

United Nations Institute for Disarmament Research

Enhancing EU Action to Prevent Illicit Small Arms Trafficking

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Background Paper Prepared for the Project
European Action on Small Arms and Light Weapons and Explosive Remnants of War

with funding by
the European Union
and the United Kingdom



NOTE

This work is one of a number of Background Papers commissioned by the United Nations Institute for Disarmament Research (UNIDIR) to help inform the project *European Action on Small Arms and Light Weapons and Explosive Remnants of War*.

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ACKNOWLEDGEMENTS

In 2003, at the request of the European Parliament, the Commission tasked UNIDIR to undertake the project *European Action on Small Arms and Light Weapons and Explosive Remnants of War* with the purpose of offering suggestions as to how the European Union might deploy the full range of its capabilities in ways that enhance overall effectiveness in actions relating to small arms and explosive remnants of war. The project was supported through the generosity of the European Union and the Government of the United Kingdom.

SUMMARY

The trafficking of illicit small arms and light weapons (SALW) undermines the internal security of the European Union (EU) by fuelling organized crime and the threat of terrorism, and challenging the EU's external priorities by exacerbating conflict and impairing development in the EU's neighbourhood and in Africa. The risk of an increase in illicit SALW trafficking into the EU is real, but there is currently a vital opportunity for early action to prevent this from escalating. EU nationals and companies are playing a damaging role in illicitly trafficking weapons into conflict regions, but an increased focus on this trade also provides an opportunity to put comprehensive measures in place to address it. Similarly, an increased focus on targeting development assistance to address problems of insecurity provides an opportunity for the EU to more effectively work to help address the problem of arms trafficking in other regions.

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ENHANCING EU ACTION TO PREVENT ILLICIT SMALL ARMS TRAFFICKING

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PROBLEM IDENTIFICATION

The trafficking of illicit small arms and light weapons (SALW) undermines the internal security of the European Union (EU) by fuelling organized crime and the threat of terrorism, and challenging the EU's external priorities by exacerbating conflict and impairing development in the EU's neighbourhood and in Africa.

In Europe, the end of the Cold War, the forging of a Single European Market, the creation of the Schengen Zone and the adoption of a single currency by several EU States have resulted in fewer barriers to trade. This shift has encouraged illegitimate as well as legitimate economic activity and flows of goods. Rising levels of armed crime and illicit SALW trafficking have become inextricably linked and should be of particular concern to the EU.

Although in comparison to other parts of the world, the demand for illicit weapons in the EU is not high; there is a small steady market for weapons sought by criminal groups to facilitate illegal activities such as drug trafficking, prostitution, money laundering and extortion. Police forces across the EU are discovering larger numbers of firearms in traditional hubs for illicit goods such as Amsterdam, and the pattern of seizures across Europe suggests this is a region-wide development. Also, the EU is increasingly seeing flows of new weapons from the Western Balkans to European criminal networks. In the meantime, parallel to, and closely associated with, illicit SALW trafficking is the increasing trafficking in people, drugs and other contraband, as organized criminal gangs allegedly employ the same routes and partnerships to smuggle various illicit commodities across Europe.

The rising trend for organized criminal groups to employ powerful types of firearms coincides with a greater inclination by terrorist organizations to seek to accomplish spectacular attacks with maximum damage. While among terrorists the quest for evermore lethal weaponry, including weapons of mass destruction (WMD), will continue, SALW and conventional explosives, because of their easy availability, low cost and potential to inflict significant human and economic costs, remain the weapons of choice and present a more immediate threat. Although the main terrorist threat involves mainly Islamic extremists such as members of Al-Qaeda and its affiliates, EU-based separatist groups—such as the Irish Republican Army, or Basque or Corsican nationalists—could also seek to resume or intensify their campaigns of armed violence.

A whole range of replica, blank firing, air and spray guns, which are imported into the EU and are also on sale over the internet, have become a major concern for law enforcement agencies across the EU, because they can be easily converted to fire live rounds and be used in crime. Although the number of such weapons in circulation is unknown and difficult to estimate, a significant increase in recent years in the number of criminal offences linked to the use of such weapons, as well as a marked increase in police seizures suggest that these weapons have become

a significant threat in many EU countries.[1] A notable example is the Baikal spray gun, which is manufactured in Bulgaria and widely used by criminals across the United Kingdom.[2]

PREVENTING ILLICIT SALW TRAFFICKING INTO THE EU

SUMMARY OF SOURCES OF WEAPONS COMING INTO THE EU AND SCALE OF THE PROBLEM

A combination of wide availability of weapons, weak arms export controls, unresolved border issues and organized criminal activities means that regions bordering the EU in the East and South East maintain a high potential as either source or transit route for the illicit trade and trafficking in SALW.

