airlines. 'If we receive an arms-transport permit, we will let the cargo go', said a Moldavian customs official. This was the second Ukrainian plane to be detained in Moldavia on suspicion of arms smuggling that month.<sup>66</sup>

<sup>1</sup> *TIACA Times*, Fall 1998. The President claimed that 'Practices, policies and nomenclature keyed to the sailing ship still dominate' the air freight industry. The International Air Transport Association agreements, and hence the documentation, for cargo are viewed as being out of date because they assume that freight forwarders are simply the appointed agents of air cargo carriers, rather than independent brokers, charterers and sales agents.

<sup>2</sup> Even South Africa in 1997 had far too few resources to monitor the 36 airports used for international traffic. After much international criticism, the government reduced the number of such airports to eight and promised to increase customs, immigration, police and air traffic control. See Alex Vines, *Angola Unravels: The Rise and Fall of the Lusaka Peace Process* (New York: Human Rights Watch, September 1999), pp.116–117.

<sup>3</sup> Christopher Bellamy & Elizabeth Wine, 'Fears Grow in a Bad Year for Aviation Safety', *The Independent*, 14 November 1996.

<sup>4</sup> Vines, *Angola Unravels*, Ch. 9; also authors' interviews with customs agents, police, aviation inspectors, pilots, airline owners and officials in Belgium, the UK, South Africa, and Zambia.

<sup>5</sup> John Grobber, 'UNITA's SA supply routes blocked', *Weekly Mail & Guardian*, 6 February 1996.

<sup>6</sup> UN Security Council Resolution 864 of 15 September 1993 imposed an oil and arms embargo on UNITA and set up a Sanctions Committee to oversee the implementation of these sanctions. After numerous postponements and warnings over UNITA's persistent failure to substantially disarm and demobilize the troops under its control, in August 1997 the Security Council adopted Resolution 1127. This imposed additional measures restricting the travel of UNITA's officials and their relatives, as well as stipulating the closure of all UNITA's offices abroad, the prohibition of flights of aircraft by or for UNITA, and a ban on the supply of any aircraft or spare parts to UNITA. These measures supposedly came into force on 30 October 1997, but their violation led the Security Council to adopt additional measures that came into force on 1 July 1998. Resolution 1173 requires all states to freeze the financial resources, funds and assets of UNITA and prohibits all official contacts with UNITA's leadership in areas of Angola not under the control of the central government. Resolution 1173 bans the importation and trade of diamonds from Angola where such diamonds are not accompanied by a government certificate of origin. The Resolution also outlaws any other form of supply or trade relations with UNITA, except for humanitarian or medical purposes, and with the authorization of the Sanctions Committee established by the Security Council. All states are required under these Resolutions to adopt measures to ensure the implementation of the embargo and to report any violations of the embargo known to them to the Sanctions Committee.

<sup>7</sup> Most rough diamonds from UNITA sales end up in Antwerp. Several NGOs, research groups and investigative journalists have in recent years documented the rearmament and sanctions-busting process. See for instance: Vines, *Angola Unravels*; and *A Rough Trade: The Role of Companies and Governments in the Angolan Conflict*, Global Witness, London, 1999; 'Angola: Between War and Peace. Arms Trade and Human Rights Abuses Since the Lusaka Protocol', Washington, DC: Human Rights Watch Arms Project, vol. 8, no 1, February 1996; *Angola: Endgame or Stalemate?* Institute for Security Studies Occasional Paper, South Africa, 1998.

<sup>8</sup> The Angolan government also bought weaponry from Eastern Europe, especially Russia, Ukraine and Bulgaria, as well as from China, Portugal, Brazil and South Africa. In 1996, the government attempted to persuade the Bulgarian authorities to prevent arms reaching UNITA. The government markets less diamonds than UNITA, but collects revenue from current and

future oil production. Paul Beaver of Jane's Information Service describes UNITA's new re-armament programme in Chris Gordon, *Mail and Guardian*, 15 January 1999.

<sup>9</sup> James Rupert, 'Zaire Reportedly Selling Arms to Angolan Rebels', *Washington Post*, 21 March 1997.

<sup>10</sup> <http://www.un.org/docs/sc/reports/1997/s1997640.htm>

<sup>11</sup> Morocco remained an important traditional source of military support for UNITA.

<sup>12</sup> Statement by the Chair of the UN Sanctions Committee on Angola, 22 April 1998, quoted in Vines, *Angola Unravels*.

<sup>13</sup> John Grobber, Tangeni Amupadhi & Chris Gordon, 'Jailed South Africans Flew Army Trucks to UNITA', *Mail and Guardian*, 1 May 1998.

<sup>14</sup> *Journal de Angola*, 1 February 1999. Vines, *Angola Unravels*, mentions another deal to supply surface-to-air-missiles from Bulgaria, supposedly to Zambia, which was stopped in October 1998 after an official exposed it. The Zambian

government denied any knowledge of it. A US-Ukrainian company, Miltex, reportedly presented the 'Zambian' end-user certificate, but the company denies any involvement.

<sup>15</sup> Unpublished information from the UN.

<sup>16</sup> Interviews with an aviation expert, South Africa, May 1999; 'South Africa Expels Pilots', *Angola News Roundup*, 9 April 1999.

<sup>17</sup> Interviews with aviation expert and police personnel, South Africa, May 1999.

<sup>18</sup> Moscow NTV, 9 August 1998, describes Russian military involvement and diamond interest in Angola.

<sup>19</sup> See Khareen Pech, in J. Cilliers & P. Mason, eds, *Peace Profit or Plunder?*, Institute for Security Studies, Pretoria, and Canadian Council for International Peace Research, Ottawa, 1999.

<sup>20</sup> We will call this man Viktor B, since his last name repeatedly changes in reports. The authors found: Victor Bout, Victor Butt, Victor S. Butt, Victor S. Budd, Victor Bont and Victor Bouta.

<sup>21</sup> Interviews in South Africa, May 1999. Also: Mark Honigsbaum, Anthony Barnett & Brian Johnson, 'British Pilot Flies Arms to Sudan', *The Observer*, 14 March 1999.

<sup>22</sup> Information from the Oostend trade register, copies of documents with the letterheads of these companies, used to rent the offices.

<sup>23</sup> Information obtained through interviews at Oostend airport and the Jet Center (business centre near the airport where Viktor B. also kept an office), confirmed by an official from the Ministry of Justice.

<sup>24</sup> Letters from the law firm that took care of the renting of the offices for both the TAN Group and Air Cess in Oostend.

<sup>25</sup> UNICOI, Third Report (1 November 1996), UN Doc.S/1997/1010, released 24 December 1997. (Although the UNICOI Report was not officially released until December 1997, copies of it were circulating among the press in late 1996.)

<sup>26</sup> Roger Huisman, 'Sleutelrol voor Oostende in wapenhandel Grote Meren', *Het Belang van Limburg*, 20 November–1 December 1996; Roger Huisman, 'Gerechtigd onderzoek: wapenhandel Oostende', *Het Belang van Limburg*, 16 August 1999. The latter article refers to a judicial inquiry from the prosecutor of Bruges, into arms trafficking from Oostend.

<sup>27</sup> A letter to this effect was sent to other aviation authorities. The pilot's background was described in *La Lettre du Continent*, no. 334, 29 July 1999.

<sup>28</sup> One aviation officer in South Africa referred to 'highly irregular and illegal' practices. A spokesman of a Belgian pilots' association suggested that Liberian planes should not be allowed to land in Belgium or elsewhere.

<sup>29</sup> Licence Number obtained: ASL/97009/37/02. The licence was valid until 19 August 1999. (Swaziland Licence Applications and Licences Granted, published 10 March 1998.)

<sup>30</sup> Interviews with the Swazi embassy in Brussels; interview with Mr P. Lott, a South African aviation expert who chaired the commission of enquiry probing the fraudulent registration of the aircraft, April and May 1999.

<sup>31</sup> 'Ex-minister Admits Registering "War" Planes', *The Swazi Observer*, 11 January 1999.

<sup>32</sup> 'Swaziland Seizes Helicopter Gunships', *Mail & Guardian*, 10 July 1998; also *The Times of Swaziland*, 10 July 1998; and 'Rwanda Wants Govt to Release Military Planes', *Swazi Observer*, 12 January 1999.

<sup>33</sup> 'SD Being Used for Arms Smuggling to Angola?', *The Swazi Observer*, 21 May 1999.

<sup>34</sup> Fax from the UN, September 1997.

<sup>35</sup> Interviews with aviation official in South Africa. Also: *World Airline Directory 1995-1998*, Flight International 24, 30 March 1999; Ulrich Klee, *JP Airline Fleets International, 1999-2000* (33rd edn), Glattburg, Switzerland: Bucher & Co, March 1999.

<sup>36</sup> Interviews with aviation official in South Africa. Also: *World Airline Directory 1995-1998*; *JP Airline-Fleets International, 1999-2000*.

<sup>37</sup> 'SD Being Used for Arms Smuggling to Angola?', *The Swazi Observer*, 21 May 1999.

<sup>38</sup> Interview with aviation official, May 1999.

<sup>39</sup> Reflected on his business card and aviation registers, Klee, *JP Airline Fleets International*.

<sup>40</sup> Comparison of documents from the Belgian trade registrar 1995-96, a business card from Viktor B. in Shardjah and his name mentioned in Klee, *JP Airline Fleets International*.

<sup>41</sup> Interviews with officials, May 1999, copies of passport numbers disclosed.

<sup>42</sup> New Briefs, *NCN* (New Congo Net) News, 29 December 1998. Available on the internet at: <http://www.marekinc.com/NCN/News12291.html>

<sup>43</sup> 'Ukraine Citizen Supplying Arms to UNITA', FBIS translation from *Noticias de Angola*, 7 June 1999. Vines, *Angola Unravels*, refers to a US intelligence assessment that mentions Viktor B. and Air Cess as being known to supply services to UNITA in exchange for diamonds. An Interpol report disclosed to the authors in 1999 concurs with this.

<sup>44</sup> 'Air Force In Formation', *The Indian Ocean Newsletter*, no. 853, 10 April 1999.

<sup>45</sup> Vines, *Angola Unravels*.

<sup>46</sup> *Ibid.*

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> Interviews in Belgium by the authors. The Belgian Foreign Ministry ordered an investigation into the role of these companies in 1997. The results of the investigation were never published (interview with Ministry of Justice official, May 1999).

<sup>50</sup> M. Gillard, P. Wintour & D. Connell, 'Second British Firm Caught in Foreign Office Arms Web', *The Observer* (London), 10 May 1998 (on Sky Air).

<sup>51</sup> This is the name that Viktor B. used when operating from Belgium.

<sup>52</sup> Honigsbaum et al., 'British Pilot Flies Arms to Sudan'.

<sup>53</sup> Leppard et al., 'British Firms Arming Sierra Leone Rebels'.

<sup>54</sup> *Report of the Sierra Leone Arms Investigation* (London: Her Majesty's Stationery Office, 27 July 1998).

<sup>55</sup> House of Commons Hansard Debates, 10 February 1999, (pt 21) Column 314–315.

<sup>56</sup> Information provided by Honigsbaum et al., 'British Pilot Flies Arms to Sudan'.

<sup>57</sup> A 'full scope' arms embargo was imposed on Sudan by the European Union in March 1994. The Chad end-user certificate is dated 8 August 1998.

<sup>58</sup> Ibid.

<sup>59</sup> Information provided by Brian Johnson-Thomas, *ibid.* The invoices were made out to the Damascus firm by the Slovak arms manufacturer. The owner of the Damascus firm also ran a company in Bratislava.

<sup>60</sup> Ibid.

<sup>61</sup> 20-20 Television, 'The Big Story', 17 November 1994. We are grateful to Brian Johnson-Thomas and 20-20 Television for permission to cite this interview material.

<sup>62</sup> Ibid.

<sup>63</sup> According to the 'captain's voyage reports', the Boeing 707 was registered in Ghana as 9GEBK.

<sup>64</sup> 'Veal Export Firm "Phoenix Aviation" Goes Into Liquidation', *Daily Mirror*, 17 July 1995.

<sup>65</sup> Sarah Horner & Brian Johnson-Thomas, 'Veal Row Boss in Airline Deal with Afghan Rebels', *Daily Express*, 9 June 1996.

<sup>66</sup> Itar-Tass, 'Moldavia Detains Ukrainian Plane Loaded with Hidden Arms', 9 April 1999.

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## The Arms Fixers

### Chapter 6

#### **Mysterious Ships**

Ninety percent of all world trade is maritime trade, and considerable quantities of arms are ferried by sea.<sup>1</sup> If an illegal shipment is found, it can reveal a lot about international brokering networks – but the sheer quantity of cargo makes checking very difficult. To varying degrees, all countries are faced with the enforcement problem: lack of resources for customs officials at ports to check paperwork sufficiently against cargo, and for port authorities to ensure that safety rules are followed. Resources are very limited, and investigating suspected cargoes and traffickers using ever-more circuitous routes requires a great deal of time and effort.

At the busiest US port, Long Beach in California, an average of 8,400 cargo containers in the port area could be checked every day – but US Customs has fewer than 135 inspectors there. It was therefore almost by accident that, in March 1997, federal agents at the US–Mexico border opened two suspect sealed containers from Long Beach, and this led them to the largest illicit arms shipment ever intercepted en route from the USA to Mexico.<sup>2</sup> The arms, including M-2 automatic rifles, had originally been left behind in Vietnam by the 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.'<sup>3</sup> Containers in transit or 'in bond' are normally never touched.

As US Customs senior special agent James McShane said: 'The biggest problem that existed for years was that of being able to identify an illegal shipment. I don't necessarily mean the obvious scenarios, like five handguns discovered in a

suitcase being carried to another country. I am referring to the shipments of hundreds of weapons with legal or quasi-legal documentation giving them an appearance of legitimacy.<sup>4</sup> Experienced and unscrupulous brokers and shippers can create the appearance of

legitimacy by using complexity, as well as by unsuspected methods at sea. The transcript of the digital diary of a Belgian-Hungarian broker shows the name and number of a certain colonel ('Kemal') who is said to specialize in cargo helicopter deliveries on the open sea.

It is not only aircraft operators who can hide or camouflage their logos and airline name. Several shipowners or crews are also known to have changed the name of the vessel on the open sea. 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.<sup>5</sup>

Another vessel shipping 38,000 high-explosive mortar grenades to apartheid South Africa in 1985, in breach of the arms embargo, was actually sold on the open seas to a new owner. The new shipowner was an agent of the former one, but the original owner could apparently no longer be held accountable for the illegal cargo. In this case, the ship's name *Otter* had been changed to *Reef Moon* by the time it arrived in the port of Durban.<sup>6</sup>

## Indian Ocean and the Sea Pigeons

On 23 May 1997, a ship was reported as having left the Mozambican port of Beira supposedly en route to Colombo, Sri Lanka, with a cargo of 32,000 mortar shells from Zimbabwe Defence Industries (ZDI). The deal seemed at first to be brokered for the Sri Lankan government and ZDI by an Israeli, Ben Tsouk, and his company, LBG Military Supplies of Israel. However, the mortars never arrived, and the Sri Lankan government was mystified. A fax then arrived at the US embassy in Colombo, claiming to be from the Tamil Tigers (LTTE) and saying that the ship and its cargo had been hijacked on 11 July 1997.<sup>7</sup> But the fax did not have the usual tell-tale signs of Tigers communiqués. Subsequent intelligence investigations in Sri Lanka began to reveal another story.<sup>8</sup>

The Israeli broker, Tsouk, denied that he was involved in the sea hijacking, but ZDI officials say that he sent a fax to report that he had checked the loading of the mortars into containers. His fax says that the mortars were loaded not in Mozambique but at the port of Rijeka in Croatia.<sup>9</sup> ZDI assumed that the Sri Lankan government had sent a ship to collect the munitions, but the company now alleges that they were loaded onto a ship called the *Limassol*, one of the Tamil Tigers' sea freighters.<sup>10</sup> It is claimed that the Tigers have since used the mortars against Sri Lankan government forces.<sup>11</sup> The Tigers' chief weapons trader is known as 'Kumuran Pathmanathan' or 'KP'; the arms procurement team is known as 'the KP Department'. At the heart of the KP Department's operations is a highly active merchant-shipping network known as 'the sea pigeons'. A researcher who has studied the 'sea pigeons' describes them as follows:

Except for the Provisional Irish Republican Army and the Palestine Liberation Organisation, the LTTE is the only insurgent organisation that is known to have at its own disposal a fleet of deep sea going vessels. The LTTE started building its maritime network with the help of a Bombay shipping magnate in the mid 1980s. Today the fleet numbers at least eleven freighters, all of which are equipped with sophisticated radar and Inmarsat communications technology. The vessels mostly travel under Panamanian, Honduran or Liberian flags, ...known as Pan-Ho-Lib... and are typically owned by various front companies located in Asia...ninety five percent of the time the vessels transport legitimate commercial goods...for the remaining five percent they play a vital role in supplying explosives, arms, ammunition and other war-related materiel to the LTTE theatre of war.<sup>12</sup>

In late 1998, the Tanzanian government was under pressure to cancel a contract that it was negotiating with the African Fishing Company for the establishment of a prawn farm and processing business over 10,000 hectares of coastal mangrove forest.<sup>13</sup> The majority owner of the company, Reginald John Nolan, an Irish national, owns several ocean-going vessels and had been a supplier of arms and equipment to the Tanzanian Ministry of Defence during the 1980s. Nolan's boats ply the East African coast. To the surprise of many people, he had a clause inserted into the contract for the prawn business that would allow the African Fishing Company to import into Tanzania \$570,000 worth of arms and ammunition per year.<sup>14</sup> Nolan had been involved in a long legal dispute with a fellow arms dealer over commission payments, and was facing a court challenge by environmentalists determined to stop the prawn contract in order to save Africa's largest mangrove forest.

Persistent reports in 1996–97 indicated that the northern Mozambican port of Nacala was used to 'export' large amounts of old, cached RENAMO (Mozambican rebel movement) weapons and ammunition via the port of Mtwara in Tanzania to Lake Tanganyika and from there by boat to Fizi in former Zaire, destined for rebel groups in Burundi and in Zaire. A Tanzanian security company was believed to be receiving and transporting most of these stocks.<sup>15</sup>

In March 1997, researchers witnessed about 100 tons of weapons being off-loaded from a coastal vessel at the port of

Nacala. Apart from an Indian flag on the masthead of the vessel, no other identification markings were readable. Two 10-ton trucks removed the arms, making about five trips each. Two similar trucks (if not the same ones) were spotted one week later on the 'civilian' side of Nampula airport (also in Mozambique) next to a warehouse containing AK 47 rifles, RPG 7 rocket launchers and many crates of ammunition. The arms were seen being loaded onto two Cessna 210 aircraft and two medium-sized cargo planes, one bearing the name of Sky Aircargo.<sup>16</sup> According to an airport security official, the planes were bound for Ndola in Zambia and elsewhere in Southern Africa, and they were also carrying cargo for relief agencies. The researchers saw that the two Cessnas and the Sky Aircargo plane were returning to Nampula with similar cargo matching that observed at UNITA bases in eastern Angola in November 1996.<sup>17</sup> According to the researchers, the animal skins, blocks of hardwood, ivory and small boxes (possibly diamonds) brought back to Mozambique were exported to Asia using a prawn-processing plant as a cover. At the plant, Chinese and Bulgarian crates and wrapping were seen.<sup>18</sup>

## Embargo-Busting Ships from Argentina

Another strange maritime incident took place in early 1996 in Venezuela. A Danish ship, the *Hornstrand*, was held up in a Venezuelan port, loaded with ammunition. The ship had made a journey via several ports, but seemed to have started its trip in Iran, in the port of Bandar Abbas on the Strait of Hormuz. An arms broker who was present when the ship arrived was subsequently taken for questioning by Venezuelan police authorities and later released. Somehow, this suspect cargo ended up in a series of clandestine arms shipments that linked trafficking networks from Latin America and Europe to Florida.<sup>19</sup> (See also "The Broker Called "Lasnaud"" below.)