Over the last decade, South-Eastern Europe has suffered successive conflicts, which have seriously damaged and reduced administrative and law enforcement control, leading to a steep rise in organized crime and the emergence and consolidation of a strong black market and networks of trafficking routes across the Balkans. The result has been high levels of SALW proliferation across the region and further afield to Western Europe and beyond, including cases of weapons trafficking to countries under UN arms embargoes and to terrorist groups. Although there have been various efforts to collect SALW following the end of conflicts, SALW proliferation and diffusion among the population remain a serious problem. For example, despite nearly ten years of weapons collection efforts, at least 200,000 SALW are still unaccounted for after the collapse of state authority in Albania in 1997. A recent study undertaken by Saferworld on behalf of UNDP estimates that there are more than 900,000 illegal firearms in possession of the civilian population in Serbia.[3] According to the 2004 European Union Organized Crime Report by Europol, "cases of illicit firearms trafficking investigated in the EU continue to show the involvement of former Yugoslavian organized criminal groups … Firearms originating from Croatia are made in legal and illegal armoury workshops and firearms trafficked from the Balkan region are often stolen from military warehouses".[4]

In Eastern Europe, factors such as the breakdown of Warsaw Pact military production structures, shrinking domestic arms markets and economic hardship have created strong incentives to export arms, sometimes to unsafe destinations. The problem is compounded by the existence of vast stocks of weapons that are no longer required by the armed forces in the new post-Cold War security environment. Ukraine, for example, is struggling to cope with several million surplus SALW and 2.5 million ton of ammunition. Across the region, storage of weaponry and ammunition in many cases falls below international standards, with the risk that weapons and ammunition might enter the black market. The weakness of border and export control systems means that SALW and ammunition might plausibly be trafficked or (illegally) exported to sensitive destinations overseas or into the EU. For instance in Russia, weapons, ammunition and explosives leaking out of army and Ministry of the Interior storage sites pose a major challenge. This is the case even in the North Caucasus, where it is suspected that Russian weapons themselves are fuelling the conflict in Chechnya. Even before stockpiles across Eastern Europe have been exhausted, modernization programmes and the requirement for some countries to achieve NATO compatibility may create additional surpluses.

Given the scale of proliferation and potential trafficking in SALW in the above-mentioned regions, it is not surprising that the UK's National Criminal Intelligence Service (NCIS) stated in 2003 that, "there has been an increase in firearms traced to Central and Eastern European countries".[5] In April 2005, a US court found a British arms dealer guilty of trying to aid terrorists

for selling a shoulder-launched missile to an informant posing as a militant seeking to attack the United States. According to the prosecution, the broker went frequently to Ukraine to buy Russian-made missiles.[6] In February 2003, UK intelligence services received reliable information that an Algerian group linked to Al-Qaeda had smuggled a surface-to-air missile from Eastern Europe into the UK and was planning to use it to bring down a passenger aircraft at Heathrow airport. In 2000 the IRA fired at the MI6 building with a RPG-22 rocket, which was later sourced to Croatia.

These examples illustrate the risk of SALW entering the EU from the region. However, intelligence agencies do not have a clear picture of the nature and scope of the problem. By definition illicit arms flows are clandestine and difficult to trace, but the lack of research and information on this key issue is concerning.

Assessment of existing cooperation with countries in Eastern and South-Eastern Europe to prevent illicit trafficking

On one level, countries in East and South-Eastern Europe are improving their safeguards against illegal weapons trafficking. They are adopting more stringent legislation and arms-control regulations and increasing international cooperation. Romania and Bulgaria are in NATO and on the EU accession path, and they are harmonizing their arms control legislation. Countries like The former Yugoslav Republic of Macedonia must answer questions on SALW as part of the EU accession negotiations, and they continue to have a strong incentive to comply. The challenge remains in effective arms control implementation, with many states still struggling to improve law enforcement capacity and to effectively manage and control goods transiting across borders.[7]

In South-Eastern Europe, initiatives such as the Southeast Europe Cooperative Initiative (SECI) Regional Center for Combating Transborder Crime, which acts as a regional focal point for communication and transmission of cross-border crime information, have contributed to coordinating information exchanges on seizures of illicit small arms and light weapons in South-Eastern Europe.[8]

In April 2002, the SECI Center established a specialized SALW Task Force consisting of a network of police and customs officers from the region. The Task Force was mandated to "prevent, detect, trace, investigate and suppress illicit trafficking in SALW by establishing direct, sustainable and rapid channels of information exchange". In November 2002, the SECI Center launched its Operation Ploughshares Project with the primary objective of exchanging intelligence and data on seizures of illicit SALW. The SECI Center acted as the Operational Coordination Unit and during its six months of activity the project proved to be a successful cooperative venture. By inviting participating states to report on seizures of all types of SALW, the SECI Center was better able to define the scope and dynamics of the illicit SALW trafficking in South-Eastern Europe. This also led to joint investigations, which were successful in intercepting arms leaving the region for Western European states.[9]

In March 2005, the SECI Center launched a new information exchange operation (Operation Safe Place) to combat the trafficking of SALW in the region. Building on the previous data gathering exercise, the new operation aims to increase inter-state cooperation in relation to seizures of illicit weapons. The Operation aims specifically to identify groups and individuals engaged in the illegal trade, transfer, possession as well as financing for acquisition, of illicit SALW and to take appropriate action under national law. The resulting analysis will be disseminated

among all countries in the region and details of SALW seizures and trafficking cases from all participating states will be stored in a regional database.

In Eastern Europe, EU assistance has concentrated on the destruction of surplus SALW and on the improvement of stockpile security management. For instance, a team composed of SALW experts from the UK, Switzerland and Spain made four visits to Belarus between December 2004 and March 2005 to evaluate the scope for assistance to Belarus. In Ukraine, Germany and the UK are providing assistance to a NATO Partnership for Peace project led by the US for the destruction of 133,000 tons of conventional munitions and 1.5 million SALW. In February 2005, the UK announced £400,000 of funding toward the project.[10]

EU support and cooperation has played an important role in helping address the problem of illicit trafficking from Eastern and South-Eastern Europe. However, much more can and should be done. The potential of the EU in this area is significantly under-developed. There is a question about the level of political priority that the EU has given to combating illicit small arms trafficking in the list of issues that applicant countries need to address. The support that governments in the region have received from Member States (on a range of issues from weapons collection to intelligence sharing) has often been piecemeal, uncoordinated and insufficient.

RECOMMENDATIONS

A number of short- and long-term priority actions by EU governments are required to enhance cooperation with countries in Eastern and South-Eastern Europe to prevent and combat SALW trafficking.

- **Increase the emphasis on combating illicit trafficking in enlargement negotiations.** It is particularly important that EU governments draw attention to the deleterious impact of illicit SALW trafficking in Europe, since many accession states and adjacent states are producers and exporters or at least act as a source and transit route, for weapons both throughout the region and beyond. However, this issue is often not given priority in accession talks.
- **Enhance export controls in Eastern and South-Eastern Europe.** Although Eastern and South-Eastern European countries have made significant improvements to their arms export control policies in recent years, EU members should increase their work with neighbouring countries, especially EU applicant states, to ensure that they have robust export controls compatible with EU standards before they are admitted to the EU. In particular, it is important to ensure that they are not used as bases by EU companies and nationals to circumvent EU export controls.
- **Strengthen and harmonize SALW legislation.** There is a need to support legislative reform to allow effective harmonization of the laws in the field of justice and home affairs, penal codes and judicial procedure of countries in East and South-Eastern Europe, especially those expected to join the EU soon. Equally crucial to efforts to combat organized crime and illicit SALW trafficking is the full implementation and support of all existing international commitments to regional and international initiatives, such as the UN Firearms Protocol, the Organization for Security and Co-operation in Europe (OSCE) SALW Document and the Stability Pact for South-Eastern Europe's Regional Implementation Plan for Combating the Proliferation of SALW.
- **Increase and coordinate support for weapons collection and stockpile management.** EU governments should continue to support initiatives to remove weapons from circulation in Eastern and South-Eastern European countries, to improve management of government stockpiles and help destroy surplus stocks. It is vital that this support be better coordinated,

as often EU countries are supporting different programmes by different implementation agencies both bilaterally and through the UN and NATO in the same country.

- **Support research to give a clearer picture of the nature and scale of illicit SALW trafficking.** Measures should be taken to ensure that there are regular, concerted projects both to research new developments in illicit arms trafficking, and to review and update law enforcement strategies and practices, thus ensuring the identification and adoption of appropriate minimum standards and best practices in preventing and combating illicit firearms trafficking. With particular regard to arms flows from East and South-Eastern Europe, a clear picture on the scope of the problem does not exist. To be able to realistically evaluate the situation, EU police and customs agencies and the intelligence services should work together with their counterparts in East and South-Eastern Europe to produce specific risk assessments for this type of crime, which would trace origins and lines of supply of illicit SALW. This will also require the effective use of all existing available institutions, mechanisms, networks and resources, including Interpol, Europol, the OSCE, regional and bilateral initiatives and so forth.
- **Enhance the capacity of law enforcement agencies in the region to tackle the problem.** A number of measures need to be taken to enhance the capabilities of enforcement agencies in East and South-Eastern Europe to ensure that agencies have both the specialization and flexibility to combat the new challenges posed by illicit SALW trafficking effectively. Central to these efforts are sufficient financial resources, training and modern detection and analysis equipment. A variety of training programmes are essential for improving enforcement standards. For example, customs officers should be trained to be able to thoroughly check and evaluate documents and carriers' compliance; recognize different classifications of firearms; use modern detection equipment; and record and retrieve information stored on computerized databases, where the information can be analysed by customs and also shared with other relevant state agencies.
- **Strengthen law enforcement cooperation with the SECI Center.** There is a need to strengthen cooperation with the SECI Regional Center in its efforts to develop collaborative actions to combat arms trafficking in South-Eastern Europe. As this is the sole regional enforcement body in South-Eastern Europe involved in the fight against illicit arms trafficking, it is crucial to provide it with adequate resources. In particular, it is important that the SECI Center has the analytical capacity to process the data collected. Currently, the Centre does not have any analysts working on firearms trafficking. This is a weakness which will need to be addressed if the intelligence regarding firearms is to be followed up in a timely and effective manner.
- **Increase cooperation with Russia on illicit trafficking.** Russia and the EU have issued numerous joint statements highlighting the fact that controlling illicit trafficking in arms and combating terrorism are in their common interest. The April 2000 EU–Russia Joint Action to Fight Organised Crime contains provisions for combating illicit trafficking in arms that should be developed into concrete actions.[11] The EU and Russia should therefore use these common interests to promote a joint Programme of Action on strengthening information exchanges and combating trafficking.
- **Support anti-corruption programmes.** Law enforcement efforts to efficiently fight illicit SALW trafficking should be accompanied and supported by measures taken in other areas. In particular, further action is required to combat corruption in customs, border and law enforcement agencies across Eastern and South-Eastern Europe, as well as in some of the new EU members. Greater efforts are still required to change the culture of these professions, and to make officers aware that bribes are not a perk of the job, but rather need to be eradicated. Training alone, though, will not solve all these problems. Improved