The exposure of a series of triangular arms deals, enabling private companies acting on behalf of the government of Argentina to sell weaponry to clients under regional or international embargoes, caused the resignation and prosecution of several cabinet members of the government of Argentina. The private dealers involved in this illicit arms trade, who used representatives in third countries, were indicted but never

detained. This case focuses on one of the key brokers in a chain of private companies that were used. Investigations of these cases began in 1995 after the first revelations in the Argentine daily newspaper, *Clarín*.<sup>20</sup>

*Clarín* reported that President Menem of Argentina had signed a secret presidential decree (Number 103) on 24 January 1995, authorizing the sale of 5,000 FAL rifles and 75 tons of ammunition to Venezuela. What caused the enormous scandal were the

reports that the weapons had been shipped clandestinely to the Ecuadorian port of Guayaquil. Ecuador and Peru were involved in a border war at that time, and Argentina was bound by the Rio Protocol to keep peace between the two countries.<sup>21</sup>

An official investigation discovered that another two presidential decrees had been signed in 1991 authorizing the sale of 6,500 tons of weapons to Panama, but in fact the weapons had been diverted in several shipments to Croatia.<sup>22</sup> Various cargoes amounting to 6,500 metric tons of weapons had been shipped by different vessels of the state-owned shipping company Croatia Line.<sup>23</sup> This sale to the former Yugoslavia was particularly embarrassing for the government in Buenos Aires not only because of the international arms embargo but because Argentine troops were stationed there as part of the UN peacekeeping force.<sup>24</sup> Daniel Nelson, reported to be an official of the US Arms Control and Disarmament Agency (ACDA), was interviewed by an Argentine daily newspaper; he claimed his department had been aware of this arms supply line from 1991 onwards.<sup>25</sup> Other officials of the US government subsequently denied this, adding that Nelson was not an official but had only been a consultant for the ACDA, with no responsibility or permission to speak on behalf of the US government.<sup>26</sup>

In May 1996, the Bolivian government requested a clarification by the Argentine government to the effect that Bolivia 'did not purchase' \$51 million of arms in 1992. This request came amid investigations that in 1992 another secret presidential decree (1633) had authorized Argentine Military Industries to sell a range of arms to Bolivia.<sup>27</sup> This shipment was also diverted to Croatia and Ecuador.<sup>28</sup>

It was reported that the secret presidential decrees had authorized the state-owned company Fabricaciones Militares (FM) to sell weaponry via the private companies, Hayton Trade SA and Debrol SA. These latter two companies were based in Uruguay and acted on behalf of a retired lieutenant colonel of the Armed Forces of Argentina, Diego Palleros.<sup>29</sup> Palleros, however, never imported the arms into Uruguay, nor were they ever shipped to Venezuela, Bolivia or Panama. Instead, the arms ended up in

Ecuador, Bosnia and Croatia. It also seemed that only part of the weapons were sold by Fabricaciones Militares, and that critical amounts of ammunition were sold directly from the arsenal of the army or from international arms smugglers.

The newspaper *La Nación* also revealed that the amounts of weaponry sold could never have been covered by the authorized sums of money mentioned in the presidential decrees.<sup>30</sup>

Vital links in the chain were that the companies in Uruguay acting on behalf of Palleros had first sold the weapons to the Caribbean Group of Companies in Fort Lauderdale, Florida,<sup>31</sup> and then sold them to a broker in Ecuador using the company Pro-

defensa. Similar brokering arrangements were used in the dealings with Croatia.<sup>32</sup>

For one of the shipments to Ecuador, which was based on an end-user certificate for Panama, three aircraft of a US air-freighting company, Fine Air, flew cargoes of 5,000 FAL assault rifles and 75 tons of ammunition from Buenos Aires on 17 February 1995.<sup>33</sup> Despite a cable to Argentine authorities from the Peruvian intelligence service on 14 February, this illegal shipment was not interrupted.<sup>34</sup>

In April 1996, Interpol Argentina issued an international arrest warrant for Diego

Palleros.<sup>35</sup> He had left Argentina one year earlier for Singapore and later for South Africa. The retired officer was a well-known arms dealer who, under the government of Raúl Alfonsín in 1983, had tried to sell tanks to Iran when that country was involved in a war with Iraq. In January 1999, a court in South Africa decided that Palleros could not be extradited because he was in possession of a valid Panamanian passport. The Argentine justice minister suggested that South Africa's refusal to extradite Palleros might have been motivated by the arms dealer's connections to South Africa dating back to the apartheid era.<sup>36</sup>

## The Broker Called 'Lasnaud'

According to Argentine sources, the arms dealer based in Fort Lauderdale, Florida, and acting through the Caribbean Group of Companies had been one of the key

organizers of the trafficking ring that comprised many official and private individuals.<sup>37</sup> Jean-Bernard Lasnaud was traced by the American Federal Bureau of Investigation to be a resident of Fort Lauderdale.<sup>38</sup> According to the register of corporations of Florida, Lasnaud was a director of several companies, among them the Caribbean Group of Companies, which was used for some of the Argentine operations.

Official documents in Argentina show that Lasnaud had also been in Argentina in

order to supervise the loading of the Fine Air cargo aircraft to Ecuador in February 1995, and to inspect a cargo bound for Croatia in December 1995.<sup>39</sup> A Panamanian company, Tornasa, acted as a go-between for the transactions between Lasnaud and Palleros. According to the Florida registrar of corporations, Lasnaud's Caribbean Group of Companies was officially incorporated on 13 March 1995, this was a few weeks after Palleros had sold the cargo bound for Ecuador on to Lasnaud.<sup>40</sup>

Argentine journalists are in possession of Lasnaud's e-mail correspondence with a former Argentine navy captain, Horacio Estrada, who was found shot dead in his apartment in August 1998. A few days before that, Estrada had sent a written testimony to the Argentine judge investigating the case.<sup>41</sup> Estrada, a veteran of former military junta death squads, had been prosecuted for 21 cases of torture in 1987. He was reportedly also connected to Tornasa, the Panamanian go-between company.

In the course of 12 days before Estrada died, Lasnaud had sent the Argentine officer over 90 e-mail messages.<sup>42</sup> Once decoded, the correspondence showed an intensive trade of illicitly smuggled weaponry, from small arms to armoured personnel carriers, naval vessels, helicopters and small aircraft. In one of the messages, dated 25 August 1998, Lasnaud had an order for 1,500 Argentine-produced rifles for shipment to Sierra Leone. In other messages, it was Lasnaud who offered Estrada a Bell helicopter, 50 mobile anti-air missile launchers, M113 armoured personnel carriers and NATO-standard small arms and ammunition. Argentine investigators opined that that it would be very hard to prosecute Lasnaud if he could ever be found, due to the intricate network of go-between companies and countries that were used for the transactions.<sup>43</sup>

'Jean-Bernard Lasnaud' has been in the arms trafficking business since at least 1978.<sup>44</sup> He was convicted *in absentia* in Belgium in May 1983 for illicit international trafficking in weapons. His immediate arrest was requested but his whereabouts were

unknown, and he has never been caught.<sup>45</sup> Officials investigating the case in the early 1980s in Belgium told us that Lasnaud's real name was Bernard Lasnosky, of Polish origin but born in the French Alsace. He had used the letterhead for a company based in Panama, but several documents from this period show that the contact numbers for this corporation were all in Brussels. For his operations in Belgium with several other convicted traffickers, he used false names such as 'Jean-Francois Bernard' and later 'de Bernard'. In this capacity he was involved in illicit trafficking to Libya, Iran, South Africa and several other embargoed destinations.<sup>46</sup>

Information from the French section of Interpol shows that Lasnaud was indeed born in France in 1942. He was known in France under the various aliases that he later used in Belgium and also as 'Francois Laroche'. The information shows Lasnaud had been convicted seven times in France, mostly for financial crimes. He had been convicted in 1979 for the illegal sale of 500 Heckler & Koch 21s to Somalia and again in 1980 for the use of forged official documents.<sup>47</sup>

After a series of six convictions Lasnaud apparently left France and went to live in Brussels, where he was again convicted in 1983. Although he did not have a licence to export weaponry in Belgium, he was able to use the licence of another convict for his own deals. In 1993, the French justice authorities again convicted Lasnaud for a 'swindle'. After that, Lasnaud was thought to have moved to the United States, where he established several companies. Recent documents from the Florida Division of Corporations show that Lasnaud used various first names – 'Jean-Bernard', 'Jean-Bertrand', 'Gean-Bertrand' etc., – and that he ran at least ten companies from the same address in Fort Lauderdale.<sup>48</sup>

According to a Belgian diplomatic source, Jean-Bernard Lasnaud was questioned in January 1996 in Venezuela in connection with the Danish ship *Hornstrand*, which was loaded with Belgian-produced NATO-standard ammunition on its way from Iran. The Venezuelan customs and police authorities held up the ship after discovering the real contents of the cargo. Shortly afterwards, Lasnaud was released. According to a journalist of the Argentina daily newspaper, *Clarín*, who wrote a book about these cases, the ship's cargo included 9,200,000 cartridges of 7.62 mm ammunition (type FAL), shipped from the Iranian port of Bandar Abbas to Guayaquil in Ecuador.<sup>49</sup>

When we called the charterer of the *Hornstrand* at the offices of a shipping company in Denmark, he said that 'this was none of [our] business'. The person responsible for the *Hornstrand*'s cargo services said he had never heard of Lasnaud.<sup>50</sup>

<sup>1</sup> *Worldwide Maritime Challenges 1997*, Office for Naval Intelligence, United States, March 1997, p. 20.

<sup>2</sup> We are grateful to Lora Lumpe for pointing out this case. Valorie Alvord, 'Illegal Weapons Were Well Travelled', *San Diego Union Tribune*, 21 March 1997.

<sup>3</sup> Valorie Alvord, '2 Truckloads of Illegal Arms Found', *San Diego Union Tribune*, 14 March 1997.

<sup>4</sup> James McShane, Senior Special Agent, US Customs Service, paper delivered at a conference of the American Association of Arts and Sciences, December 1997.

<sup>5</sup> Arms from the *Malo* were later transferred from the Seychelles to the perpetrators of the Rwandan genocide. See Chapter 3 in this report.

<sup>6</sup> Hugo Gijssels, 'Het Schip dat in de mist verdween', *Humo*, 1 June 1987, pp. 16–17. The end-user certificate had been signed by an Indonesian senior military officer and had been sent to the licensing authorities via a company based in Frankfurt. When Dutch police investigators started to probe the transaction, it seemed that this Frankfurt-based company did not exist. Two Britons, who had been running a marketing company at the address in Frankfurt, disappeared and were never traced. See also 'Danish Arms Smuggler Could be Charged', *Weekly Mail and Guardian*, 29 March 1996, in which it is reported that the Danish Seafarers Union uncovered over 60 sanctions-busting shipments to South Africa between 1978 and 1994, one of which was negotiated by a German arms broker in Paris who arranged for a Bulgarian arms shipment from Burgas, supposedly to Nigeria, but actually via the Canary Islands, to Durban.

<sup>7</sup> The UK Seafarers Union says there are a growing number of armed attacks on merchant ships at sea – 1,380 since 1991, and 115 during January to June 1999, with some ships literally disappearing without trace. Most attacks have been around Indonesia, Brazil and in the Mediterranean Sea.

<sup>8</sup> Peter Chalk 'The Tamil Tiger Insurgency in Sri Lanka', in Abdul Musa, ed., *Over a Barrel: Light Weapons and Human Rights in the Commonwealth* (Commonwealth Human Rights Initiative, New Delhi, 1999); see also 'Tamil Guerrillas in Sri Lanka: How They Have Built Their Deadly Arsenal', *The New York Times*, 7 March 1998.

<sup>9</sup> 'Tamil Guerrillas...', *New York Times*, 7 March 1998.

<sup>10</sup> *Zimbabwe Independent*, 7 August 1998.

<sup>11</sup> Chalk, 'The Tamil Tiger Insurgency...'.  
<sup>12</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Briefing on the Rufiji Prawn Farm case, Tanzania: Lawyers' Environmental Action Team (LEAT), Dar es Salaam, 1998.

<sup>14</sup> 'Tanzania: Gunning for Prawns', *Africa Confidential*, 9 October 1998, vol. 39, no. 20, 1998.

<sup>15</sup> Information supplied by the Institute for Security Studies, Pretoria, South Africa, 1999.

<sup>16</sup> Research information provided by Jakkie Potgieter of the Institute for Security Studies, 1999.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> We were notified in early 1999 on the incident by an official from the Belgian Foreign Office. Additional information obtained from Daniel Santoro, author of *Venta de Armas: Hombres del Gobierno*, a book on the following case (Buenos Aires: Editorial Planeta, 1998).

<sup>20</sup> Reported in 'Argentina Arms Scandal Hits Peacekeeping', Inter Press Service, International News, 27 March 1995; 'Argentina Arms Trading Scandal', Inter Press Service, 31 March 1995.

<sup>21</sup> 'Argentina Arms Scandal Hits Peacekeeping'.

- <sup>22</sup> 'Varying Reports Reveal Arms Sales to Bolivia', *Clarín*, in *FBIS Daily Report*, FBIS-LAT-96-105, 28 May 1996.
- <sup>23</sup> Juan Castra Olivera, 'Confirman en Croacia el envío de armas', *La Nación*, 18 January 1999.
- <sup>24</sup> 'Argentina Arms Scandal Hits Peacekeeping'.
- <sup>25</sup> 'El amigo americano', *Clarín* (Suplemento Zona), 4 October 1998.
- <sup>26</sup> 'US Denies Knew of Argentine Arms sales To Croatia', *Reuters*, 7 October 1998.
- <sup>27</sup> This included 8,000 FALs (light automatic rifles), 18 155-mm cannons, 2,000 automatic pistols, 211,000 hand grenades, 3,000 Pampero rockets, 30,000 rifle grenades, 3,000 anti-personnel mines, 60 mortars and several million rounds of diverse ammunition.
- <sup>28</sup> 'Varying Reports Reveal Arms Sales to Bolivia', *Clarín*, in *FBIS Daily Report*, FBIS-LAT-96-105, 28 May, 1996.
- <sup>29</sup> Jorge Urien Berri, 'Un olvidado testimonio ilumina la trama secreta', *La Nación*, 15 June 1998.
- <sup>30</sup> *Ibid.*
- <sup>31</sup> Pablo Calvo, 'Estrada vendió armas casi hasta el final', *Clarín*, 31 August 1998.
- <sup>32</sup> *Ibid.*
- <sup>33</sup> 'Estudian citar a declarar al ex número dos de Carnilión', *Clarín*, 4 October 1998. The report based its date on a cable sent from Peruvian intelligence to Argentina, signed 13 February 1998.
- <sup>34</sup> 'Camillón apunta a un aviador', *Clarín*, 9 September 1998.
- <sup>35</sup> 'Argentina Slams South Africa Over Arms Dealer', *Reuters*, 26 August 1998.
- <sup>36</sup> *Ibid.*
- <sup>37</sup> Calvo, 'Estrada vendió armas...'; 'Lasnaud en Estados Unidos', *La Nación*, 13 February 1999.
- <sup>38</sup> 'Lasnaud en Estados Unidos'.
- <sup>39</sup> Calvo, 'Estrada vendió armas...'; Castro Olivera, 'Confirman en Croacia...'
- <sup>40</sup> Florida Department of State, Division of Corporations, Profit Corporation Annual Report 1998. Document # P95000020139 (8), Caribbean Group of Companies.
- <sup>41</sup> 'Varias Muertes Misteriosas', *Clarín*, 8 September 1998. Also: 'Argentina Slams South Africa over Arms Dealer', *Reuters*, 26 August 1998. We are grateful to journalist Daniel Santoro who sent us a sample of the e-mail correspondence (9 April 1999).
- <sup>42</sup> 'Estrada vendió armas...'
- <sup>43</sup> *Ibid.*
- <sup>44</sup> Ollivier Ralet, *Illegale Wapenhandel* (Berchem: EPO, 1982).
- <sup>45</sup> 'Condamnations à terme d'une très longue affaire de trafic international d'armes', *Le Courrier de L'Escaut*, 25 May 1983.
- <sup>46</sup> Defensor of Panama and Armaco of Panama. Armaco was a company name that was also used by Frank Wilson, an ex-CIA agent who was convicted in 1982 by a US Federal Court on seven counts of smuggling arms to Libya. Armaco's Belgian agent was convicted in 1983, together with Lasnaud, who at that time had already left the country and could never be arrested. Copies of correspondence printed in: Ollivier Ralet, *Illegale Wapenhandel* (Berchem: EPO, 1982).
- <sup>47</sup> Spanish transcript of the Interpol cable from Argentina Interpol section.
- <sup>48</sup> Florida Division of Corporations, Inquiry by officer/registered agent. J.-B. Lasnaud still filed an annual report for the Caribbean Group of Companies on 5 May 1999.
- <sup>49</sup> Correspondence with Daniel Santoro, 9 April 1999; see also Santoro, *Venta de Armas: Hombres del Gobierno*.
- <sup>50</sup> Telephone interview with spokesman for the *Hornstrand's* cargo services at a shipping company in Denmark, 31 March 1999.

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## The Arms Fixers

### Chapter 7

#### **The Mercenary Routes**

A major consequence of the failure to modernize the military, security and police sectors of many poor countries has been the rapid growth of private companies that provide security services. International commercial interests, sometimes exploiting illegal or unethical opportunities, have been keen to open up profitable security businesses in outlying, conflict-prone regions of the world, where arms dealing forms part of the services provided.

# Israeli Dealing in Hot Spots

In January 1999 an Israeli businessman and former officer in the Israeli Defense Force reserves, Colonel Yair Klein, was arrested in Freetown, the capital of war-torn Sierra Leone.<sup>1</sup> Klein was suspected of supplying and training the Sierra Leone rebels of the Revolutionary United Front (RUF) through a network based in Liberia, where Klein was allegedly involved in training an elite corps of the Liberian armed forces.<sup>2</sup>

Colombian judicial authorities soon issued a request to the Sierra Leone authorities for the extradition of Klein, for whom an arrest warrant had already been issued on 4 February 1998 by the prosecutor-general in Bogota. In Colombia, Klein and three other former Israeli military officers under his command had been charged with providing 'instruction and training in terrorist activities'.<sup>3</sup> Klein had allegedly provided paramilitary training to vigilante groups in Colombia's Magdalena Valley region between 1987 and 1989. The trainees had later joined forces with two drug lords of the Medellin cartel.