pay levels, better working conditions and resources for detecting and prosecuting corruption also need to be addressed.

- **Increase transparency and accountability of agencies combating illicit trafficking.** In their efforts to combat and prevent organized crime and illicit SALW trafficking, and particularly in relation to the control of legal activities (such as data retention and protection, telecommunications privacy etc.), all states should ensure appropriate transparency and clear accountability mechanisms and incorporate appropriate safeguards for civil rights and democracy. There is need to ensure adequate and appropriate systems for parliamentary oversight, at national and international levels, such as publicly available regular reports on policies and practices of national and international enforcement agencies.

PREVENTING ILLICIT SALW TRAFFICKING WITHIN THE EU

ASSESSMENT OF EXISTING COOPERATION IN JUSTICE AND HOME AFFAIRS

The EU's enlargement has changed patterns of transnational organized crime. It has on the one hand imposed increased risks and costs on organized criminal groups, as well as presenting them with opportunities provided by free movement in a common geographical and political space. By 2007 the full responsibility for the EU's eastern and south-eastern external border will shift to the new EU entrants. It is at this stage that organized crime groups will have an opportunity to exploit any weaknesses in the normative and enforcement frameworks, which would allow them to expand their criminal activities.

Although a number of institutions at the national and regional levels are addressing various aspects of organized crime, police cooperation to combat SALW trafficking within the EU has tended to be accorded a low priority. Until recently the focus of most police and intelligence agencies in terms of illicit trafficking has been on people and drugs. This situation has gradually changed over the last two years as the impact of illicit SALW trafficking on crime in the EU has increased.

Europol has begun to develop its work in this area. Illicit trafficking in arms, ammunition and explosives is mentioned in the Europol Convention as one of the forms of international crime, which Europol is mandated to address.[12] Europol has recently held a meeting focused on preparing a feasibility study for establishing an "Analytical Work File" on arms trafficking that will enable the storage and analysis of operational data.[13] However the fact that this has yet to be created illustrates the lack of political will and insufficient information that many law enforcement agencies currently suffer in this area.

In the run-up to the enlargement of the EU in May 2004, significant support was provided by the members to the accession states, focusing on exchanging experiences and expertise in the fight against organized crime. While such efforts were beneficial, more should have been done to develop and implement practical collaborative actions in the fight against arms trafficking.

An increasing problem in recent years has been the growth in trafficking of replica and deactivated weapons within the EU. These can often be easily converted into lethal weapons, and recent figures released by the Home Office in the UK show that these are the most common weapons used in violent crime in the UK. Legislation in most EU member states has failed to keep pace with this trend, meaning that in many countries the possession and trade of these weapons is still legal.

The growth of the European Union not only provides new opportunities for organized crime, it also offers EU members a clear prospect to combine the efforts of 25 states in the fight against various forms of crime, including arms trafficking. Such opportunity can only be based on effective cooperation and information sharing among the various relevant agencies within the EU.