The facts concerning Klein's involvement in Colombia emerged in April 1989, when Jose Gonzales Rodriguez Gacha, one of the leaders of the Medellin cocaine cartel, died in a shoot-out with a joint US-Colombian law enforcement team. When searching the drug lord's ranches, Colombian authorities discovered 178 new Gallil assault rifles. The weapons had been manufactured in Israel and were said to be part of a shipment of 500 Uzi machine guns and 200,000 rounds of ammunition sold legitimately by the government-owned Israeli Military Industries to the government of

Antigua in autumn 1988. According to the Israeli company, it had exported the arms on the basis of a November 1988 purchase letter from Antigua's Minister of National Security: 'the letter had assured there would be no third-party transfer'. However, the Antiguan authorities said they had neither ordered nor received the arms for their 90-member defence force.<sup>4</sup>

The case caused an international scandal when it was broadcast on 21 August 1989 by American NBC News, linking a network of Israeli arms traffickers operating out of Miami to the diversion of the weapons. The traffickers included Klein, as well as an Israeli intelligence operative, Pinchas Shahar, and an Israeli businessman, Maurice Sarfati, operating out of Miami and Paris. The Antiguan authorities subsequently uncovered evidence that the weapons were diverted to Colombia after being off-loaded from a Danish ship to another ship in an Antiguan port in April 1989. An Israeli bank in New York had financed the deal.<sup>5</sup>

According to a US Senate Committee investigating the Bank of Credit and Commerce International (BCCI) affair, the 'Antigua project had been the outgrowth for the establishment of a "melon farm" by Sarfati in Antigua in 1983, financed by the United States government through a \$2 million dollar loan'. BCCI had provided the necessary references for Sarfati to obtain a loan, claiming he was 'one of our valued customers'.<sup>6</sup> The files on Sarfati, according to the bank's lawyers, were 'missing'.<sup>7</sup>

When the Colombian authorities first revealed Klein's involvement in the training of the drug cartel's private armies and issued an arrest warrant for him, the Israeli mercenary had already left the country and was back in Israel, continuing to run his private defence company, Hod Hadanit ('spearhead'). Klein claimed that he had thought his trainees were ranchers in Colombia who wanted to defend themselves against leftist guerrillas.<sup>8</sup>

On 29 November 1990, an Israeli court sentenced Klein after he pleaded guilty on three charges: negotiating to sell military equipment without a license, the actual sale of expertise, and the unlawful sale of equipment to a group called the 'Farmers

Organization'.<sup>9</sup> As far as the Colombian authorities were concerned, Klein remained a fugitive, and in February 1998 the Colombian prosecutor-general charged him *in*

*absentia* with training terrorist groups. Klein's trainees and the weapons from the

Antigua deal were allegedly deployed in the assassination of presidential candidate Luis Carlos Galan and in the explosion of a Colombian airliner that crashed in

November 1989.<sup>10</sup> Klein was also involved in setting up an illegal anti-terror combat training school in Antigua. It is not clear whether Klein's mercenary activities in

Colombia coincided with those of a group of British mercenaries who had allegedly trained paramilitary squads for the cocaine cartels.<sup>11</sup>

It is thought unlikely that Sierra Leone will extradite Klein to Colombia. He is being charged in Sierra Leone for smuggling arms from Ukraine and Liberia into the country, according to Sierra Leone's Attorney General. Klein originally denied any involvement in the smuggling. It is reported that Israel's foreign ministry was continuing diplomatic efforts to bring about his release.<sup>12</sup>

## London Brokers for Arms and Mercenaries

On 28 March 1997 Australian air force jets intercepted a cargo plane in the airspace between northern Australia and Papua New Guinea. Sydney-based newspapers said the Antonov AN-124 aircraft that was grounded in Australia had been carrying several attack helicopters, military vehicles, and an arsenal of weapons, including heat-seeking missiles, grenades, 500 cases of ammunition, explosives and rockets.<sup>13</sup>

The weapons were on their way to Papua New Guinea, for use by a foreign private military company – Executive Outcomes – hired to quell a secessionist rebellion on the Isle of Bougainville. This South African company was represented in Papua New Guinea by the British-based consultants Sandline International. However, the operation backfired after mutinous army units and protesting civilians opposed the use of mercenaries in the country, and the contract was suspended. The director of Sandline, former British colonel Tim Spicer, had to appear before a Commission of Inquiry in Papua New Guinea that probed the terms of the contract between the PNG government and Sandline. From the Commission's hearings, it is understood that the PNG government had been requesting attack helicopters and other lethal equipment from its usual channels in Britain, Australia and the USA. But the poor human-rights record of the PNG-armed forces meant that only 'non-lethal' and transport helicopters could be supplied. The PNG government then decided to sign a contract with Sandline International in January 1997. This contract, worth \$36 million, comprised the supply of four helicopters, two Mi-17 armed transport helicopters and two Mi-24 helicopter gunships. It was reported that one of the companies in the chain of suppliers for the Eastern European-produced helicopters was the London-based Triton Sal. The brokering company was reportedly run by a Russian businessman.<sup>14</sup>

According to the minutes of the hearings of the Commission of Inquiry, Spicer testified that the end-user certificates were signed on 27 January 1997.<sup>15</sup> This was done by the chief of staff of the PNG armed forces and by the chief of logistics of the armed forces. These certificates covered the legal purchase of the helicopters and other equipment included in the contract. The documents were turned over to the Commission of Inquiry as evidence. Two of the certificates were addressed to Triton Sal. 'It is a company with an office in London, one of the companies we use to procure military equipment', replied Sandline's director when questioned about the nature of Triton Sal.<sup>16</sup> The end-user certificates referred to three of the four helicopters involved. 'The way that we work is that we give Triton or another company the task of sourcing the helicopters. I believe these helicopters came in fact from Belarus', said Spicer, according to the Commission's transcripts.

Brigadier General Singirok of the PNG armed forces was suspended after he had organized the mutiny against the contract with Sandline International. He was also called as a witness before the Commission of Inquiry and confirmed Spicer's evidence on the end-user certificates and the purchasing of the helicopters.<sup>17</sup> The suspended commander acknowledged that he had signed the certificates three days before the PNG government had authorized the contract with Sandline International. He explained that he had handed over five blank end-user certificates to Sandline. According to copies provided to the Commission, these were dated 1 February 1997. It seems, from the evidence of both Singirok and Spicer, that one of these blank end-user certificates from Papua New Guinea was eventually filled out by the Sandline representatives in London and addressed to its supplier company, Triton Sal.<sup>18</sup> The latter company was reported to be selling or brokering the sale of former Soviet surplus equipment purchased in Belarus, apparently for sale at high prices to governments of developing countries.

In April 1997, coinciding with the sessions of the Commission of Inquiry in Papua New Guinea, the Ugandan government signed a purchasing arrangement for four similar helicopter gunships from Belarus.<sup>19</sup> The four helicopters were to be supplied by a UK-based company called Consolidated Sales Corporation (CSC), registered in the Virgin Islands.

However, when the initial batch of two helicopters arrived at Kampala airport, the 'items delivered did not conform to the specifications of the contract'. A first official report by the deputy director of Military Intelligence of Uganda established that the helicopters had not been overhauled, as required in the contract between the Ugandan government and CSC.

Logbooks purporting to show the technical history of the second-hand helicopters were also questioned.<sup>20</sup> According to British aviation authorities, the helicopters should have cost no more than \$700,000 each, whereas the contract price of the helicopter gunships was \$1.5 million per helicopter.<sup>21</sup>

CSC rejected the report of the Ugandan official investigation, which led to the appointment of a second independent assessor. It was mutually agreed that the assessor be a helicopter company from South Africa, whose findings would bind both parties. After the independent assessor deemed the helicopters not airworthy, the Ugandan Defence Ministry released a press statement announcing that the agreement with CSC was terminated.<sup>22</sup>

But Uganda had already paid half the price of the contract in the form of promissory notes that had been cashed by the

selling company. Each of the four helicopters cost \$1.5 million, but apparently the sum of \$12 million had been agreed upon in an arrangement between the brokers of CSC and several highly placed Ugandan officials and businessmen. This would have been almost four times the price the gunships should have cost, given their condition, according to the aviation experts from South Africa and Britain. The purchasing price for the ineffective equipment raised a heated debate in Uganda's Parliament, which requested greater transparency about the defence expenditure of the country.<sup>23</sup> On 11 February 1999 a motion to set up a select committee to probe allegations of corruption in the procurement of military equipment was rejected, although it was reported that several senior officers had already confessed to taking bribes in the deal. The Ugandan president then directed a new probe into the helicopter purchase agreement.<sup>24</sup>

The report of the South African helicopter experts showed that the Ugandan government had used a middleman to purchase the helicopters because, at the time, it had no direct contract with the military authorities of the Commonwealth of Independent States or industries with a mandate to sell the helicopters. According to the report, the proprietor of CSC was Emmanuel Katto. Chris Smith, a British public-relations consultant who referred to himself as director of CSC, was reported to have carried out the negotiations with the Ugandan Army. CSC had reportedly bought the helicopters from or via Triton Sal.<sup>25</sup>

The helicopters had not been ordered for Uganda alone. After a Kampala-based newspaper had published a story on Rwandan complaints about the overpriced chopper deal, officials in the Rwandan capital reacted and acknowledged that two of the four contracted helicopters were for their country. As an official put it, it was difficult for Rwanda to acquire military items directly on the international arms market, so 'the country had to turn to its friends in neighbouring countries'.<sup>26</sup>

What really happened with the pricing and the delivery of the helicopters to Uganda and Rwanda remains unclear. Not only did the surplus deals involve equipment of questionable quality, but it seems that the big profits made by the various brokering agents and companies were split between businessmen and high officials in Uganda and London, at the expense of the Ugandan and Rwandan taxpayers. A Ugandan newspaper published a detailed report claiming that the Rwandan part of the deal

involved a complex network of arms companies in Belarus, brokers in the UK and Uganda, a Russian arms dealer, an offshore company in the Virgin Islands, bank accounts in London and New York, and a money guarantee by a bank that no longer existed.<sup>27</sup>

## Mercenary Air Power

In 1998, a pilot who sub-contracted to fly cargo planes for various companies talked about flying aircraft for Capricorn Airlines, part of the Executive Outcomes and Sandline group.<sup>28</sup> He said, however, that he had been ignorant of the identities of the ultimate buyers and sellers: Since 1994...I would estimate I have done at least fifty flights for them... All these shipments consisted of arms, mainly rifles and ammunition but, on a couple of occasions, landmines. ... In my time I have smuggled many diverse cargoes including arms, diamonds and wild birds. I am still engaged in this work. I have, however, never carried drugs on moral grounds.<sup>29</sup>

The exact origin of 'Capricorn Airlines' is unclear. Colonel David Stirling, the founder of the British Special Air Service (SAS) as well as various private security ventures in Africa, also funded the Capricorn Africa Society in the 1950s.<sup>30</sup> In the late 1980s, Stirling was linked to the private security company, KAS Enterprises Ltd, which reportedly employed former SAS personnel and others on the borders of south-eastern Angola to counter ivory hunting and other illegal activities.<sup>31</sup> This was only possible by obtaining the cooperation of the then-apartheid armed forces in the area, especially the Buffalo Battalion and 'Reccie' units, as well as the Angolan rebel movement, UNITA. The interaction of these forces formed the backdrop to the formation of Executive Outcomes in South Africa in 1989, enabling alliances on private

security projects between former South African and British special force officers.<sup>32</sup> Executive Outcomes was registered in the UK in September 1993. 'Capricorn Systems' emerged as a company within the Executive Outcomes group, although it was sometimes called 'Capricorn Air'.<sup>33</sup> In April 1995, two Andover transport planes were sold from the Royal Air Force's Queen's Flight to a broking firm, Technical Aviation, which registered them in Sierra Leone and Angola and leased them to Executive Outcomes.<sup>34</sup> By 1995 all the companies within this group had come under the overarching control of Strategic Resource Corporation in South Africa and a group of companies based in the UK and offshore tax havens. The group was largely controlled by UK mining magnate and former SAS officer, Tony Buckingham.<sup>35</sup> In 1996, the main British directors of these companies formed Sandline International to work with

Executive Outcomes, and registered it in the Bahamas with shared offices in Chelsea, London.<sup>36</sup>

In November 1996, as the war to topple the dictator Mobutu in former Zaire began to spread, a businessman who had represented Ibis Air wrote to the commercial director of the Chelsea group office, using the letterhead of a UK company, Techline Aviation Ltd. He explained the advantages of sourcing ex-Soviet military equipment outside Russia:

I have now located two new Mi-17 helicopters outside Russia so delivery will be easy. ...The market is very good at the moment for this type. The asking price is \$600K but I am confident that I can negotiate down to \$500K. I have located a further two Mi-17s, again outside Russia so they can be exported immediately without hassle...

In addition I can supply up to twenty factory new 1992-1993 Mi-17s ex Russia at prices between \$850K and \$950K but they will be subject to export formalities from Russia. ...The military equipment must be sourced from Russia. I have investigated the ex East German Mi-24V helicopters but they have been sold. ...Prices for the new Mi-24W including all your specified 'accessories' has been quoted to me at \$4.25 million each, complete ex-Russia. Once again, I am confident the prices can be negotiated down. We will need end user certificates for all equipment if purchased from Russia. No end user certificates required for the Mi-17s I have quoted for.<sup>37</sup>

The fact that the European Union had imposed a 'full scope' arms embargo on Mobutu's Zaire since April 1993 was of no consequence to the arms broker, since the UK company at Stansted Airport operating the giant Antonov 124 cargo plane (itself leased from one of three firms in the Russian Republic) would pick up the military helicopters in Prague and deliver them to Kinshasa without bringing the cargo into the European Union and thus without breaking UK arms control law. The man from Techline Aviation explained:

It is possible to load four Mi-17s with rotor and rotor hub removed in the AN123 [Antonov 124] or six if the tail boom is also removed. I have talked to the same transport carrier we use before and the price using Stansted - Prague - Kinshasa - Stansted for the exercise will be in the order of \$210,000 all-inclusive but excluding cargo insurance. The carrier would ideally like 10 days notice. ...In the process of investigating the availability of the military equipment, I have been offered other smaller hardware that I know is used by the organisation that may be of interest.<sup>38</sup>

A company called Techline Resources Ltd was reported to operate aircraft from Cyprus and southern England with Ibis Air of Malta.<sup>39</sup> 'Capricorn Systems' became 'Ibis Air' in 1997, a change of name and a de-registration from the US to the Angolan register that was said to have happened 'within twenty four hours' of the Civil Aviation Authority in South Africa approaching the US Federal Aviation Authority to enquire about the operations of the two US-registered Boeings used by Capricorn.<sup>40</sup>

Ibis Air International had its principal office on Guernsey; it was registered in the Bahamas under the name of Capricorn Systems, with branches in London, Malta, Johannesburg, Luanda, Freetown and Nairobi.<sup>41</sup> Exactly what its large fleet of at least 17 aircraft were doing is unclear. A South African engineer and his wife who worked at Wilson airport in Kenya during 1996 for Simba Air, a company leasing aircraft from Ibis Air, showed a UK television company the illegal aircraft registration stickers that they were asked to make, alleging they had had their passports taken away after questioning the company's links to Executive Outcomes.<sup>42</sup>

Sandline International has sometimes chartered independent air-cargo carriers to ferry arms and equipment for its operations. In May 1998, UK Customs and Excise officials investigated the role of Skyair Cargo in a \$10 million sanctions-busting arms shipment arranged by Sandline. This was part of a plan to topple the military junta and restore the elected government of Sierra Leone.

Although run from offices in west London, Sky Air's aging Liberian-registered Boeing 707 aircraft was based in Sharjah in the United Arab Emirates. It was from there that it flew to collect the arms at a military airport in Bulgaria. On 21 February the plane took the cargo to Kano in northern Nigeria. The next day it flew on to Lunghi in Sierra Leone, where the arms were handed over to the Nigerian forces fighting the military junta that had overthrown Kabbah. Sandline mercenaries were assisting the Nigerians as well as training and supplying a local pro-Kabbah militia.<sup>43</sup>

Skyair Cargo claimed it had provided customs with documents proving the flight was legal despite the mandatory United Nations arms embargo. It even claimed it was

unaware of the nature of the cargo.<sup>44</sup> Skyair Cargo is mentioned in several reports in 1998 and 1999 for alleged arms trafficking.<sup>45</sup> The company was formed in 1988 when it took over an old Boeing 707 aircraft from Santa Lucia Airways. The plane was registered as J6-SLF on the island of Saint Lucia, and Sky re-registered it as EL-JNS in Liberia. The company used to base the plane at Oostend, but moved it in January 1998 to Sharjah in the United Arab Emirates. Santa Lucia had also operated the plane from Oostend but left there in May 1988 when it was implicated in arms deliveries as part of the Iran-Contra affair.<sup>46</sup> The Skyair Cargo plane has been managed from London by Skyair Cargo Services with corporate links to Tehran and East and Central Africa. Skyair Cargo has been advertised 'to operate regular charters from Oostend to Kinshasa and Nairobi, as well as ad hoc charters'. <>

<sup>1</sup> *Ha'aretz*, 7 January 1999. Confirmed by Israeli foreign ministry in 'Israeli Arms Merchant Reported Arrested in Sierra Leone', *AFP*, 15 January 1999. See also: James Rupert, 'Diamond Hunters Fuel Africa's

Brutal Wars', *Washington Post*, 16 October 1999.

<sup>2</sup> 'Las andanzas del israeli Yair Klein por Africa', *El Espectador*, 24 January 1999.

<sup>3</sup> 'Klein si cayo en Sierra Leone. Bogota', *El Espectador*, 23 January 1999. See also: 'Ex-Israeli Officers Accused of "Terrorism" in Colombia', *Reuters*, 25 February 1998.

<sup>4</sup> 'Israeli Uzis Diverted into Hands of Drug Lord', *New York Times News Service*, 6 May 1990.

<sup>5</sup> *Ibid.*; Senator John Kerry & Senator Hank Brown, *The BCCI Affair: A Report to the Committee on Foreign Relations, United States Senate*, December 1992, 102nd Congress, Section 4.

<sup>6</sup> Senators Kerry & Brown, *The BCCI Affair*.

<sup>7</sup> *Ibid.*

<sup>8</sup> 'Israeli Army Officer Convicted of Exporting Weapons, Expertise', *Associated Press*, 29 November 1990.

<sup>9</sup> *Ibid.*

<sup>10</sup> Senators Kerry and Brown, *The BCCI Affair*.

<sup>11</sup> Sam Seibert et al., 'Have Assault Rifle, Will Travel', *Newsweek*, 2 October 1989.

<sup>12</sup> 'Sierra Leone to Try Israeli for Gun Running', *Reuters*, 19 February 1999. The article quotes the Israeli newspaper *Yediot Aharonot*, 28 January 1999; 'Consul Visits Israeli Jailed in Africa', *Ha'aretz*, 19 March 1999.