RECOMMENDATIONS

- **Strengthen law enforcement cooperation within the EU.** An approach that can be adopted by EU governments is to strengthen bilateral cooperation to allow the police forces to better investigate and exchange information on arms-trafficking-related crimes. Such cooperation can provide an effective deterrence to the growth and expansion of trafficking activities, and can also help build up multilateral or regional cooperation and additional opportunities for more effective and collaborative law enforcement.
- **Enhance the capacity of Europol to combat SALW trafficking.** As part of its counter terrorism and counter proliferation efforts, Europol is also mandated to combat illicit trafficking of arms, ammunition and explosives.[14] However, Europol's capacity to contribute to combating arms trafficking is seriously hindered by a lack of adequate resources. Europol should establish an Anti-Firearms Trafficking Programme to analyse strategic and operational information, undertake threat and risk assessments, and support operational investigations in the member states. In order to improve prioritization of intelligence gathering and information sharing on weapons trafficking with national law enforcement agencies, the Anti-Firearms Trafficking Programme could also be tasked to develop and maintain an EU-wide firearms database drawing, where appropriate, on the experience of national firearms databases. To be more effective in the area of investigating various transnational criminal activities, including arms trafficking, the Council Act of 28 November 2002, which refers to the participation of Europol staff in joint investigation teams, should be expeditiously ratified by all EU member states.[15]
- **Develop cross-border operations to combat SALW trafficking.** Operation Arrow, an initiative launched by the Finnish Presidency of the EU in 1999[16] to control the legal trade of firearms in EU member states and gather criminal intelligence on illicit trafficking, should be regarded as a first step towards building up a sufficient intelligence mass to be used for operational policing actions.[17] Europol should serve as a platform to support similar projects in the future, using the experience gained for this first exercise. By gathering information not only on weapons seizures, but also on brokers, shippers and others involved in the illicit arms trade, regional controls within the EU could be significantly strengthened.
- **Sign and ratify the UN Firearms Protocol.** The United Nations Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition has the potential for having a tremendous impact on both the legal and the illicit manufacture and trade in firearms and provides new opportunities to EU member states to improve international cooperation, information exchange and transparency in the field of firearms. To date, only nine EU Member States have ratified the Protocol, 16 have signed it and six have not signed it yet.[18] Reviewing the prospects for ratification and implementation of the Protocol is of paramount importance for all remaining member states.
- **Ban the possession, sale, and transfer of replica and deactivated SALW**. Given the rise in the number of violent crimes committed with these weapons, member states should urgently strengthen their legislation to prohibit them across the Union.

PREVENTING ILLICIT SALW TRAFFICKING FROM THE EU

ASSESSMENT OF EXISTING INTERGOVERNMENTAL AND INTERAGENCY COOPERATION

At the national level, there is a tendency not to prioritize SALW trafficking when dealing with organized crime, and intelligence regarding firearms often is not followed up as it is only of marginal interest to investigators. The challenge of SALW trafficking is exacerbated by the relatively low levels of cooperation and information sharing in terms of command, control, communications and intelligence not only among countries, but also often at the national level among different departments or agencies. There is a clear need for an effective multi-agency response to the issue of illicit SALW trafficking, based on improved coordination and information exchange at the operational level.

The level of illicit SALW trafficking from EU member states is low. However, there is a risk that with an enlarged EU this could increase. Many of the new member states do not yet have sufficient law enforcement capacity or border controls to prevent SALW trafficking. There is a risk that organized criminals could use the reduced barriers on trade within the EU to move small arms to a country with poor law enforcement capacity and seek to traffic them out of the EU from there.

RECOMMENDATIONS

- **Establish national coordinating agencies to address illicit SALW trafficking.** Effective coordination should be established among police, customs, border guards and other relevant agencies and affected industries, ensuring, for example, a close partnership among agencies or departments dealing with related aspects of organized crime, notably trafficking in drugs, people, illicit arms and other contraband. Measures are also needed to ensure effective cooperation with relevant arms companies, dealers and other relevant agents.
- **Develop national firearm databases.** A concerted effort should be launched to enhance the traceability of firearms and to facilitate this all EU member states should develop a national database on the production, ownership, transfer and use of firearms and associated materials.
- **Continue to strengthen the capacity of new EU member states to combat SALW trafficking.** The old member states should continue to work with new members to provide technical assistance to help enhance their capacity to address arms trafficking and strengthen border controls.

PREVENTING ILLICIT SALW TRAFFICKING BY EU COMPANIES AND NATIONALS

ASSESSMENT OF EFFECTIVENESS OF EXISTING POLICY INSTRUMENTS AND ENFORCEMENT AGENCIES

EU companies and nationals play a significant role in the brokering and transportation of SALW to conflict regions around the world. This illicit trafficking of weapons undermines the EU's international security and development objectives and further action is needed to control the actions of EU companies and citizens.

On 23 June 2003, the EU adopted a Common Position on the control of arms brokering. Under this instrument EU member states have committed themselves to establish a clear legal framework and to take all the necessary measures to control brokering activities taking place within their territory. The Position also requires member states to establish a system for exchange of information on brokering activities. The Common Position also recommends, though does not oblige, that states establish a register of arms brokers and control brokering activities outside of their territory, in other words introducing extraterritorial controls on brokers of their nationality or resident in their territory.[19]

The term arms brokering covers a multitude of activities: from an employee of a major international defence company arranging for the transfer of components from one subsidiary to another, to a sole trader arranging a shipment of small arms, potentially with forged documentation, from a state with minimal export controls to a conflict zone. The challenge to licensing authorities is to develop controls which do not place an unreasonable burden upon the former, while ensuring adequate and tight controls on the activities of the latter so that illicit transfers are ultimately forced out of the brokering process. Those involved in this less-acceptable end of the market tend to be expert at exploiting differences in national approaches and taking advantage of existing national and transnational loopholes to the point where it becomes difficult even to identify whose laws have been broken, let alone to arrange a prosecution.