<sup>13</sup> 'Australian Jets Intercept Plane Carrying Mercenaries' Weapons', *Associated Press*, 28 March 1997; Mary-Louise O'Callahan, *The Weekend Australian*, 22 February 1997, writes that 'two Russian built aircraft, flying under the Bulgarian flag of Air Sofia, had indeed arrived in Port Moresby under the cover of darkness. One of the aircraft and its Russian crew had been carrying foreign operatives and sophisticated military equipment to the provincial PNG town of Wewak, where the mercenaries were understood to be training.' A report in the *Canberra Times* said the activities of the Antonov planes between Port Moresby's Jackson Airport and Wewak had been confirmed. Ian Davies et al., 'PNG Mercenary Move Risks \$320m Aid', *The Canberra Times*, 24 February 1997.

<sup>14</sup> 'Rwanda Chopper Deal Hatched in the UK', *New Vision*, 24 January 1999.

<sup>15</sup> *Commission of Inquiry into the Engagement of Sandline International, The Honourable Justice Andrew, Commissioner at Waigani, Monday 7 April 1997*, Transcript of Proceedings, National Judicial Staff Services, Supreme Court, Boroko, Papua New Guinea.

<sup>16</sup> *Ibid.*

<sup>17</sup> *Commission of Inquiry*, 8 April 1997.

<sup>18</sup> *Commission of Inquiry*, 7 April 1997.

<sup>19</sup> 'Gunships Came After Defence Said "No"', *The Monitor*, 6 July 1998.

<sup>20</sup> *Ibid.*

<sup>21</sup> 'Museveni Takes Over Copter Probe', *The East African*, 19–25 March 1999.

<sup>22</sup> Andrew M. Mwenda, 'Army Cancels Chopper Deal', *The Monitor*, 30 September 1998.

<sup>23</sup> 'Defence Budget Splits the House', *New Vision*, 10 February 1999.

<sup>24</sup> 'Museveni Orders Helicopter Probe', *New Vision*, 11 February 1999.

<sup>25</sup> *The East African*, 19–25 March 1999. Triton Sal reportedly purchased the helicopter gunships from another Belorussian go-between company, Belspetsvnetekhnika, which acted as an agent for the producer, Mil Bureau.

<sup>26</sup> 'Rwanda Denies Blaming Uganda on Choppers', *New Vision*, 18 May 1999.

<sup>27</sup> *New Vision*, 24 January 1999.

<sup>28</sup> On Executive Outcomes and Sandline, see Bartholomaeus Grill & Caroline Dumay, 'The Mercenary Company', *Die Zeit*, 17 January 1997; Khareen Pech, 'Executive Outcomes – A Corporate Conquest', in J. Cilliers & P. Mason, eds, *Peace Profit or Plunder?*, Institute for Security Studies, Pretoria, and Canadian Council for International Peace Research, Ottawa, 1999; Ivor Powell 'Labour Court May Unravel Executive Outcomes', *Daily Mail and Guardian*, 12 April 1999; Journeyman Pictures, 'The War Business', broadcast on UK Channel Four Television, 9 April 1998.

<sup>29</sup> Interviews with pilot, by Journeyman Pictures and others, 1998.

<sup>30</sup> The Capricorn Declarations (1952) were considered the society's first public statement. These were a political programme for a non-nationalist and non-communist colonial Africa, but less radical than apartheid or the racial strife that other white politicians were promoting.

<sup>31</sup> *Commission of Inquiry into the Alleged Smuggling of and Illegal Trade in Ivory and Rhinoceros Horn in South Africa, Report of the Chairman Mr Justice ME Kumleben, Judge of Appeal*, South Africa, January 1996. Also, in January 1997, the confidential Steyn Report to the South African government looked at the activities of KAS Enterprises.

<sup>32</sup> Journeyman Pictures, 'The War Business', 9 April 1998. This television documentary includes some of the testimony of Colonel Jan Breytenbach, the founder of South Africa's elite reconnaissance unit – 'the Reccies' – that were modelled on the British SAS.

<sup>33</sup> The UK Ambassador and Permanent Representative to the United Nations Office at Geneva, Nigel Williams, wrote to

the UN Special Rapporteur on Mercenarism on 31 January 1996 concerning the activities of Executive Outcomes in Sierra Leone, listing Capricorn Air and Ibis Airline, amongst other companies, as 'affiliated' to Executive Outcomes. He pointed out that

Executive Outcomes had a UK office in Alton, Hampshire.

<sup>34</sup> 'Low Flying', *Africa Confidential*, 15 March 1996.

<sup>35</sup> Pech, 'Executive Outcomes...', in Cilliers & Mason. Grill and Dumay reported that Strategic Resource Corporation had 'teamed up' with about 50 companies and operated or had contacts in at least 34 countries (*Die Zeit* 17 January 1997). See also Sean Cleary, 'Angola: A Case Study of Private Military Involvement', in Cilliers & Mason.

<sup>36</sup> Pech, 'Executive Outcomes...'; Grill & Dumay in *Die Zeit*.

<sup>37</sup> Letter from Paddy McKay of Techline Aviation Ltd, Suffolk, to Michael Grunberg, 6 November 1996. Previous group company correspondence in 1996 mentions the relationship of McKay and Grunberg to Ibis Air. It is not known whether the helicopters were actually bought and delivered through this arrangement; the purpose here is to show the methods used by arms brokering and transport agents.

<sup>38</sup> *Ibid.* For such a flight to take place, it would normally require other sub-contractors, particularly those who arrange the purchase of international overflight permissions. As noted, the sub-leasing of such permissions, which means that one air carrier can use another carrier's call sign, is one method that has been used to obfuscate arms deliveries.

<sup>39</sup> 'Ibis Air named its clients as the governments of Liberia, Sierra Leone, Angola and Sudan, as well as EO, Sandline International and Renamo, the Mozambican opposition party and former rebel army and advertised its helicopter and fixed-wing expertise in the bis/Techline website in 1998 at [www.inter.plane.com/techline/prod02.htm](http://www.inter.plane.com/techline/prod02.htm).' (Pech, 'Executive Outcomes...'.)

<sup>40</sup> Quote from an aviation inspector in South Africa, at the airport where Ibis Air used to come for maintenance.

<sup>41</sup> Grill & Dumay in *Die Zeit*.

<sup>42</sup> Film of one false sticker was shown by Journeyman Pictures, 'The War Business'. The close company relationship between Simba Air and Ibis Air at that time is recorded in correspondence.

<sup>43</sup> Michael Gillard, Patrick Wintour & David Connet, 'Second British Firm Caught in Foreign Office Arms Web', *The Observer*, 10 May 1998.

<sup>44</sup> *Ibid.*

<sup>45</sup> 'British Firm Investigated over Links to Angolan Arms Trade', *AFP*, London, 31 January 1999. See also: David Leppard, Chris Hastings, Carey Scott & Brian Johnson-Thomas, 'British Firms Arming Sierra Leone Rebels', *The Sunday Times*, 10 January 1999; Mark Honigsbaum, Anthony Barnett & Brian Johnson-Thomas, 'British Pilot Flies Arms to Sudan', *The Observer*, 14 March 1999.

<sup>46</sup> A Belgian Parliamentary Commission of Enquiry into the Iran-Contra affair was established on 12 May 1987, but by the time the Commission was installed, Santa Lucia had already left. The Commission's report, released on 28 February 1989, contained evidence that a Boeing 707 operated by Santa Lucia was linked to an illicit shipment of weapons to Israel for trans-shipment to Iran. Officials had witnessed events at the Brussels and Oostend airports. The invoice of a company called Scandinavian Commodity AB, dated 16 July 1985 and made out to Santa Lucia Airways, mentions a flight schedule from Brussels Airport to Teheran Airport for a shipment of 'dynamite'. Such cargoes were embargoed at the time.

<sup>47</sup> *World Airline Directory 1995-1998*, JP Airline Fleets International, 1999-2000 edition.

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## [The Arms Fixers](#)

### Chapter 8

#### **The USA: Getting Around the Toughest Law**

When it comes to arms control, the United States of America is sometimes a paradox. Loose legal controls on domestic gun sales and ownership in the USA facilitate a steady flow of small weapons smuggled across the borders, particularly into Mexico.<sup>1</sup> However, a relatively tough US law on international arms brokering was introduced in March 1998. It requires any US citizen, wherever located, and any foreign person located in the USA or subject to US jurisdiction, engaged in the brokering of arms, to first register and to obtain prior written approval for each proposed transaction. Registration and licence approval must be obtained from the Office of Defense Trade Controls of the US Department of State. These

requirements are set out in the Arms Export Control Act and related regulations, the International Traffic in Arms

Regulation and the Munitions List. The latter defines what are termed 'defense articles'.<sup>2</sup>

The enforcement of such controls is primarily the responsibility of the US Customs Service. US Customs special agents receive training to investigate criminal cases of smuggling, money laundering and the application of relevant US regulations, notably at the Federal Law Enforcement Training Centre in Glynco, Georgia. Such agents have extensive powers of investigation and can obtain comprehensive search warrants to seize documents, computers and other materials from business premises and homes. Permission must first be granted by a US district court on the basis of a convincing affidavit presented by the customs agents.

The US Export Control Enforcement Unit of the Criminal Division in the Department of Justice reported that, between January 1981 and December 1998, there were 387 'significant' export control cases in which defendants were indicted for suspected violation of US arms trafficking and sanctions regulations, 170 of which were for violations of the Arms Export Control Act.<sup>3</sup> Not all of these cases have been resolved or have resulted in a verdict of 'guilty'. The frequency and seriousness of the cases have also varied greatly. Some 'significant' cases on the official list, such as smuggling Cuban cigars, would appear trivial. Most cases have been related to US trade and military sanctions against Iran, followed by Bulgaria, China, Cuba, Iraq, North Korea, the USSR, Russia, South Africa and Yugoslavia, while a minority of cases have

involved the failure to secure and use valid export licences for military equipment exports to non-embargoed countries.<sup>4</sup>

One trend has been the growing number of cases involving illicit trafficking of light weapons, small arms and ammunition – from only two explicit cases in the fourteen years from January 1981–December 1994, to twelve cases in the four years from January 1995–December 1998. All but one case concerned countries in Central or South America. Most principal offenders received sentences of around 30 months' imprisonment.

## US Sting Operation

US Customs agents have realized that they need much greater exchange of information about arms brokers in other countries, as well as the judicious use of undercover 'sting' operations, to be able to crack the increasingly global crime syndicates.

In March 1995 a broker in Florida met with a Lithuanian national of Russian origin, called Alexander Darichev.<sup>5</sup> The broker explained he was a member of a Colombian drug cartel, and was looking for sophisticated weaponry. Darichev presented himself as a broker of weapons and weapon systems, with contacts in government agencies in Russia, Lithuania, Bulgaria and elsewhere. Representing a company, Armimex, in Bulgaria that was apparently licensed to manufacture Russian weapon designs, Darichev offered a whole range of weaponry, from automatic rifles to shoulder-launched surface-to-air missiles. The client showed an interest in the Russian anti-aircraft missiles, including Strela 2M, Strela 3M and Igla systems, which are designed to destroy low-flying airplanes or helicopters. If the deal went through successfully, Darichev and a partner of his, Aleksandr Pogrebezskij of Lithuania, hoped also to be able to procure nuclear warheads.

During several meetings in the following months between the broker and Darichev, a complex mechanism was set up, using front companies and government officials on both sides of the Atlantic. The Lithuanians wanted the deal to look legitimate. In Florida, the agent of the Colombian narcotics traffickers set up a company called Phoenix International. In April 1996, one year after the first meeting, the US-based broker went to Russia to examine the weapon systems. In the following months, a company and several bank accounts on the Isle of Man were opened, in order to facilitate the financial end. The value of the missile contracts totalled over \$3 million; upon delivery of two sample missile systems, a first payment of \$50,000 would be made. The money was then to be channelled through a US account at Prudential Securities in the name of another company, Alita Corporation.

In December 1996, Pogrebezskij instructed Prudential Securities in Florida to transfer the money to New York. Two days later, \$49,800 was transferred from Prudential

Securities in New York to Snoras Bank in Vilnius, Lithuania. The Lithuanians had arranged for the transport of the missiles, through the services of Angelo Zeini, the Cypriot owner of merchant ships who had offered his vessel, the *M/V AI Fares*, to smuggle the missile systems into the USA. Zeini would send the ship to Bulgaria to pick up the weapons systems and use false paperwork, provided by the Lithuanians, indicating that the ship would be transporting 15 forty-foot containers of machinery and general cargo to Puerto Rico. One container, with the missile systems, would be commingled with the others in order to pass inspection at the Straits of Gibraltar.

Because Armimex could sell these kinds of weapons only to governments, Darichev and Pogrebezskij arranged to acquire an end-user certificate from the Republic of Lithuania, signed by and bearing the seal of the Lithuanian Minister of Defence. The client was also reassured that if the missile systems were to be used, they could not be traced and that the Lithuanian Ministry of Defence would issue a false letter of receipt upon delivery of the weapons in Puerto Rico.

In July 1997 the negotiations came to an end. At a meeting in a hotel in Miami, US agents arrested Pogrebezskij and Darichev. What the Lithuanians had not realized was that their US brokers were not representing Colombian narcotics traffickers: they were undercover US customs agents from Miami, exposing the first credible post-Cold War plot to smuggle tactical nuclear weapons into the USA. The customs agents had wanted to continue their investigation up to the point of actually purchasing the nuclear devices, but only the missile part of the deal had been permissible under US national security regulations. After his arrest, Darichev cooperated with the US District Court Attorney and made monitored calls to the Bulgarian company Armimex confirming that 40 shoulder-to-air missiles were indeed waiting to be shipped to Phoenix Arms International. The US Justice Department also determined that the Lithuanian Minister of Defence had in fact signed the end-user certificates. He later resigned. Darichev and Pogrebezskij were convicted on charges of smuggling, money laundering and conspiracy. As in many such prosecutions in the United States, they were given only a four-year sentence in a federal penitentiary. Some would argue that such a comparatively light sentence does not set a strict enough example to other would-be arms dealers.

## Exploiting the NATO Weak Link

Arms brokers and shipping agents based in the United States use the privileged status of NATO partners as a weak link to forward arms to prohibited destinations. 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 places such as Algeria, Turkey, former Yugoslavia and countries in Central Africa.<sup>6</sup> Foreign purchasers of US arms are required to sign a statement that they will not re-export the items without the prior authorization of the US State Department, but this is not recognized in EU law as long as the re-exporting remains within the EU.

US officials claimed that the tough laws restricting domestic gun ownership in countries like Germany and the UK mean that large imports of small arms from the USA inevitably go elsewhere, some ending up in conflict zones and amongst organized criminals. In April 1998, German traders had licences pending for 84,399 US handguns, French traders had 22,660 and Italian dealers had 18,803.<sup>7</sup> It seems highly unlikely that all these weapons were intended for domestic sales.

Germany, for example, was accused of being a staging post for smuggled small arms in former Yugoslavia and Turkey. Britain's largest export-licence destinations for small arms in 1997 were the United Arab Emirates, Oman and Qatar. These countries are well-known transit points to Iran, Iraq, South Asia and Africa. US officials accused traders and brokers in northern EU countries of transiting US small arms to Greece, Italy, Portugal, and Spain, which have long sea borders that are difficult to police. Historically, well-developed smuggling networks exist amongst the Mediterranean countries and islands, and also between the Mediterranean and Latin America.<sup>8</sup>

However, official US complaints about the weak export regulatory systems for arms traders in the EU states need to be viewed against the willingness of the US authorities to grant export licences for small arms and related items to many countries where these items are used for serious violations of human rights. Since most applications by US dealers for export licences covering small arms involve relatively low monetary values, the US Congress does not have to be notified of them in advance. Thus, for example, when Congress received in 1996 the annual State Department report on human rights violations in Bahrain recording the security forces' use of live ammunition against pro-democracy demonstrators, US licences were quietly being issued for 35,844 pistols and revolvers to go to Bahrain.<sup>9</sup> According to a report commissioned for the UK Defence Manufacturers Association, procurement of security equipment for the Bahrain forces is usually made through the UK Crown Agents company. Bahrain is also 'the Gulf's busiest entry and exit point' and was suffering from a rising wave of illicit trafficking, where it was possible to register 'brass plate' companies, tax free and with no physical presence.<sup>10</sup>

## Back to the High-tech Future

In September 1999, a US Federal Bureau of Investigations conference of law enforcement officials in Germany was told by experts that future international organized crime syndicates will use cutting-edge technologies and not only old-fashioned guns and brute force. There will be an increasing demand for electronic, chemical, biological weapons that are easy to carry, silent, hardly visible, and whose effects are harder to trace.<sup>11</sup> In 1998, Interpol issued a warning to 177 countries after a 3-inch long key-ring pistol, made in Bulgaria to kill at close range, was found being smuggled into the UK at Heathrow airport;<sup>12</sup> in 1999, Spanish authorities arrested four people and seized an illegal arsenal in Lloret de Mar which included 600 ballpoint-pen pistols, miniature guns hidden inside pen cases.<sup>13</sup> US customs officers are already alert to cases of smuggling small military and security equipment that is not necessarily classed under old-fashioned firearms regulations.

One case is that of Yuri Montgomery (also known as Yuri Malinkovsky), who had links to former Yugoslavia and ran a company called Fortend USA.<sup>14</sup> Montgomery pleaded guilty in the District Court of California in November 1996 after a customs investigation found that his company had illegally exported ammunition, laser-gun sights, night-vision goggles, electro-shock weapons, tear gas, double-lock handcuffs and military helmets from the USA to clients in Macedonia and Slovenia. Fortend USA had sent the equipment without obtaining valid export licences. It is believed that some of this may have ended up in Serbian hands since torture with such shock weapons began in Kosovo.<sup>15</sup>

US regulations have allowed some types of security equipment to be exported to NATO states without needing prior approval, and this has also attracted brokering networks. On 29 March 1991, a US cargo company, Elite Worldwide Services, shipped 150 electro-shock riot shields for a US trade company based in Pittsfield, Massachusetts, called Protech Armor Products. The latter firm was closely linked to another private company, Custom Armoring Corporation, and specialized in ballistic materials and police equipment. The shields were made by Nova Technologies of Texas and bought by Protech before being flown by air to Heathrow Airport, London. It was part of a well-planned trafficking operation to export the shields to the

Romanian Ministry of the Interior via London, Paris and Luxembourg. Alphasafety

SA, based in Luxembourg, was the brokering agent for the Romanian government. But after a crate of the shields arriving at Heathrow accidentally fell off a truck and broke open, UK customs officers began investigating the matter. They contacted their US counterparts, and the carefully planned operation started to unravel.<sup>16</sup>

Elite Worldwide Services attempted to gain the release of the shields from UK customs by obtaining help in the UK to falsify a US Commerce Department document, describing the shields as 'kevlar vests'. Shortly afterwards, William McNeil, Vice President of Protech and Treasurer of Custom Armoring, who was responsible for day-to-day operations, began to arrange for a second consignment of 150 electro-shock shields from Nova to be flown to Romania via Houston, Paris and Luxembourg. They conspired with Herbert Allen of Nova Technologies, as well as Charles Dye of International Business Connections, the US representative of Alphasafety, to deliver the shields using a false Shipper's Export Declaration, a Shipper's Letter of Instructions and an Airway Bill. These documents indicated that the ultimate end-user would be Alphasafety, so that the destination could be presented as Luxembourg, a NATO member and therefore exempt from licensing requirements for such items. Around 12 May, the shields were exported unlawfully to Romania, via Luxembourg.<sup>17</sup>

Both the US and successive UK governments have refused to divulge the name of the UK broker/s and US supplier/s who were issued licences for a large consignment of such weapons to Saudi Arabia, a state with an appalling record of officially-sanctioned torture. The UK marketing agent for Nova, International Procurement Services (IPS) based in London, was also a brokering agent for the UK small arms company, Royal Ordnance. In 1995, Phillip Morris, a salesman for Royal Ordnance working with IPS, admitted to assisting the supply of 8,000 electro-shock weapons to Saudi Arabia in 1990 as 'a sweetener' for the massive Al Yamamah arms deal, the largest in UK history.<sup>18</sup> The fact that electro-shock torture was carried out in Saudi Arabia was never considered. IPS and Royal Ordnance, part of the UK-based British Aerospace Group BAe, offered in a letter to supply more such weapons to the Middle East using suppliers in the United States and Germany. The UK authorities declined to prosecute them for illegal possession of such weapons. Successive UK governments have since admitted that trans-shipment licences were issued for US electro-shock weapons to be delivered via the UK to Saudi Arabia, Egypt and Botswana, but have refused to divulge the name of the trans-shipment agent/s. The current UK government has claimed it had 'problems with computer databases'. The US government has also refused to divulge the names of the supplier and shipping agent in the deal, on grounds of commercial confidentiality.<sup>19</sup>

## 'Drop Shipping'

To broker the sale of small weapons outside the NATO countries, US dealers need to use more devious methods. 'Drop shipping' is one such method discovered recently by US Customs officers. In December 1997, Jack Baugher and his company, S&J Products and Services, were convicted of exporting powerful liquid pepper (Capsicum) gas sprays without export licences to Sweden, Canada, France, Germany, Mexico and the Philippines.<sup>20</sup> They were also convicted of exporting high-voltage electro-shock stun guns to Russia, Mexico, Indonesia, Guatemala, the Philippines, Papua New Guinea and other countries.<sup>21</sup> S&J Products and Services described itself as 'a manufacturers' representative' specializing in security equipment sales, and had advertised in international trade journals.

A former employee of S&J said it acted as a 'drop shipper' for numerous other companies, describing the process thus: 'For example, XYZ company [in a foreign country] will receive an order for pepper sprays and stun guns from ABC company [also in a foreign country]. XYZ company will then ship the order to S&J Products and Services who fills it, creates invoices which reflect that XYZ company is the supplier, and then ships the order to the ABC company.' The former employee told the court that between 10 and 20% of the business of S&J Product and Services 'is through these

drop shipments'.<sup>22</sup> In order to circumvent US export regulations, and therefore to create the impression that the foreign (XYZ) company was the supplier, S&J Products and Services staff carefully created 'dual invoices' for each order – one factual invoice reflecting the actual names and amounts of the ordered weapons in order to claim payment, and one fraudulent invoice for sending the weapons.

In May 1996, US Customs had discovered a S&J consignment of pepper sprays and stun weapons on its way to Russia described as 'Key chains, Pen Units, fountain pens, jogging weights, mini Elect volt unit, electrical volt unit, Book, portable door lock, First aid kits'. A former employee said that in December 1996, twelve cases of pepper sprays valued at approximately \$9,000 were shipped to the Philippines via United Parcel Service and All Flags Freight Forwarders. Two other informants said a Philippines company was negotiating a large order from S&J to supply the Philippines police.

The future ramifications of such 'drop shipping' arrangements gradually became clear when it was revealed that S&J had obtained its stun guns from Korea and Taiwan.<sup>23</sup> Stun-gun manufacturers in Taiwan have production facilities in mainland China and are seeking to dominate this market in a world where the security forces of over one-third of the world's states – and most importantly China – practice electric shock torture.<sup>24</sup> S&J were unwittingly positioning themselves as a third-country broker for this torture market.<sup>25</sup> Ex-employees said that S&J had made a special study of export regulations. One confided: 'it is a long standing joke within the office of S&J Products and Services that they falsely describe the products that they export.'<sup>26</sup>

<sup>1</sup> See for example Lora Lumpe, 'The US Arms Both Sides of Mexico's Drug War', *Covert Action Quarterly*, no. 61, 1998, pp. 39–45.

<sup>2</sup> Arms Export Control Act, Title 22, United States Code, and International Traffic in Arms Regulations, Title 22, Code of Federal Regulations, Parts 120–130. Related laws applied to arms trafficking are Title 18 US Code, Sections 371 (Conspiracy) and 1001 (False Statements).

<sup>3</sup> *US Department of Justice*, 'Significant Export Control Cases, January 1981 to January 1999', obtained by Lora Lumpe under the Freedom of Information Act from the Criminal Division, Internal Security Section, Export Control Enforcement Unit.

<sup>4</sup> It is not possible to estimate the proportion of the military exports actually exported. On the Iran cases, see 'Court Case Highlights Arms Smuggling to Iran', *Arms Trade News*, Washington, DC, March 1999.

<sup>5</sup> Indictment, United States District Court Southern District of Florida. *US v. Alexander Darichev and Aleksandr Pogrebezskij*, Filed 19 July 1997, S.D. of Florida, Miami. Available on the internet at: <http://www.pbs.org/wgbh/pages/frontline/shows/russia/scenario/indictment.html>

<sup>6</sup> Ray Bonner, 'Loophole on Guns Feared in Europe', *International Herald Tribune*, 19 April 1998.

<sup>7</sup> Raymond Bonner, 'European Loophole Undermining US on Resale of Its Guns', *New York Times*, 19 April 1998.

<sup>8</sup> *Ibid.*

<sup>9</sup> US State Department, *Bahrain Country Report on Human Rights Practices for 1996*; US State Department and US Department of Defense, *Foreign Military Assistance Act, Report to Congress, Financial Year 1996, Authorized US Commercial Exports, Military Assistance, Foreign Military Sales and Military Imports*, September 1997.

<sup>10</sup> The Association of Police and Public Security Suppliers (Division of the Defence Manufacturers Association Ltd), *Police and Public Security Requirements for Equipment and Services in the Countries of the Arabian Peninsula*, Market Research Study, Surrey, UK, June 1994.

<sup>11</sup> Tony Thompson, 'High-tech Crime of the Future Will be all Mod Cons', *The Observer*, 3 October 1999. The Omega Foundation (Manchester, UK) carried out a study of new security technologies for the Scientific and Technological Options Assessment Panel at the request of the Committee on Civil Liberties and Internal Affairs of European Parliament in January 1998.

<sup>12</sup> Kate Connolly 'Death Comes in 99 Attractive Shades', *The Guardian*, 4 July 1999.

<sup>13</sup> 'Large Cache of Arms and Drugs Seized in Spain', *Reuters*, 18 March 1999.

<sup>14</sup> *US District Court of Columbia v. Yuri Montgomery*, indictment 12 April 1996.

<sup>15</sup> Some of the items exported, such as the high-voltage electro-shock guns, laser-gun sights, handcuffs and helmets, did not fall under the US Munitions List. However, they did fall under the US Commodity Control List and thus also required written export authorization from the US

Department of Commerce, which Montgomery (Malinovsky) did not obtain. The use of high-voltage electro-shock weapons is prohibited in most West European states, but the USA remains the largest user and exporter. See Amnesty International, 'Arming the Torturers: the Spread of Electro-shock Stun Technology', London, March 1997.

<sup>16</sup> US District Attorney, District of Columbia, Press Release, 7 August 1996.

<sup>17</sup> US District Court of Columbia, *USA v. Charles Dye*, and *USA v. William McNeil*, March 1996. McNeil was tried and sentenced on 7 August 1996 to 18 months' probation, 250 hours of community service and a \$5,000 fine. Herbert Allen,

Brian O'Day and Charles Dye were also convicted and sentenced to terms of probation and substantial fines. Alphasafety of Luxembourg and the anonymous UK collaborator were never convicted.

<sup>18</sup> Channel 4 Television Dispatches programme, 'The Torture Trade', 1995.

<sup>19</sup> Paul Lashmar, 'MPs Misled over Torture Baton Exports', *The Independent*, 29 January 1999.

<sup>20</sup> Violations of the US Arms Export Control Act, since pepper sprays are on the Munitions List.

<sup>21</sup> These were violations of the US International Emergency Economic Powers Act and the Export Administration Regulations. They 'knowing and willfully' did not obtain export licences from the US Department of Commerce for such transfers.

<sup>22</sup> US District Court, Eastern District of Washington, USA v. S&J Products, 'Affidavit in Support of Search Warrant, 5 February 1997.

<sup>23</sup> S&J had provided proforma invoices to its foreign partners describing some of the products as 'Fountain Pen Pepper Sprayer, 300,000 Volt Curved Stun Gun, and Key Chain Pepper Spray'.

<sup>24</sup> Amnesty International, 'Arming the Torturers'.

<sup>25</sup> Indonesian security forces have carried out systematic electro-shock torture. An air waybill belonging to S&J dated 28 June 1996 to Medan, Indonesia, listed 'Fountain Pens, Keychains, Child Sound device, Electrical Voltage Units'. This was used by S&J to export stun guns from the address of 'W Enterprises', but the account number listed was the same as S&J Products and Services.

<sup>26</sup> US District Court, 5 February 1997, 'Affidavit', par. 23.

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## The Arms Fixers

### Chapter 9

#### **Weak National Laws of Western States**

Governments commonly use 'licensing' and 'registration' to regulate business in the interests of public safety and open trade. For example, most states regulate standards and operations of motor vehicles and restrict the production and trade of pharmaceuticals and chemicals. They ensure the integrity of the legal, medical and other professions. Similarly, many states routinely adopt policies and regulations that require the restrictive licensing of arms manufacturers and dealers – although some do not, and in many cases these laws and policies are not strict enough.<sup>1</sup> But, as is evident from the preliminary survey below, as well as the illustrative cases above, few states have laws and regulations specifically designed to cover the activities of arms brokers and shipping agents, especially when the activities go through third countries. This is a glaring and often tragic omission.

One study concluded that, from the available literature, only five states – Germany, Sweden, the Netherlands, Luxembourg and the USA – have measures that deal

explicitly with arms brokering.<sup>2</sup> As discussed below, even these measures vary widely in the extent of their coverage.

The USA is the only government that comes close to requiring that anyone domiciled within its own boundaries, and any of its citizens

residing elsewhere who engage in the brokering and shipping of arms: (a) be on a *bona fide* public register, (b) seek prior licence authority for a transaction involving their commissioned role as an intermediary; and (c) subject any transaction to post-delivery verification. All the same, the United States appears to lack sufficient transparency in this area, including the publication of names on the authorized register and a list of brokerage licences that have been approved. Such transparency would help significantly to ensure against diversion and misuse.

Increasingly, however, governments are becoming aware of the growing scale of the negative humanitarian, political and economic impact of unregulated arms brokers and shipping agents. A few governments – such as those of Canada, South Africa and the United Kingdom – are considering changes to bring such activities more clearly within the scope of their law. Any proposed measures should be examined carefully: they must be framed so as to be preventive in nature, realistic in scope and easy to harmonize with like-minded states.

To the extent that brokering and shipping agents become specialists in identifying desperate customers who lack legitimacy according to the norms of international

conduct – but do not lack the funds or other resources to risk a purchase on the fringes of, or beyond, the boundaries of the law – the prime prerequisite of their business is to be able to outwit state regulators and law enforcers. They become experts in knowing the weaknesses of different national control systems, the location of cheap sources of supply and the use of secretive shipping and banking arrangements. Experienced arms brokers who agree to supply recipients in areas of violent conflict and gross human rights abuse will usually try not to contravene national laws directly – at least, not

where they know law enforcement agencies have the capacity to enforce those laws. As seen from the examples in the previous chapters, the arms that they trade will often never pass through domestic territory where they live, and the money will be

laundered through tax-haven accounts.

The increasing reality of global markets, new technologies and weak systems of governance and law enforcement in many countries makes the absence of proper registration and licensing of arms brokers and shipping agents a fertile ground for unscrupulous individuals to arrange the supply of arms to illegitimate customers. They make it their business to exploit weak licensing procedures for arms export and import, out-of-date legal definitions, poor transport regulation and the failure to verify end-users and provide for adequate corporate and financial transparency. This makes it all the more important to examine each national system of law and regulations in an integrated and holistic way. All aspects of the arms brokering and shipping agency business should be considered. The following is an attempt to contribute to that task, but it is not comprehensive.

## **Austria**

Austrian export legislation requires an arms exporter to apply and obtain an export licence issued by the government before transferring arms abroad. A valid end-user and transit certificate is required, at least in theory. However, there are no specific provisions in the law to regulate those acting as brokers of arms sales from Austria, or those acting as brokers for arms that pass through Austria in transit, or those domiciled in Austria who broker arms deals in third countries. This latter omission is significant because Austria is in close proximity to several major small-arms producing countries, including Bulgaria; and the Bulgarian state arms-marketing company, Kintex, has operated an office in Vienna for some years.

As we have seen, the control-mechanisms are not well coordinated between various branches of government, even though there is a formal link. There appear to be very few officials in the police (no more than 15) who work in the field of arms control, and too few customs officers.

## **Belgium**

No law in Belgium covers arms brokering activity via third countries, and no law applies to shipping/forwarding agents other than normal transport and commercial law. The transfer or sale of military items within the Benelux countries requires no official authorization, and this fact sometimes creates opportunities for exploitation by brokers or shippers. Checks on generalized export and import licences covering large volumes over a long time period have been inadequate.

A particular problem in Belgium is the discrepancy that exists between the law on the export, stockpiling and transfer of certain weapons categories (covered under the law of 1991) and the law on the sale, transit and possession of certain weapons categories on Belgian territory (covered under the law of January 1993). Some categories of weapons can be freely moved, stored or sold on Belgian territory according to the law of 1993 (basically a law on fire arms possession and sale), whereas the transfer of the same categories of weaponry through Belgium is permitted only when accompanied by a transit document under the 1991 law.

An Inter-Departmental Unit was established in 1998 to try to overcome administrative fragmentation of the arms control system in Belgium. This should improve the monitoring and enforcement of export, import and transshipment licences, but only if

customs and police capacity in the ports and elsewhere can also be improved. A new positive development in Belgium is the enactment of an enabling law on the implementation and enforcement of UN Security Council arms embargoes, passed on 11 May 1995. This new law is extra-territorial in application, which should restrict brokers and shipping agents engaged in third-country or offshore activities.

## **Bulgaria**

Bulgaria is one of several East European countries in the process of moving closer to Western market integration. Some of the case-studies in preceding chapters have shown that countries with significant small-arms industries that are in structural transition, such as Bulgaria, have been significant sources of unregulated arms supplies. In December 1998, the Bulgarian cabinet accepted that the country's arms-export control law needed reform and proposed a set of draft amendments. The proposals seek to align Bulgaria's legal framework more closely with its international arms trade obligations. If passed by the National Assembly, the proposed changes would, amongst other things, require each arms trading company seeking an arms export

permit to identify the names of intermediaries authorized to represent the parties involved in the proposed transaction. The new law would explicitly define arms brokering activities for this purpose.

In addition, the changes would strengthen criminal penalties for violations of export controls, raising prison sentences as well as fines, and would increase the minimum capital requirement for trading and transport companies engaged in arms transactions. Against the backdrop of privatization of Bulgaria's arms industry, the amendments would also permit foreign-owned companies registered in Bulgaria to participate in arms-trading activities.<sup>3</sup>

## Canada

There is no law in Canada specifically identifying and regulating the activities of arms brokering and shipping agency activities, but there are some provisions that may be used in practice. According to Section 15 of the Export and Imports Permit Act: 'no person shall knowingly do anything in Canada to cause or assist any shipment, transshipment or diversion of any prohibited weapon...or any component part...that is included in an Export Control List, from Canada or any other place, to any country that is not included in an Automatic Firearms Country Control List'. This would appear to apply only to brokering and shipping agency activities 'in Canada', rather than to activities carried out by Canadian residents or registered companies outside Canada.<sup>4</sup>

Canada's law incorporating UN mandatory arms embargoes does prohibit anyone in Canada, as well as any Canadian outside of Canada, from participating in, assisting or promoting any transaction involving arms and related technology to the embargoed destination.

## France

French regulations, based upon the 1939 Act, currently requires that all French citizens who wish to become involved in the production or trading of arms in France register with the government. Only French nationals can be granted permission to engage in such activities. The government intelligence services carry out checks to ensure that individuals and companies who wish to engage in producing or trading arms do not have criminal convictions. The law provides for licensing of individual transfers from French territory, but the French government appears to have no power to regulate the brokering and shipping activities of French citizens if the acts occur outside French territory.

## Germany

Germany has laws requiring arms brokers to seek licence approval for any transaction conducted on German territory, but it is known that arms brokers domiciled in Germany simply cross the border to conduct deals. The War Weapons Act covers lethal military items, including complete weapons systems (rifles, tanks), major/critical components (fuses), and ammunition (mortars). A licence is required for any company or individual seeking to import such equipment into Germany, or to export such equipment from Germany or otherwise handle or deal with such equipment anywhere. The Foreign Trade and Payment Act covers non-lethal defence equipment (radar, communications equipment). A licence is required for the export of such equipment from Germany (but not import into Germany). Where buying and selling involves the supply of arms which, during the process, become the property of German personnel, a licence is required for equipment which falls under both the Weapons of War Act and the Foreign Trade and Payment Act, even if it does not touch German soil.

A second type of brokering is recognized in German law, called *mediation*. This includes any form of contact (phone, fax etc.) by German-based personnel between the suppliers and recipients of arms that do not enter German soil. If the arms in question are set out in the Weapons of War Act list of munitions, then the individual will

require a licence for each transaction in which s/he is involved. This licence should be subject to the same level of scrutiny as an arms export licence, and there is a close alignment between export policy and policy regarding brokering supplies through third countries. If the arms in question fall under the Foreign Trade and Payment Act, however, a permit is not required: this loophole has been used to transfer military equipment to zones of violent conflict and human rights abuse.

There are no extra-territorial provisions included within German laws on arms brokering. Thus these laws are liable to circumvention by individuals who simply step out of the country in order to conduct the transaction.

## Italy

In Italy there is no official information published on brokerage activities relating to the arms trade, and information on arms exports authorized under Law 185/90 has been limited. Any documentation presented by the arms exporting company to the authorities with regard to intermediary activities is considered strictly confidential. Such activities are considered subject only to the formal control of military attachés in the country of the intermediary agent (or, where there is no diplomatic representation, in the nearest country). Moreover, the concept of control used by Italian diplomats refers only to the congruity of the fees paid by the Italian company, and not to the 'legitimacy' of the activities of the intermediary agent in the arms deal.

Officials in Rome have said that the Italian intelligence services have discovered during investigations that most of the brokering companies working in Italy are registered in foreign tax havens, maintaining only small offices in Italy. They explained that one reason why there has not been effective control of arms brokering agents in Italy is that the aim of Law 185/90 was to prevent foreign payments for arms trade intermediaries being returned to private or public entities in Italy – for example, to political parties.