The EU Common Position is therefore of great significance as it recognizes that common standards should be created among member states in order to ensure brokers cannot exploit national differences. States now have to ensure the regulation of brokering activities taking place from their territory through the provision of written authorization or a licence, while also assessing applications for specific brokering transactions against the provisions of the EU Code.[20] This "captures core brokering activities"[21] and member states—including those members who joined the EU in 2004—will now have to introduce basic brokering controls into their arms control system for the first time (States with existing brokering controls include Austria, Belgium, Estonia, Finland, France, Germany, Poland, Sweden, the Netherlands and the UK). Moreover, once states have controls, legislation will have to be reviewed regularly to ensure that it is in line with the requirements contained in the EU Common Position.

The Common Position is a demonstration of the progress that has been made in regulating arms brokering from the EU. However there are a number of weaknesses which undermine its effectiveness. There is no timeframe within which states should introduce controls on arms brokering and therefore no enforcement mechanism in place to ensure adoption. There is no requirement for member states to obtain written authorization from brokers or indeed require them to register to act as a broker first. Such screening would enable member states to deny licences to those individuals or entities who do not fulfill certain requirements of trustworthiness or credibility.[22] It is also disappointing that while the Common Position sets regulations for brokering activities taking place within member states' territory, states are only encouraged to "consider" controlling brokers of the same nationality or residents of the country who engage in brokering activities outside their territory. As a result, few member states have introduced comprehensive extraterritorial controls, although some have, including Belgium, Finland and Sweden.[23]

Finally, the Common Position makes reference to the activities of brokers only and does not explicitly address or recognize the need for controls on brokering-*related* activities—for example negotiating logistics, providing transportation, insurance, financing arms transfers and other

financial services. As it stands, the Common Position does not recognize these areas of activity within its remit, thereby limiting the impact of the instrument to control arms brokering

RECOMMENDATIONS

- **The Common Position should be amended to incorporate all aspects of the brokering process.** The definition of brokering must be extended so that brokering-*related* activities, e.g. negotiating logistics, providing transportation, insurance, financing arms transfers and other financial services, are recognized as essential components to the brokering process and are included within the Common Position's remit.
- **States should require brokers to register, and only those with valid registration for trading or brokering weapons should be entitled to apply for a brokering licence.** Upon registration a broker should be made aware of the legal boundaries within which they must operate and be kept updated thereafter of any new legal requirements. An EU central registry should be created to store brokers' details and any information concerning the conduct of registered arms brokers, or of arms brokering by unregistered entities, should be shared.
- **States should introduce common extraterritorial controls.** A broker can operate from virtually anywhere to arrange an arms transfer. Tightening up national brokering legislation with regard to the activities of arms brokers in one country or in one region simply encourages brokers to operate from countries where there is less risk of legal sanctions. States should therefore introduce common extraterritorial controls, which require that their nationals or those resident in their territory obtain a licence to broker arms no matter where they carry out their activities.
- **The Common Position must outline a timeframe within which member states are required to adopt the basic requirements of the Position.** There should be a monitoring mechanism installed to facilitate this transition and ensure both implementation and the provision of technical or other support where necessary.
- **EU member states should systematize information exchanges, stipulated by the Common Position, through a central database on brokering.** The database should collate member states' national registries of arms brokers and ensure that if a broker is removed from the list, this is circulated electronically to all member states. The database should also include brokering licences granted and denied and details of relevant consultations.
- **EU member states should consider ways to further promote regional and international efforts to establish greater controls on arms brokering**. Member states should assist countries requesting support for the development of relevant national legislation (see brokering recommendation, CFSP section),[24] and should promote the adoption of a legally binding global instrument on the control of arms brokering, e.g. through the UN Small Arms Process.
- **A registration scheme should be established for transportation agents.** To operate legally, arms transportation agents should be required to register. Member states should also exchange information on suspect air companies and establish approved agent lists to ensure that disreputable companies are not being supported by governments in other circumstances, for example by being contracted to deliver humanitarian relief.[25]

SUPPORTING ACTION TO PREVENT ILLICIT SALW TRAFFICKING IN OTHER REGIONS

ASSESSMENT OF EXISTING SUPPORT TO PREVENTING ILLICIT TRAFFICKING IN OTHER REGIONS (E.G. DEVELOPMENT AND TECHNICAL ASSISTANCE)

The EU has a significant role to play as a development partner in providing assistance to help address illicit trafficking of SALW in other regions. There are significant quantities of arms already in circulation in Africa, Asia and Latin America that are recycled from conflict to conflict. Building local capacity to combat the availability and misuse of weapons is critical to ensure that progress is sustainable.