## Netherlands

The Netherlands has ambiguous legislation on arms brokerage. Dutch officials claim that brokerage is more or less legally covered by the arrangement. The October 1994 amendment to the law on financial relations abroad (Dutch Royal Decision, 1994)

enables the Dutch authorities to request a full licensing procedure for anyone 'financially involved' in transactions of military goods outside of the EU.

The 1994 Dutch Royal Decision is known as the 'arrangement for financial movement strategic goods'. It makes no special reference to brokerage of military or dual-use goods, but is an 'arrangement', or interpretation, of the 1994 Decision by the Dutch Ministry of Economic Affairs, Department Export Controls and Sanctions Policy. It harmonizes an earlier cabinet decision of 1981 with the European Council decree of 19 December 1994 on the transfer of dual-use exports in the EU.

Article One of the procedure prohibits any financial transaction with reference to 'transit- or triangular trade' of military goods outside of the EU without a licence from the Ministry of Economic Affairs. It also prohibits any financial transaction of military goods inside the EU, other than financial transactions for those government goods legally stored or transported without such an export licence. The 'arrangement' is applied by Dutch ministerial departments to cover financial involvement in dual-use exports and exports of military goods to non-EU countries by any Dutch resident or company registered in the Netherlands.

Any broker has to apply for the necessary licensing documents, even if it is only the suppliers or the recipients that are based or registered in the Netherlands. Although the Dutch authorities have refused several arms licences to brokers on the basis of this

'arrangement', there is apparently insufficient jurisprudence on the arrangement to interpret the exact coverage of the law. Thus, it is unclear whether the 'arrangement' applies if the arms brokering by a Dutch national does not involve a proven financial transaction within Dutch jurisdiction, such as an offshore tax haven that is drawn upon from other countries where the broker travels, or if it applies to the arms-brokering activities of Dutch nationals living outside the Netherlands.

The arrangement also enables the Ministry of Economic Affairs to request verification procedures or controls on companies or individuals financially involved in a triangular or transit deal, but this arrangement has scant preventive value. The initiative to notify and consequently apply for an export licence rests with the broker (or financially involved company), and it seems relatively unlikely that a broker or an organizer of an illegal triangular deal will notify the authorities that a financial transaction or transfer in the Netherlands is connected to such a deal. Nevertheless, the arrangement does permit the authorities to control or prosecute brokers involved in the transfer of arms.<sup>5</sup>

## Norway

Under the Norwegian arms control law of December 1987 and the regulations of January 1989, it is prohibited for persons domiciled in Norway and Norwegian companies, foundations or associations to engage in trade, negotiations, or by other means assist in the sale of military products included in the arms control list from one foreign country to another, without the consent of the Norwegian Ministry of Foreign Affairs. The list of controlled goods, services and technology includes weapons, ammunition and other military goods, as well as services connected with such products and technology. Where there is a war or threat of war, all goods, assistance and services

require a licence, even if they are non-military items. The law places strict responsibilities on the licensee to report on the delivery of items.<sup>6</sup>

It is not known whether the law would cover Norwegian nationals domiciled abroad who broker or arrange shipping of arms and other security equipment and services. Nor is it known whether the scope of the goods and services controlled would cover new security technologies that are small weapons.

## Spain

Companies and individuals in Spain wishing to export arms from Spain have to register with the authorities, but the law does not include strict legal criteria to determine anyone's suitability for registration, or mention the activities of third-country brokering and shipping agencies.

National law in Spain regulating the foreign trade of defence and dual-use material does provide for the development of a Special Register of Defence and Dual-Use

Material Exporters.<sup>7</sup> The Regulation includes a copy of the standard application to be used, which asks for some general data (name, address, shareholders, etc.), a list of the exportable products and technologies, whether the company is involved in research and development projects, and whether it has international experience in the export of engineering projects. A Ministerial Order of the Economics Ministry dated 30 June 1998 deals with the procedure and regulations for companies to be included in this Register; the Spanish Government has 60 days to notify the company whether it is accepted or not. There is no mention of the duty of arms brokers or shipping agents to register.

## Sweden

In Sweden, arms brokers are required to register with the government, in the sense that a permit is required by law in order to engage in brokering activities. There is a restrictive attitude towards issuing brokerage permits, since the Swedish rationale for international arms activities (regardless of what form they take) is that such activities should directly contribute to securing the needs of Sweden's own armed forces. In the view of the Swedish government, arms brokering can rarely be said to contribute to that objective.

A licence issued by the Swedish government is required for each transaction. Once a brokerage permit has been issued, the individual transactions are judged according to the same rules as arms exports from Sweden. Controls apply to arms brokering agents domiciled in Sweden, irrespective of nationality or pattern of operations, and despite the fact that most of the business could be conducted from hotel rooms in foreign capitals. Swedish controls apply as long as the agent's permanent residence is in

Sweden. The concept of 'domicile' is the same as that used for taxation purposes. The scope of goods that are controlled for the purposes of arms brokering is the same as for those which are controlled for export (i.e. 'military equipment').<sup>8</sup>

## South Africa

The new African National Congress government has taken two legislative initiatives, one completed and another still in draft form, which will change the legal framework affecting arms brokers. These are important initiatives that should be studied by other states. Soon after coming to power, the government did amend the law and regulations governing arms exports, but these changes did not cover the activities of arms brokers and transport agents outside South Africa.

However, in response to growing concern about the role in Africa and elsewhere of private military companies and mercenaries based in South Africa, the government enacted a new law which (a) prohibits mercenary activities and (b) rules that any citizen or permanent resident of South Africa, or any company registered or incorporated in South Africa, that wishes to provide

foreign military assistance, must first obtain permission to offer such services and also obtain authorization to actually provide such services in each particular instance from the National Conventional Arms Control Committee.<sup>9</sup>

Since the definition of foreign military assistance includes training, advice, intelligence, medical support or any other action that would provide a military benefit, this law would cover arms brokering and shipping activities outside South Africa. It remains to be seen how this law is applied in practice, since the law provides the Minister of Defence with wide discretionary powers to exempt those s/he sees fit to provide such services even though they may not meet the humanitarian, human rights and other criteria.

In mid-1999, the South African government was preparing further legislation to control firearms within South Africa. In connection with this, it has proposed to strictly regulate arms brokering by citizens, foreign nationals and residents. The

definition of firearms broadly follows that in the 1997 Inter-American Convention Against the Illicit Manufacturing of

and Trafficking in, Firearms, Ammunition, Explosives and Other Related Materials. According to the draft proposal, a comprehensive and restrictive register will be established for arms brokers, and each transaction will require prior authorization through a strict licensing procedure.<sup>10</sup>

## United Kingdom

UK law does not require arms brokers or their shipping agents to seek authorization for arms transfers in cases where the arms do not pass through UK territory, nor does it require the registration of such agents for dealing in arms outside UK territory.<sup>11</sup> The UK Government's 1999 review of 'strategic export controls' recommends that arms brokering and trafficking activities by persons in the UK or UK citizens abroad, including cases where the goods are provided exclusively through third countries, should be prevented in a wider range of circumstances. These circumstances would include not only mandatory UN arms embargo as at present, but also non-binding embargoes decided upon in the UN, the EU, the OSCE or by the UK government itself.

However, the official UK White Paper states:

...the Government does not propose to use this power to introduce controls on trafficking and brokering of all goods that are subject to export controls. It is right in principle that UK controls on trafficking and brokering should be more limited than on actual exports from the UK as those involved in such activities will also be required to comply with the export control laws of the exporting country. Secondly, enforcement of controls on trafficking and brokering is less straight forward than the enforcement of controls on exports from the UK and it is therefore right that resources for enforcement of such measures should be targeted on the most critical areas.<sup>12</sup>

The UK government's assertion that controls on trafficking and brokering 'should be more limited' because there will be controls in other countries is clearly unrealistic. The whole point about the necessity of strict home government control of arms

brokering and trafficking via third countries is that middlemen based in the UK and elsewhere often arrange arms supplies from countries with poor export controls to countries with poor import controls. They deliberately use countries suffering from weak governance, corruption and abuse. Moreover, the United Kingdom has been an attractive base because it is easy to hide financial transactions, especially using the offshore tax havens.<sup>13</sup>

Another problem in the UK law affecting the control of arms brokers and traffickers has been the ambiguous wording and protracted delay in implementing UN Security Council mandatory arms embargoes. The UK government has stated that it does not wish to introduce extra-territorial jurisdiction on this issue. But it has not explained why it cannot legally require brokers and shipping agents to present for inspection to the UK authorities, in advance of any delivery, the written foreign authorizations and end-use certificates for the arms in question. Although the arms may not pass through UK territory, the material proceeds from the deal will enter the UK, and the UK government has a duty to ensure that its citizens and residents only accrue such benefits internationally as are within the rule of law.

## USA

All governments should look closely at the US government's new regulations to control international arms brokering, the background to which has been described in the preceding chapter. Under the International Traffic in Arms Regulations (which implement the Arms Export Control Act):

Broker means any person who acts as an agent for others in negotiating or arranging contracts, purchases, sales or transfers of defense articles or defense services in return for a fee, commission or other consideration ... [and] brokering activities include the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service, irrespective of its origin ... this includes, but is not limited to, activities by US persons who are located outside the United States or foreign person subject to US jurisdiction involving defense articles or defense services of US or foreign origin which are located inside or outside the United States. But this does not include activities by US persons that are limited exclusively to US domestic sales or transfers.<sup>14</sup>

In addition, any US citizen, wherever located, and any foreign person located in the USA or subject to US jurisdiction, who engages in such brokering activities involving the international transfer of military goods or services, must first register with the US Department of State. Each transaction must then be given prior written approval by the State Department.

There may remain a loophole in respect of some crime control equipment on the US Commerce Control List as opposed to the Munitions List. All the same, the framing of this new regulation would appear to be a major advance on what exists in other states.<sup>15</sup>

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<sup>1</sup> Moldavia and Romania, for example, have no restrictions on the manufacture of firearms. See the *United Nations*

*International Study on Firearms Regulation*, E/CN.15/1997/CRP.6.25, April 1997.

<sup>2</sup> Department of Foreign Affairs, Canada, *State Authorization and Inter-State Information Sharing concerning Small Arms Manufacturers, Dealers and Brokers*, Ottawa, February 1999. This study is useful but limited: it does not examine the actual activities of arms brokers and shipping agents but calls for more research, which, it notes, 'can be difficult to conduct as well as being expensive and time consuming'.

<sup>3</sup> See Human Rights Watch, Bulgaria report: bulga994-03.htm

<sup>4</sup> Department of Foreign Affairs, Canada, *State Authorization and Inter-State Information Sharing...*

<sup>5</sup> Interviews with Mr Botenbal and Mrs C. M. van Dantzig on 17 and 18 June 1999; *Besluit van 24 Oktober 1996* on regulating the financial movement of strategic goods. Source 24-10-1996, *Stb.* (Government Gazette) 552, Entry into force: 15-11-1996. With acknowledgements to the Ministry of Economic Affairs, Export Controls Department.

<sup>6</sup> Norwegian Royal Decree Number 967 of 18 December 1987, and Regulations of 10 January 1989, as amended.

<sup>7</sup> Article 7 of the Royal Decree 491/1998, dated 27 March, published in the Official Gazette of 8th April 1998

<sup>8</sup> We are grateful to Liz Clegg of Saferworld UK and to the Ministry of Foreign Affairs in Sweden for this information.

<sup>9</sup> Regulation of Foreign Military Assistance Act 1998, *Government Gazette*, 20 May 1998, Pretoria.

<sup>10</sup> Department of Safety and Security, *Review of the Ministerial Policy to Control Firearms in South Africa*.

<sup>11</sup> In the UK, anyone wishing to buy and sell 'section 1' and 'section 2' firearms (including hunting rifles, shotguns, muzzle-loading pistols) must be registered as a firearms dealer with their local police force. Anyone wishing to possess 'section 5' or 'Prohibited' weapons (including self-loading rifles, assault rifles, handguns, rocket launchers and flame-throwers) can do so only under an authority issued by the Secretary of State. This authority is issued only to those who have a legitimate business need to possess these items.

<sup>12</sup> UK Department of Trade and Industry, *White Paper on Strategic Export Controls*, July 1998, p. 15.

<sup>13</sup> Andrew Edwards, *Review of Financial Regulation in the Crown Dependencies: A Report*, Part 1, 24 October 1998. This UK Government Home Office report found that an estimated 90,000 companies were incorporated in the UK offshore tax havens, where they are allowed to conduct business in relative secrecy, without filing public accounts or revealing the names of their beneficial owners. The report estimates that these island companies hold about 5% of the global offshore tax-haven funds of \$6 trillion – which is just under half the GNP of the United Kingdom.

<sup>14</sup> 22 C.F.R. 129.2 (United States).

<sup>15</sup> For further information on the background to this new regulation, see Chapter 8.

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## [The Arms Fixers](#)

### *Chapter 10*

#### **What About International Action?**

Disparate and inadequate national systems for controlling arms brokers and shipping agents are compounded and encouraged by the relative absence of international agreements and treaties. Intergovernmental discussions on coordinated measures to restrict and better manage the international transfer of small arms have begun, but proposals to regulate arms brokers have not yet been considered in any detail. There is still a lack of understanding about the extent and nature of the problem, and also a lack of political will.

## **Identifying Common Underlying Problems**

### **Scope of Controls**

Brokers and shipping/forwarding agents do not limit their dealings to one type of military, security or police technology or product. They take advantage of national control lists that exclude items, and control lists that are inconsistent or even contradictory across jurisdictions. Restrictions on arms transfers or exports are often applied less scrupulously when, for example, spare parts, surplus military vehicles or paramilitary and policing items are involved. Unable to ship certain items from one country, a broker may organize the transfer from or to another country where restrictions on the export or

import of spare parts or dual-use items are interpreted differently. Often new technologies and paramilitary and police equipment are demanded for internal security threats where the recipients actually contribute to the outbreak of armed conflict rather than enhancing real security. A better solution would be to apply controls on brokers and shipping agents to a comprehensive list of military, security and police products and technologies that could be harmonized across territories.

## Export Licences

There are many reasons why export licences are open to abuse by brokers and others. Not all export licences require written authorizations according to law in some states – as lawyers pointed out in the defence of the UK companies Sandline International and Skyair Cargo, when it was revealed that they had brokered and shipped an arms delivery to Sierra Leone in apparent violation of the UN arms embargo. UK lawyers for Sandline argued that the UK authority's verbal approval was sufficient to meet the 1939 law on arms control, and the UK customs authorities decided not to prosecute Sandline or Skyair.

Most European countries have no full-proof system for verifying a delivery of small arms to an authorized client or end-user. In the UK, it is the importing company itself that notifies the arrival of a cargo. A particular weakness is the system of 'general'

export licences. These may cover many generic products, vaguely defined senders and receivers, and deliveries over a long period of time. Such licences can be 'adapted' (i.e. abused) for other purposes while remaining at least formally within the law. No government should ever grant a *general* export licence to an arms broker. Preferably the system should be replaced with a more rigorous type of licence that would always include details of the intermediaries, transport, banking and insurance involved.

Customs, transport and commercial documentation needs to be synchronized with sufficient detail to enable rigorous checking of all the parties involved in an arms cargo.

Some export licences can be easily forged or handed out by corrupt officials. Many export licences do not include a prohibition or restriction on the re-export of the articles. They may not be linked to a procedure for verifying delivery and/or for monitoring the end-uses.<sup>1</sup> The broker and shipping/forwarding agents do not share responsibility and could not be held accountable if the cargo is diverted en route or is delivered to an unauthorized end-user, or if the export licence is used for purposes other than intended. These problems will have to be addressed if brokers and shipping agents are to be controlled properly.

## Import Licences

Systems for end-use certificates and import licences display similar problems to export licences. For example, import licences may authorize transactions on the basis of an 'estimated' quantity of weapons – which may not always match the 'actual' quantity involved in the transaction. This problem is compounded when several separate deliveries may take place on the basis of one single import licence. Very often an import licence remains unused, or only partially used. A brokering company may issue a request for an import licence before signing a contract with a supplying company. Then, if no deal is made, the import licence is often not surrendered or officially withdrawn. This means there is no guarantee that other unauthorized transactions might not be carried out on the basis of the official document.

A particular problem in Belgium, but also other countries, has been the abuse of officially issued import licences or certificates. For example, a company in Belgium can issue a request for the import of weapons from, say, Chile. The Chilean company obtains an export licence on the basis of the Belgian document. But when the weapons leave the Chilean border they are diverted to another destination for which no end-user certificate has been issued. The client in the recipient state has no authorization for the import of the weaponry, and even the original exporting company in Chile may not be aware that it is cooperating in an unauthorized or sanctions-breaking deal. This situation is possible because there is no efficient control of the end-use certificate by the exporting state (in this case Chile) to verify the actual arrival in the country that authorized the import of the weaponry (Belgium in this case). Verifying the safe and proper arrival of an incoming weapons shipment is essential. Belgian authorities request exporting companies to provide, within three months after export, a document confirming the arrival of a cargo. Many companies provide only a Bill of Lading, but such a document merely confirms the dates of loading on a particular plane, train, lorry or ship: it does not guarantee that the cargo was not diverted to another destination. The use of a Global Positioning System (GPS) tracking mechanism could also be considered, in addition to a generalized system that would require exporting companies to provide an official document of port, airport or customs authorities from the recipient country<sup>2</sup>.

## Transit Documents

Transit documents for the transport of military items or dual use goods on or through the territory of the European Union are not always used. Furthermore, although a standard document is being used, not all member-states apply the same procedures. A transit licence is granted on the basis of a copy of an export licence. Several copies of the same export licence could be used in different EU member-states to obtain several transit licences when only one export transaction is authorized. A dealer or broker can ship the same quantity of a certain type of weapon over and over again, using transit certificates from different member-states obtained through copies of the one export licence. This seems to be a serious problem, and can be solved only if all the EU customs services use a centralized database to report the export of a military cargo to a non-EU country.

## Transport Documents

More frequent and thorough cross-checking of cargo manifests and air waybills against actual cargo is necessary, as is checking flight plans against flight directions, times and registration numbers. The lack of trained customs officers often makes this impossible. Moreover, the actual documents themselves, if filled out by experienced shipping agents and forwarding agents, are usually inadequate even for trained customs officers, because they contain too little relevant information. More effective management of arms cargoes requires record-keeping to reflect the differentiated roles in today's complex transport networks. The sub-leasing of international overflight permissions means that one air carrier can use another carrier's call sign, and this may confuse air traffic control in some countries. Computerized tracking of small-arms cargoes using GPS may be expensive, but could prove well worth it – if individual passenger baggage can be tracked globally, surely there is no reason why a similar system could not be devised for arms cargoes.

Owners of an aircraft plead ignorance when their plane is used for illicit arms

deliveries; subcontractors such as aircrew members, charterers, forwarders and sales agents also plead ignorance. If the real title to the arms cargo, as well as the role of all the intermediaries, were recorded properly in the transport documents and cross-referenced in standardized ways to the commercial and customs documents, then everyone involved in an arms delivery would have to accept written responsibility at the outset. This would make air traffic control and law enforcement officers work together, and enable them to get much better information.

The IATA Cargo Agency Agreement may have to be modernized, as it assumes that the air cargo agents and forwarders are simply representatives of aircraft owners and operators, rather than independent businesses in their own right. If governments are to enable customs and police to check properly on the activities of shipping 'agents' or forwarders and their complex relationships with arms brokers, suppliers and carriers, the documents will have to be upgraded to reflect two distinct legal capacities – one of which is traditional agency, and the other of which is as a principal contractor.<sup>3</sup>

## Surplus Stocks and Production

A new assault rifle can be bought for less than \$50, provided one is buying in bulk. The same rifles can sell at as little as \$6 apiece in some African countries. This is a direct result of the end of the Cold War. Many states and manufacturers are eager to empty warehouses and arsenals that have now become superfluous. Nor is this capacity confined to small arms, as this study has shown. These surpluses provide middlemen with the potential to make large profits, provided they can ship the arms to the right place at the right time. It can cost as much to deliver the arms as it does to purchase them. This means that if the unit cost to the end-users were to increase significantly, then less would be purchased.

Currently, donor governments are giving support only to *specific* weapons-collection programmes following peace agreements, and have begun to support regional initiatives to curb transfers. One important incentive here is the recently-agreed Moratorium on the Import, Export and Manufacture of Small Arms and Light Weapons of the Economic Community of West African States, which entails a three-year freeze on the import, export and manufacture within West Africa of small arms and light weapons. It is supported by the 33 states belonging to the Wassenaar Arrangement – and these states include most of the world's major arms exporters.<sup>4</sup> Laudable as such initiatives are, however, they will need to be broadened and deepened if they are to affect the underlying economics of arms surpluses.

Governments must take proactive steps to increase support for programmes – not only for the removal of weapons in post-conflict situations, but for the destruction of conventional arms, especially small arms, stocks and the decommissioning of production facilities wherever possible. For

many less-developed states, and particularly those used during the Cold War for cheap production of small arms, such programmes would require international donor support and regional agreements to curb the inflows of arms.

## Arms Embargoes

Arms brokers and shipping agents have been able to penetrate, with relative ease, most mandatory arms embargoes, as well as several voluntary ones, agreed by the UN Security Council. The case of Rwanda in this study shows that the international response to human rights and humanitarian crises has been too slow, and that when arms embargoes have been agreed they lack clarity and ‘teeth’. Monitoring and verification by law enforcers authorized to work in cooperation with relevant UN officials has been very weak. The practical meaning of the scope of Security Council resolutions has not been sufficiently well defined. Embargo decisions have not been translated promptly and clearly into national laws, and criminal sanctions for offenders have been weak or non-existent. The application of embargoes to allies within zones of conflict has not been addressed, and the publication of detailed reports to ensure public awareness and compliance has been all too infrequent.<sup>5</sup>

Two critical problems require further attention. Sometimes a perceived ‘unfairness’ of an embargo has arisen because *both* warring factions have committed serious abuses, including war crimes and crimes against humanity, albeit perhaps to different degrees. Modern warfare has usually claimed high civilian casualties. If this is to be countered, and the embargo is to have the moral commitment and legitimacy, an embargo must always be clearly defined in fundamental international humanitarian and human rights law. More work needs to be done by the United Nations and the international financial and transport authorities to define the responsibilities of banks, and of air, sea and road carriers and transport agents. Targeted transport bans and the freezing of bank accounts are critical to the success of arms embargoes, but their impact on innocent civilians has to be mitigated if it cannot be avoided.

## Tax Havens and Front Companies

Many tax havens claim that their financial success depends on procedures to stamp out illegal money laundering, but arms brokers appear to prize the use of tax havens. A UK government Home Office report in 1988 found that an estimated 90,000 com-

panies were incorporated in UK offshore tax havens, most of them by non-residents.<sup>6</sup> They are generally allowed to conduct business in relative secrecy without filing

public accounts, annual reports or publicly revealing the names of their beneficiaries. A particular problem, especially on the Island of Sark, has been the use of ‘nominee directors’ who know little or nothing about the companies they nominally direct. Non-resident companies are formed on the Isle of Man with directors in Sark in order to evade taxes. This system was used in the arms-brokering arrangements to the perpetrators of the Rwandan genocide in 1994, and in many other cases. The Home Office report estimates that such island companies hold around 5% of the global offshore tax-haven funds of \$6 trillion – equivalent to just under half the GNP of the United Kingdom. However, UK customers in Jersey, for example, represent only 19% of the total. The corresponding figures for Guernsey are 15%, and 27% for the Isle of Man.

Other offshore tax-havens that have been used by arms brokering, shipping agents and cargo charter companies include the Bahamas, Bermuda, the Cayman Islands, Gibraltar, British Virgin Islands, Hong Kong and Singapore. Bermuda, the Cayman Islands and Hong Kong have much larger insurance and fund management businesses than the UK islands, and the latter have far fewer company registrations than the British Virgin Islands. Territories such as Andorra, Antilles, Cyprus, Ireland, Liberia, Liechtenstein, Luxembourg, Malta, Panama, Switzerland and the Turks and Caicos Islands also compete for high levels of non-resident business, and have been exploited by brokers and traffickers of arms.

The Home Office reported that the UK offshore tax havens were improving their regulations to combat money laundering and related trafficking crime, but went on to state: ‘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>7</sup> The main problem in preventing offshore tax havens being used as staging posts in laundering chains, the Home Office argues, lies in the gaps in legislative powers and a lack of law-enforcement capacity that hinder international cooperation.

It might be a mistake to put all the blame on offshore tax havens. As a freelance pilot who lives in the UK Channel Islands and who flew arms to the exiled Rwandan forces and militia in April 1994 put it: as far as I understand it, the banking laws in this country make it an ideal place for the trade to actually take place without anything physically happening. ...The brokerage of these flights, the provision of aircraft for them, and the financial facilitation for them, tends to take place in the UK but the flights themselves do not originate within the UK or for that matter operate through the UK.<sup>8</sup>

## What About International Law and Standards?

The UN Group of Experts on the Problem of Ammunition and Explosives has argued that: ‘The legitimate trade, by definition, depends upon strict enforcement of existing laws and regulations. The illicit trade is dedicated to circumventing them.’ The Group’s emphasis on better law enforcement is understandable, but too many states have ‘existing laws’ that do not adequately define what is ‘legitimate trade’. Some Western and other governments now realize that national systems of legally controlling international arms transfers need to more consistently incorporate and uphold principles of international law in order to achieve greater harmonization and to reflect global realities. But how will such harmonization affect the control of brokers and shipping agents dealing in arms?

At a practical level, in order to ensure that arms brokers and traffickers do not simply move out of one state and establish themselves in another, less-regulated place, governments will need to press for the introduction of comparable legislation in as many countries as possible. But in order to achieve this, international coordination will have to rest on some common principles and standards.

Two elements are crucial for controlling arms brokering and trafficking agents: they must be required to register, and then they must be required to seek prior written approval from their home authorities before engaging in any transaction. If the deal they are brokering or sending does not involve bringing the articles into their home territory, they should still be required to present to their home authorities the valid export and import documentation and other essential details of the arrangement, so that the authorities can ensure that it meets the state’s international obligations. This means that both the registration process and the approval of transactions require the use of *normative standards*. For example, in Canada officials are required to refuse a licence to deal in firearms if the applicant, within the previous five years, has been convicted of a violent crime, a breach of laws regulating the use of firearms and other weapons, or a drug offence, or if he or she has a history of violent behaviour.<sup>9</sup> However, as long as a similar standard is not followed internationally, this simply allows dealers who do not meet such basic standards in one country to migrate to another with weaker registration criteria or no registration at all. The net result is to undermine the purpose of the law.

Whether a government authority approves of an international arms transaction or acts to prevent it often requires more complex judgements of an international character. In current discussions it is sometimes assumed that the illegal transfer of arms is

confined to instances where such attempts are carried out without the express approval of the governmental authorities in the territory or jurisdiction where the arms originate. While this is certainly included, the unlawful nature of arms transfers is also

applicable where the intended recipient is known to engage in serious violations of international law pertaining to the use of force, including international human rights and humanitarian law, even if the sending government has authorized the transfer.

Clearly, there is an ever-present risk that easy-to-conceal arms, even when exported to a supposedly legitimate customer, could subsequently be diverted by expert arms dealers and used unlawfully. This risk is greatest when the countries of intended

receipt or transit have weak systems of governance and inadequate or corrupt law enforcement. In such circumstances, the illicit character of the deal could only become manifest after the initial delivery when the authorized recipient on paper turns out to be: (a) a person or group unauthorized to use the arms in the recipient country; (b) a state agency whose very weak systems of control invites the diversion of the arms to users not mentioned on the original end-user certificate or explicitly agreed with the sender; or (c) an agency ‘authorized’ to use the arms, but which does so abusively,

deliberately, and in a manner which violates the basic principals of international law.

In 1996, the UN General Assembly agreed on Guidelines for International Arms Transfers. Through these Guidelines they adopted a definition of illicit arms trafficking to mean: ‘that international trade in conventional arms which is contrary to the laws of States and/or international law’. In cases where international law and the laws of states are inconsistent – for example if a state allows extra-judicial executions or enforced disappearances or rape by its armed forces in a situation of impunity – then it is the core values embodied in international law which take precedence. True, many governments ignore, or only pay lip service to, the latter part of the UN definition regarding international law – but that is usually due to a general neglect of normative standards regarding the use and transfer of small arms, lack of serious legal work on the issue of small arms, as well as the failure of political leadership. The International Law Commission, in its commentary on the obligations of states, has concluded that: ‘a State that knowingly supplies arms to another State for the purpose of assisting the latter to act in a manner inconsistent with its international obligations cannot escape responsibility for complicity in such illegal conduct.’<sup>10</sup> This international

customary law obligation reinforces an important part of international treaty law, such as the Geneva Conventions, where Common Article 1 requires all states to ‘respect and ensure respect’ for international humanitarian law. A state that deliberately permits an arms transfer to a destination, knowing the intended recipient is likely to use the arms for serious war crimes, is itself complicit in such acts.

A list of the most serious international crimes – which are more often than not crimes carried out using armed force – is now contained in the Statute of the International Criminal Court recently agreed in Rome.<sup>11</sup> All states must take steps to ensure not only that perpetrators of such serious international crimes are brought to justice, but that each state has in place mechanisms to prevent its citizens from organizing the transfer of arms from its territory that would contribute to such crimes.

The principles agreed in the UN General Assembly regarding conventional arms transfers are important, but they are still too abstract to be used on their own to address the real world of arms dealers.<sup>12</sup> A decision about whether an arms transfer is made – even if it is brokered internationally and complex international arrangements are made for its shipping – requires reference to more specific shared normative standards. With the advance of globalization, the need for making such standards more precise will

become greater. Today, however, there is only a limited international framework of agreements to enable consistent decisions based upon respect for international law.

## **International Negotiations to Limit Small Arms**

Within the UN system there have been gradual moves to establish stricter standards for the national regulation of small arms and light weapons. Some governments

traditionally opposed to setting common standards to enhance compliance with international human rights and humanitarian law have slowed down this process. Initially, a Panel of Government Experts on Small Arms was established in April 1996. Its August 1997 report contained some wide-ranging recommendations that were endorsed by the General Assembly in December 1997, but none were specific to brokering.<sup>13</sup>

Without a radical shift in international public opinion, it would probably be more realistic to expect groupings of like-minded states and intergovernmental bodies to begin the process of tackling the international arms brokering and shipping agents. The governments of Canada and Norway took an important step in this direction in July 1998 when they organized a meeting of like-minded states, but the problem of arms brokers was not specifically discussed.<sup>14</sup> A follow-up meeting of such states in Oslo in December 1999 may focus more on this issue. Also the European Union has been increasingly active. The EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms, adopted by the EU Council of Ministers in June 1997, requires members to ‘strengthen collective efforts to prevent and combat illicit trafficking’ and to take ‘concerted action to assist other countries’ to ‘strengthen, as appropriate, an adequate body of laws and administrative measures for regulating and monitoring effectively transfers of arms’ and to ‘provide an adequate number of trained police and customs officials’. The EU Joint Action on Small Arms, agreed in December 1998, enables financial and technical assistance to be provided to third countries for projects aimed at combating the spread and accumulation of small arms.<sup>15</sup>

Neither the EU Programme nor the EU Joint Action contains specific provisions intended to control international brokering and shipping, although it could be argued that they contain some important provisions that could facilitate concerted action to control brokering activities. In particular, Article 3 (b) of the Joint Action commits EU member-states ‘to supply small arms only to governments (either directly or through duly licensed entities authorized to procure weapons on their behalf) in accordance with appropriate international and regional restrictive arms export criteria, as provided in particular in the EU Code of Conduct.’

The EU Code of Conduct on Arms Exports, agreed in June 1998, is perhaps the only internationally agreed normative framework pertaining to small arms and light

weapons which attempts to incorporate relevant aspects of international law. However, it has several fundamental weaknesses, and is not a legally binding treaty.<sup>16</sup> It arose out of three years of lobbying by nongovernmental organizations and several Nobel Peace Laureates led by Dr Oscar Arias, who continue to press for the strengthening of the Code.<sup>17</sup> Nevertheless, the existing EU Code binds (politically) EU member-states to refuse arms export licences in cases where: ‘there is a clear risk that the proposed export might be used for internal repression’; where such exports ‘would prolong armed conflicts or aggravate existing tensions or conflicts in the country of final destination’; and where the ‘exported goods might be diverted to an undesirable end user’. No mention is made of arms brokers, even though NGOs specifically called for provisions to address the problem. The EU governments will review the implementation of the Code annually, and this might prompt action to tackle arms brokers and trafficking agents. More states may also commit themselves to implementing the EU Code even though they may not share inside

information about export licence 'denials' which are notified confidentially amongst EU authorities. The Associated Members of the EU, as well as Canada, have already declared their support for the Code.<sup>18</sup> Some of the principles in the Code were previously set out in a 1993 agreement by the Organization for Security and Co-operation in Europe (OSCE).<sup>19</sup> This organization has 54 member-states, most of which export small arms and related equipment. The OSCE could take a major step forward if it committed itself to the criteria for arms exports in the EU Code, and began developing concrete measures to implement its own principles.

Yet another important international agreement is the Wassenaar Arrangement involving all NATO and most ex-Soviet and Warsaw Pact states. Its purpose is to enable the exchange of information to prevent the proliferation of large weapons systems and sensitive technologies used in weapons of mass destruction, but there may be some common interest in addressing key issues relating to small arms, particularly as

regards excessive production and stocks. In December 1998, the Wassenaar Agreement plenary adopted a set of questions to help prevent 'destabilising accumulations of convention weapons'. Respect for humanitarian law is not specifically mentioned, nor is the problem of third-country arms brokering and trafficking.<sup>20</sup>

To date, the only international treaty that has been established to control small arms is that of the Organization of American States (OAS). With US support for a Canadian and Mexican initiative, the OAS in November 1997 opened for signature the Inter-American Convention Against the Illicit Manufacturing and Trafficking in Firearms, Ammunition and Explosives and Other Related Materials. The OAS intends to implement the Convention using the Model Regulations agreed by the Inter-American Drug Abuse Control Commission. These measures are aimed at non-state criminals such as drug cartels and terrorists rather than at repressive governments, and their scope

excludes government-to-government transfers and domestic gun sales. However, the definition of small arms and light weapons in the Convention is broad, and all participating states will be required to exchange information on a variety of matters –

including 'authorized producers, dealers, importers, exporters, and wherever possible, carriers of firearms, ammunition, explosives and related materials.'<sup>21</sup>

Other states have been studying these American initiatives. Again, however, they do not contain specific regulations for the control of international arms brokering and transport agents via third countries, which will considerably reduce the chances of combating illicit transfers.<sup>22</sup>

There is a reasonable chance that a provision to control arms brokers will be included in the forthcoming UN negotiations on a binding global treaty to control firearms. In mid-1997, the Commission on Crime Prevention and Criminal Justice of the UN

Economic and Social Council began work on developing a '*Draft Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition and Other Related Materials*' (commonly referred to as the Firearms Protocol). It is intended to be supplementary to the UN Convention on Transnational Organized Crime. As a result of lobbying by NGOs, the Draft Protocol now contains a provision for the regulation of arms brokers. Governments are expected to sign the Convention by December 2000.

NGO efforts to get intergovernmental agendas to include specific policy measures to tackle arms brokering and forwarding are also beginning to have an impact. An International NGO Action Network on Small Arms (IANSA) was established in a series of meetings from late 1997, and culminated in a formal launch on 12 May 1999 in The Hague. In its founding policy document, IANSA specifically mentions the need to control arms brokering.<sup>23</sup>

Such lobbying has had a slight effect on the UN's humanitarian work on small arms. In September 1999, the successor to the UN Panel, the UN Group of Government

Experts on Small Arms, produced a cautious follow-up report which did, however, include a recommendation that measures taken by states '*could* [emphasis added]

include the use of authenticated end-user certificates, enhanced legal and enforcement measures as appropriate to control arms brokering activities, requirements to ensure that no re-transfer of small arms and light weapons takes place without prior authorisation of the original supplier state, and co-operation in the exchange of information on suspect financial activities.'<sup>24</sup> Further initiatives may be taken in the buildup to the UN global conference on illicit trade in small arms and light weapons 'in all its

aspects' expected in year 2001. But there remains a need to focus on a clear set of policies for tackling arms brokering and shipping.

It is pointless to enact better laws and regulations unless governments can help each other to build up the capacity for monitoring and enforcement. Licensing authorities, customs, police and intelligence agencies all need attention.

Governments will have to invest far greater resources in building up such capacity. The cost of such investment is likely to be small – in comparison with the loss of resources caused by violent crime and armed conflict, fuelled by the unlawful use of small arms that is made possible by illicit and unregulated arms trafficking.

Experience also shows that any efforts at building such capacity will flounder unless existing international standards for

the conduct of law enforcement agencies are fully respected.<sup>25</sup> Successful law enforcement requires the cooperation of wider civil society and local communities, especially in poor countries with large and porous borders. Countries with a persistent record of violent conflict and human rights abuse may require international donor support for 'security sector reform' initiatives. If these initiatives are to succeed, there must be a clear normative framework rooted in respect for human rights and humanitarian law.<sup>26</sup>

In a strong appeal for an integrated approach to tackling the causes of conflict in Africa the UN Secretary-General has emphasized:

*Identifying the sources of arms flows in Africa is critical to any effort to monitor or regulate this trade. 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 in 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.*<sup>27</sup>

<sup>1</sup> An 'end-use certificate' sets out the use of the items intended for transfer. A 'end-user certificate' is used to verify the recipient of a transfer. An 'international import certificate' is used to guarantee that the importer does not intend to divert, re-export or trans-ship imported material.

<sup>2</sup> Transport companies in the United States rely on global positioning systems (GPS) to monitor munitions deliveries. At any given time, US shippers can determine the precise location of the container anywhere in the world. This system still depends on the integrity of the shippers who can alter the original cargo configuration along the way. But, if internationalized, it could be used in combination with physical checks by customs to create a more full-proof system of transporting legitimate arms cargoes.

<sup>3</sup> Bert Rein, 'Fitting Formats to Function', Wiley, Rein & Fielding, US law firm, March 1999.