In 2003, the EU provided roughly EURO 52 million to SALW projects in Cambodia, South-Eastern Europe, and Latin America, as well as in Côte d'Ivoire, Liberia, Sierra Leone and Tanzania. These projects related to, inter alia, SALW collection programmes, destruction of excess SALW and related ammunition, and the demobilization and reintegration of ex-combatants.[26]

As EU member states have themselves admitted, there is an urgent need for a "more systematic approach to EU assistance in the field of SALW".[27] Priorities include the need for targeted action, criteria for the allocation of funds and the need for thorough assessment and evaluation. The use of EU assistance to prevent illicit SALW trafficking could be enhanced in several ways, as presented in the following recommendations:

RECOMMENDATIONS

- **Support subregional organizations to coordinate implementation.** The cross-border nature of the SALW problem makes subregional coordination essential. Agreements on small arms control are in place in the Great Lakes region and the Horn of Africa (GLr/HoA), as well as West and Southern Africa. However implementation has been patchy. Progress on tackling small arms in the GLr/HoA has been helped by facilitation by the Nairobi Secretariat, the intergovernmental coordinating body to oversee implementation of the Nairobi Declaration and Protocol. And the South Eastern Europe Small Arms Clearinghouse (SEESAC) has played a significant role in addressing illicit trafficking in the Balkans. However, in other regions such as South Asia, Southern and West Africa, progress has been hindered by a lack of coordination from the South Asian Association for Regional Cooperation, Southern African Development Community, and Economic Community Of West African States secretariats.
- **Establish National Focal Points and develop National Action Plans.** All governments have committed in the UN Programme of Action to establishing interdepartmental committees (known as National Commissions or Focal Points) to coordinate action against small arms. A number of governments have now done this with good result but many have yet to act. Once these committees are established the priority is to assess the small arms problem, usually by a SALW survey, and to develop a National Strategy or a National Action Plan (NAP) to address it. These plans cover a wide range of measures including measures to combat illicit trafficking such as strengthening border controls, enhancing legislative control and police training. The governments of Kenya, Namibia, Tanzania and Uganda have all agreed NAPs. Many other countries have indicated their interest in developing NAPs, but will require external support.

- **Strengthen police and law enforcement capacity.** The capacity of governments to combat illicit trafficking is weak in many countries. Developing this capacity, ensuring the police are responsive to local needs and building trust between the police and local communities are critical factors to address the problem of illicit SALW trafficking. The EU could support training programmes, encourage cross-border cooperation and second staff to help build the capacity of national institutions.
- **Develop monitoring mechanisms for arms embargoes.** The UN expert panel report on the Somalia arms embargo (2003) suggested the development of cooperation frameworks between the Africa Union (AU), the League of Arab States and the UN to guarantee assistance be provided in all areas of the enforcement of the embargo, including timely sharing of information relating to violations and responses to investigative requests. The UN expert panel report on the exploitation of natural resources from the DRC (2003) suggested that the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) be given the role of establishing a monitoring mechanism to track the embargo imposed on Ituri and Kivu, including giving them the capacity to make seizures. The EU and Group of Eight should support future AU missions to carry out similar tasks by providing the AU's burgeoning Peace Support Operations Facility with training on monitoring and disarmament, demobilization and reintegration. The EU should also provide the AU and subregional bodies with financial and technical support so that they strengthen their cooperation with the UN to implement arms embargoes.
- **Apply diplomatic pressure to states of concern.** A significant part of the problem of arms availability in conflict regions is caused by countries with which EU Member States have significant diplomatic and development relationships. For example, reports from UN Panels of Experts on arms trafficking to the DRC have alleged that Rwanda and Uganda have been supplying weapons to militia groups. The EU could do more to put diplomatic pressure on these countries to cease their role in arms proliferation. And African countries could include a government's record on arms and security issues as a factor to examine in the AU's new peer review process.

CONCLUSION

Illicit arms trafficking poses a serious threat to the EU's security and to its wider international objectives. The risk of an increase in illicit SALW trafficking into the EU is real, but there is currently a vital opportunity for early action to prevent this from escalating. EU nationals and companies are playing a damaging role in illicitly trafficking weapons into conflict regions, but the increased focus on this trade also provides an opportunity to put comprehensive measures in place to address it. Similarly, the increased focus on targeting development assistance to address problems of insecurity provides an opportunity for the EU to more effectively work to help address the problem of arms trafficking in other regions.

If these opportunities are to be taken, however, illicit arms trafficking has to become a higher political priority for EU governments, increased law enforcement capacity needs to be devoted to address it, more resources are needed to help address the problem at source in East and South-Eastern Europe, and development assistance should be targeted to combat the problem in conflict regions.

Notes

1 Saferworld interview with senior firearms expert, National Criminal Intelligence Service, United Kingdom, 4 May 2005.

2 The gun can be altered to fire bullets and is generally fitted with a sound moderator. United Kingdom, *Combating the Threat of Gun Violence: A Report of Parliamentary Hearings, November 2003*, All Party Parliamentary Group on Gun Crime, 2003, submission from Deputy Chief Constable Alan Green, Chair, ACPO Firearms Committee, p. 21, <http://www.saferworld.co.uk/images/pubdocs/APPGGunCrimeRepEmbargoed.pdf>.

3 United Nations Development Programme and Saferworld, *Living with the Legacy—SALW Survey, Republic of Serbia*, 2004, p. 12.

4 Europol, "2004 European Union Organized Crime Report", open version, 2004, p. 14.

5 United Kingdom, "United Kingdom Threat Assessment of Serious and Organized Crime 2003", Serious Organised Crime Agency, 2003.

6 Hemant Lakhani was arrested in August 2003 in New Jersey while he was demonstrating a shoulder-fired missile to an informant posing as a Somali terrorist. The prosecution argued that Lakhani accepted a US$ 30,000 down payment for the missile and offered to sell as many as 50 additional missiles. Christine Kearney, "British businessman convicted in U.S. weapons case", *Reuters*, 27 April 2005.

7 Neil Barnett, "Balkan states struggle to reduce illicit weapon ownership", *Jane's Intelligence Review*, March 2005.

8 United Kingdom, *One Step Ahead: A 21st Century Strategy to Defeat Organised Criminals*, Home Office, 2004, submission from Saferworld.

9 For example, the Hungarian police launched a joint investigation when in February 2003 a Croatian citizen was arrested at the border between Serbia and Hungary. The individual was carrying pistols and revolvers originating from Serbia and intended for the illegal market in the Netherlands. As a result of joint investigative work, a network conducting illegal trafficking was dismantled.

10 "Securing a Global Arms Trade Treaty", speech by Jack Straw, UK Foreign Secretary, 15 March 2005.

11 Council of the European Union, *European Union Action Plan on Common Action for the Russian Federation on Combating Organised Crime*, EU document 2000/C 106/02, 13 April 2000. See also "Common European Union Strategy towards Russia in the Area of Justice and Home Affairs", <http://europa.eu.int/comm/justice_home/fsj/external/russia/printer/fsj_external_russia_en.htm>.

12 Confirmed in the European Council Decision of 6 December 2001.

13 Saferworld interview with Europol official, 6 May 2005.

14 "An Overview of the Counter Terrorism Unit Activities", <http://www.europol.europa.eu/index.asp?page=publ_terrorism>.

15 As of December 2004, 13 member states had yet to ratify the Council act. Europol, "2004 European Union Organized Crime Report", open version, 2004, p. 15.

16 Project Arrow was launched in July 1999 and ended in March 2001.

17 Council of the European Union, *Final Report on the ARROW Route Policing Project*, EU document 9178/01, 30 May 2001.

18 "Signatories— Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime", <http://www.unodc.org/unodc/en/crime_cicp_signatures_firearms.html>.

19 Council of the European Union, *Council Common Position 2003/468/CFSP of 23 June 2003 on the Control of Arms Brokering*, EU document 2003/468/CFSP, 23 June 2003.

20 Ibid.

21 Holger Anders, *Controlling Arms Brokering: Next Steps for EU Member States*, Groupe de recherche et d'information sur la paix et la sécurité, 2004, p. 6.

22 Ibid., p. 13.

23 In Belgium, persons may be prosecuted for violations of Belgian arms brokering controls outside Belgian territory. In Finland, citizens, corporations or foreign residents are required to have a brokering licence to engage in such outside Finnish territory. In the Netherlands, controls on activities abroad relate to corporations operating outside Dutch territory with the main base in the Netherlands.

[24] Holger Anders, *Controlling Arms Brokering: Next Steps for EU Member States*, Groupe de recherche et d'information sur la paix et la sécurité, 2004, p. 12.

[25] The Evening Standard reported in August 2004 that the UK government was using the Libyan based company Buraq Air, which has been accused by the UN of sanctions busting in Liberia, for aid flights to Darfur. The Financial Times reported in early 2005 that the US government was using Victor Bout's planes for supplies in Iraq.

[26] European Parliament, *EU Actions and Policy in Regard to SALW*, 1 February 2005.

[27] Council of the European Union, *Fourth Annual Report on the Implementation of the EU Joint Action of 12 July 2002 on the European Union's Contribution to Combating the Destabilising Accumulation and Spread of Small Arms and Light Weapons (2002/589/CFSP) and Repealing Joint Action 1999/34/CFSP, and the EU Program on Illicit Trafficking in Conventional Arms of June* 1997, EU document 14073/04, 29 October 2004, p. 63.

ACRONYMS

AU	African Union
EU	European Union
GLr	Great Lakes region
HoA	Horn of Africa
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
NAP	National Action Plan
NCIS	National Criminal Intelligence Service
OSCE	Organization for Security and Co-operation in Europe
SALW	small arms and light weapons
SECI	Southeast Europe Cooperative Initiative
SEESAC	South Eastern Europe Small Arms Clearinghouse
WMD	weapon of mass destruction