<sup>4</sup> Moratorium on the Import, Export and Manufacture of Small Arms and Light Weapons, Economic Community of West African States, adopted 31 October 1998. Members of the Wassenaar Arrangement agreed a Code of Conduct on the implementation of the Moratorium in March 1999.

<sup>5</sup> See for example, President of the Security Council, Note on the Work of the Sanctions Committees, 29 January 1999 S/1999/92. The UN Security Council passed a resolution on 16 September 1998 urging member-states to punish those who had sold weapons to countries under UN embargo, especially those in Africa.

<sup>6</sup> Andrew Edwards, *Review of Financial Regulation in the Crown Dependencies: A Report*, Part 1, 24 October 1998.

<sup>7</sup> *Ibid.*, page xxviii.

<sup>8</sup> Interview conducted for Carlton Television, June 1995. The pilot in this interview claims he was tricked into the flight.

<sup>9</sup> Firearms Act, Canada.

<sup>10</sup> International Law Commission, Commentary on Article 27 of the Draft Articles on the Origin of State Responsibility, *ILC Yearbook 1978*, pages 99–105.

<sup>11</sup> International Criminal Court, Rome Statute, 1998.

<sup>12</sup> UN Disarmament Commission Guidelines for International Transfers, May 1996. The main principles underlying the guidelines for states to control arms transfers are: the right to self defence; the sovereign equality of all states; non-interference in the internal affairs of states; the obligation to refrain from the threat of the use of force against the territorial integrity or political independence of any state; the settlement of disputes by peaceful means; respect for human rights; and the right of self determination of all peoples, taking into account their particular situation under colonial rule or other forms of alien domination.

<sup>13</sup> UN Secretary-General, Report of the Panel of Government Experts on Small Arms, General Assembly, A/52/298, 27 August 1997.

<sup>14</sup> An International Agenda on Small Arms and Light Weapons: Elements of a Common Understanding, the Oslo Meeting on Small Arms, 13-14 July 1998, organized jointly by the Canadian and Norwegian governments.

<sup>15</sup> The EU Joint Action is a binding agreement adopted on 17 December 1998 by the Council on the basis of Article J-3 of the Treaty on European Union. It applies only to 'small arms and accessories specially designed for military use' (not to pistols, revolvers, hunting rifles etc) and to 'man or crew portable light weapons'. The categories of weapons are contained in the Annex.

<sup>16</sup> Six weaknesses in the EU Code are (a) its ambiguous language regarding compliance with international humanitarian law, whereby EU member states merely have to 'take into account' breaches of the Geneva

Conventions, rather than a stipulation that no arms export licences will be issued where the recipient commits grave breaches; (b) its failure to require EU governments to submit 'sensitive' arms export licence applications for parliamentary scrutiny; (c) the lack of a provision in the Code requiring EU governments to report, regularly and comprehensively, to the public on arms export; (d) the failure to include third-country arms brokering in all EU arms export laws; (e) the failure to agree a provision requiring multilateral consultations and cooperation when an arms export licence is denied by one state, in order to ensure that other states do not then approve a similar licence to the same destination (i.e. to stop 'undercutting').

<sup>17</sup> The 1996 Nobel Peace Laureates' Code of Conduct on Arms Transfers is more firmly rooted in international law and was inspired by the Code produced by some EU NGOs and a few US counterparts. The campaign to promote the Nobel Code is coordinated by the Arias Foundation in San Jose, Costa Rica. NGOs coordinating action in the EU since 1995 to promote a strict and binding Code of Conduct have included Amnesty International (International Secretariat and national sections in the EU), the British American Security Information Council, Oxfam, and Saferworld. By 1997, over 1,000 NGOs and parliamentarians had signed up in 1996 to support a stronger EU Code based on international law. This led to the EU governments agreeing to a Code (albeit a weaker one) in June 1998.

<sup>18</sup> In March 1999, the International Relations Committee of the US House of Representatives voiced support for a Code of Conduct promoted by Republican Sam Gejdenson that would require the President to begin negotiations with allied states to block weapons exports to governments that are not democratically elected, abuse human rights, are engaged in illegal acts of aggression or do not participate in the UN Register of Conventional Arms. Republican Representative Cynthia McKinny has promoted a stronger Code stipulating tough unilateral action by the US when recipient governments fail to meet such basic standards.

<sup>19</sup> Principles Governing Conventional Arms Transfers, Organization for Security and Co-operation in Europe, 1993.

<sup>20</sup> Wassenaar Arrangement, Elements for Objective Analysis and Advice Concerning Potentially Destabilising Accumulations of Conventional Weapons, Vienna, 3 December 1998 WA PLM (98) RU 2 Revised. Although this document mentions compliance with 'internationally-recognised human rights', it fails to encourage joint action to prevent the proliferation of small arms in the context of gross human rights abuses and violations of humanitarian law.

<sup>21</sup> Article 1(1) (b) of the Convention.

<sup>22</sup> Susanna Dyer & Geraldine O'Callaghan, 'One Size Fits All? Prospects for a Global Convention on Illicit Trafficking by 2000', *British American Security Information Council*, Research Report 99.2, 1999.

<sup>23</sup> Founding Document, The International Action Network on Small Arms, IANSA, The Hague, May 1999.

<sup>24</sup> UN Secretary-General, Report of the Group of Governmental Experts on Small Arms, A/54/258, September 1999.

<sup>25</sup> The term *law enforcement official* has not been well understood by those working to control small arms – it includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest and detention. In most situations of internal armed conflict, such 'officials' would include military and other security personnel where they exercise such powers. There are at least ten UN agreements establishing human rights standards for law enforcement personnel, for example: the UN Code for Law Enforcement Officials, the UN Guidelines for the effective implementation of the Code of Conduct for Law Enforcement Officials, and the UN Principle on the Use of Force and Firearms. The first principle set out in the UN Code is that 'every law enforcement agency should be representative of and responsive and accountable to the community as a whole.'

<sup>26</sup> See, for example, Brian Wood, 'Security and Policing and the Problem of Small Arms', in Abdul Musah, ed., *Over a Barrel: Light Weapons and Human Rights in the Commonwealth* (New Delhi: Commonwealth Human Rights Initiative, 1999).

<sup>27</sup> Report of the Secretary General on the Work of the Organization, *The Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa*, United Nations General Assembly and Security Council, 13 April 1998 S/1998/318. The US government has since made several strong statements of a similar nature: see Statement of the US Secretary of State at UN Security Council Ministerial meeting on Africa, 24 September 1998 – 'All of us have it in our power to do something...together we should move now to curb arms transfers to zones of conflict in Africa'; and 'Arms and Conflict in Africa', US Bureau of Intelligence and Research, Bureau of Public Affairs, July 1999, where the US government took the unprecedented step of naming several East African air-cargo carriers for transporting weapons and military cargo into eastern Congo-Kinshasa, including Sky Air, Air Alexander International, Busy Bee, Planetair and United Airlines. (The latter has no relationship to the US-based airline United Airlines.)

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## The Arms Fixers

### *Chapter 11*

#### **An Agenda for Change:**

Internationally Harmonized Controls on Arms

Brokering and Transport Agents

If governments want to make good on all the promises they have made in international agreements, and if they are serious about wanting to tackle illicit and unregulated trafficking in small arms, then they will have to design a legal system that can close the gaps between national systems. The solution is to remove the grey zones that lie outside the reach of today's national laws. For there to be an effective legal and regulatory system, each government will have to set up a complementary mechanism that covers the arms brokering and trafficking activities of:

- its own nationals and passport-holders, wherever located;
- all foreign nationals who are permanently resident in the country; and;
- all companies which are incorporated or registered in that country.

When arms brokers and transport agents serve illegitimate customers, this usually takes place through third countries. For there to be effective regulation, national legislation with an extraterritorial dimension cannot be avoided. Without tackling the third (and fourth, and fifth...) country loophole, any attempt to control arms brokers and traffickers is bound to fail.

## **The Swedish Approach – A First Step**

An immediate first step for international agreement could be for each state to adopt a strong version of the Swedish practice. Provisions from similar laws, such as those in Norway and the Netherlands, could be added to strengthen the agreement. This would mean that arms brokers and traffickers domiciled in any of those states party to the agreement would be covered by the national laws and regulations where they pay taxes and where they are resident.

First, they would have to obtain official written permission to operate; then each proposed transaction would be subject to case-by-case consideration before a licence could be granted. The criteria used for considering the registration of *bona fide* dealers would have to be set at a high level, perhaps using a variation of the Canadian firearms law. The criteria used for considering each transaction would be those contained in the EU Code of Conduct, the EU Joint Action and other relevant international agreements. These criteria would also apply in cases where the proposed brokering and trafficking operations were to be conducted abroad.

The 'home' government, the 'third country' government and the 'recipient' government would need to consult each other about the proposed deal, and issue relevant documents to each other if the deal was approved. Clearly, the more states joining the agreement, the more effective it would be. All the same, unscrupulous brokers and traffickers would still be able to operate out of tax havens and irresponsible states.

## **Developing the US Approach**

A bolder approach would be for all states to adopt a more coherent version of the US law on arms brokers and traffickers (traffickers are included in the US definition of brokers). This law would operate in a similar way to the Swedish one.

First, *bona fide* operators would be registered. Secondly, each transaction would be considered on its merits, on the basis of internationally agreed criteria. Other governments affected by the proposed deal would be consulted.

This approach would be more consistent and comprehensive, because it would cover the arms brokering and trafficking activities of *all* citizens at home and abroad,

regardless of their shifting residences or company registrations. Such a law, if accompanied by criminal sanctions, would act as a stronger deterrent to those arms brokers and traffickers who migrate from country to country to escape proper regulation.

Some weaknesses in the US law would, however, need to be addressed:

- exemptions for NATO or other groupings could not apply;
- internationally agreed criteria for properly considering permits and licences would have to be made explicit and binding; and;
- transparent reporting requirements would need to be put in place.

The highest standards available should be used to plug the gaps. Some provisions from the laws and guidelines of other states could help define the criteria and scope of an international agreement based on the US model. Some text consistent with international law from the EU Code and Joint Action, and equivalent language from US arms control legislation,<sup>1</sup> could be used to reach agreement on the best criteria for approving licences. The draft South African provisions to control brokering of firearms and the new law to control the export of military services from South Africa could also provide concepts helpful in defining the scope of the agreement. The success of the agreement would depend not only on design, but on its implementation at the national level and on law enforcement. If loopholes or weaknesses remained at the national level, of course arms brokers and traffickers would exploit them.

## **Proposals for a Framework Agreement**

The following are more detailed measures that could merit inclusion in a framework agreement amongst participating states to control arms brokers and traffickers:

### **Adopt a Comprehensive List of Activities to be Controlled**

- Control the buying, selling, negotiation, promotion, advertising, marketing and transport of all military and paramilitary goods and services.
- Control activities that mediate or facilitate such transfers.
- Include in the scope of these controls all types of major conventional weaponry, all types of small arms and light weapons, law-enforcement weaponry, paramilitary equipment, military and paramilitary training equipment and services, as well as ammunition, spare parts and accessories for the above.

Prohibit brokering and trafficking of military, security and police equipment and services whose sole or primary practical use results in serious violations of humanitarian or international human rights law.<sup>2</sup>

- Keep the list of such items and activities under regular international and national review.

### **Register all *Bona Fide* Arms Brokering and Transport Agents**

- Require (a) any citizen or national (irrespective of where s/he is domiciled), (b) resident for taxpaying purposes, or (c) registered company, to apply for a permit if they wish to act as a broker or trafficker in arms.
- Prohibit more than one country of registration. If an applicant has citizenship and pays taxes in more than one state, registration shall be in the country where the applicant normally lives and works and holds citizenship.
- Exclude from the register anyone convicted of serious criminal offences, such as fraud, acts of violence, and possession of prohibited arms, as well as deliberate attempts to mislead the registering and licensing authorities dealing with arms control.
- Prohibit offenders convicted of violating these laws and regulations from any further involvement in arms brokering and trafficking, and inform other states party to this agreement, so that offenders do not merely relocate to another jurisdiction.
- Compile and publish a national list of 'registered' agents after cross-checking of the persons on the list by the authorities of states participating in the agreement, so as to avoid discrepancies.
- Require all companies, trusts and individuals on the register of arms brokers and traffickers to present detailed audited accounts to their national registration authorities and to publish annual accounts relating to their arms dealings, showing the names of their beneficiaries.

### **License Each Transaction and Delivery on a Case-by-Case Basis**

- Require all registered brokers and traffickers to apply for a licence if they wish to facilitate or arrange an arms transaction or delivery, wherever that may be conducted, where they will receive some form of remuneration.
- Ensure that registered arms brokers and traffickers apply for approval from the national authorities where they are registered.
- Assess the legitimacy of the intended receiver and sender of the arms in each case to ensure the deal is not likely to contribute to violations of international human rights and humanitarian law, or to contraventions of other

international obligations, or be diverted.

- Require all applicants for licences to provide detailed information on the nature and source of the goods and services to be transferred, the end-user, the means and route of transport, all of the sub-contractors involved and the financial/insurance arrangements.
- Require all applicants to submit to their home government authorities the relevant foreign export, import and transit certificates for each transaction or delivery, so that these may be authenticated prior to any decision to issue a licence to the broker or trafficker.
- Decide whether a licence should be issued only after all the above steps have been taken, and after consultations with other states directly affected by the proposed transaction and delivery.
- Abolish the system of 'general' or 'open' licences, especially to an arms broker, and replace it with a more rigorous system of licences specific to each transaction and delivery. Prohibit any re-exporting using the same licence. Standardize licences so that each has indelible markings to guard against forgeries.
- Verify the safe and proper arrival of an incoming or outgoing weapons shipment, so as to guard against diversion.

## **Provide for Criminal Sanctions and Effective Arms Embargoes**

- Establish a system of criminal sanctions and prosecute anyone who deliberately engages in brokering or trafficking of arms without first registering and obtaining a licence from their home government.
- Promulgate effective laws and procedures so that arms embargoes determined in the United Nations are promptly and comprehensively incorporated into national law and publicized.
- Provide specific assistance to the United Nations to help monitor the implementation of arms embargoes.
- Establish severe penalties for all nationals, residents and registered companies involved in the brokerage or trafficking of arms to an embargoed destination or recipient, including where the supply is conducted through third countries.
- Define embargoed recipients carefully, so that if they are not in control of a state's territory, the exact ports and areas under their control can be embargoed. In such a situation, keep the embargoed ports and areas under frequent review so that loopholes are not created for brokers and traffickers to exploit if the embargoed recipients have re-located to different territory.
- Help the United Nations to develop a system of well-targeted transport and financial sanctions to reinforce arms embargoes, and ensure that arms brokers and traffickers are included in such sanctions.

## **Increase the Capacity of Customs and Police to Investigate**

- Improve standards for the submission and recording of information on all customs, air traffic and accompanying commercial documentation for easy cross-checking.
- Require traffickers to submit accurate and detailed information describing the cargo, its ownership, who is sending and receiving it, details of the vessel or carrier and its owners and operators, as well as the names and background details of all sub-contracting parties involved in the purchase, storage and delivery, including the sub-leasing of international overflight permissions.
- Provide customs officials, air-traffic controllers and port police with advanced warning of the departure, transit and arrival of arms cargoes, so as to guard against diversion.
- Provide customs and port police with sufficient resources to make routine checks of cargo manifests against actual cargo, as well as flight plans against flight directions, times and registration numbers of carriers.
- Institute a more robust regulatory regime at the airports and ports where arms cargoes are known to originate or pass through.
- Empower customs and port police to inspect physical cargoes and to question members of crew. Check information and documentation with that submitted to their home-country authorities.
- Establish an international fund specifically to support the training and equipping of customs officers, air traffic inspectors and port police, for example with x-ray equipment for containers. Consider developing satellite and computer technologies to monitor the movement of such cargoes.

## **Devise a System of Common End-Use Certificates and Monitoring**

- Actively promote the establishment of common end-use certificates with indelible markings to guard against fraud.
- Harmonize requirements for information about end-use so that sufficient information is known about the person or agency intending to receive and use the items.
- Negotiate common procedures for reporting on end uses, and establish a system of inspections.
- Stipulate, in writing on all export licences and end-use certificates, that if the arms supplied are subsequently misused for serious violations of international human rights and humanitarian law, the contract/s will be rendered null and void. In such circumstances, no further deliveries of that type of good or service, or spare parts, maintenance or training, will be permitted until appropriate action has been taken to bring the perpetrators to justice.

## **Exchange Information on Illicit Arms Brokers and Traffickers**

- Improve the sharing of information on illicit arms brokers and traffickers by allocating resources to specific projects of Interpol and the World Customs Union.
- Cooperate in information gathering with relevant UN agencies, reputable NGOs and individual researchers who are able to collect field data and anecdotal accounts from local witnesses with credible evidence showing that cargoes could be illicit arms traffic.
- Help fund a pooling arrangement amongst reputable NGOs to establish a central database of illicit transfers to assist in improving independent research, building public awareness and providing crisis early warning.

## **Encourage Maximum Cooperation by Like-Minded States**

- Encourage as many states as possible to support an agreement to regulate arms brokers and traffickers.
- Focus initial efforts on arms exporting states that accept the need for harmonization of standards for conventional arms control, such as those in the European Union, the EU Associated Countries, prospective EU member-states and NATO allies. EU states could adopt a joint action, binding under the Common Foreign and Security Policy.
- Promote the need to control arms brokers and traffickers in all other relevant intergovernmental bodies, including the Wassenaar Arrangement, the Economic Community of West African States, the Southern African Development Community, the Organization of American States, the Organization for Security and Co-operation in Europe, the Association of South East Asian Nations, the Arab League and the Organisation of African Unity. Promote the adoption of harmonized control agreements on arms brokers and shippers in as many states as possible. Raise it in development contexts such as the Lomé negotiation forum.
- Support programmes, not only for the removal of weapons in post-conflict situations, but for the destruction of surplus conventional arms, especially small arms, and the decommissioning of redundant production facilities left over from the Cold War.
- Encourage international organizations and associations affected by unregulated arms brokering and trafficking, such as those in the international transport industry and the authorities of tax havens, to formulate proposals for action.
- Ultimately aim to establish an international convention or protocol on the control of arms brokering and transport agents.

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<sup>1</sup> The Codes of Conduct on Arms Control under discussion in the US Congress contain useful language and these and the EU Code could be improved by reference to the model Code proposed by the Nobel Peace Laureates led by Dr. Oscar Arias (see the previous chapter). Also, Section 502B of the US Foreign Assistance Act requires all foreign security assistance to any government which 'engages in a consistent pattern of gross violations of internationally recognized human rights' unless the US President deems there are 'extraordinary circumstances'. This Section of the Act has not been used, and the opt-out clause is unhelpful. The EU Code formulation on human rights protection is more like that in the Leahy Amendment. Senator Leahy amended the Foreign Operations Appropriations Act (FY 1997) in

September 1996 and again in November 1997. The second amendment enabled all aid covered by the Act to be prohibited to units of foreign security forces implicated in gross human rights violations until the perpetrators had been brought to justice.

<sup>2</sup> This would include mercenary activities, torture equipment, weapons and munitions likely to cause unnecessary suffering or superfluous injury and similar items or activities.