

IV

Human Rights & the Trade in Weapons



Peter Batchelor

South Africa's Arms Trade and the Commonwealth: A Cause for Concern?

The world cannot ask Africa to develop and then blight its development efforts through the sale of arms and ammunition that fuel Africa's civil conflicts

James Speth, *Administrator, United Nations Development Programme*

South Africa is Africa's only significant arms producer, with a national arms industry having been built up during the 1970s and 1980s in the context of the United Nations arms embargo. South Africa entered the international arms market in the early 1980s because of surplus capacity in the country's local arms industry. In the following years, she became a major arms supplier to a number of developing countries. With the lifting of the UN arms embargo in May 1994, and with the enthusiastic support of the new African National Congress (ANC) government, South Africa has emerged as one of the developing world's leading arms exporters. In 1998 the government announced that since April 1994, the country had sold arms worth more than US\$600 million to more than 90 countries, mostly in Africa, Asia, Latin America and the Middle East.¹

This chapter describes the history of South Africa's arms trade during the apartheid era and in the period since the new ANC government came to power in April 1994. The aim of this paper is to ascertain whether the country's arms exports, particularly illegal exports of small arms, are fuelling conflicts in parts of the Commonwealth, especially in those states with poor human rights record or which are experiencing some form of civil or international conflict.

Part I describes the history of the nation's arms industry during the apartheid era. **Part II** describes South Africa's entry into the international arms market, and the history of South Africa's arms trade before April 1994. **Part III** describes the history of South Africa's arms trade since April 1994, and examines the new ANC government's attempts

to refine and strengthen South Africa's arms control policies and procedures. **Part IV** describes the record of South Africa's arms exports since 1994 with respect to Commonwealth countries in Sub-Saharan Africa and Asia. **Part V** discusses whether South African arms exports are fuelling conflicts in Sub-Saharan Africa.

I. The history of South Africa's arms industry

South Africa's arms industry was established in the early 1960s and expanded quite rapidly during the 1970s and 1980s in response to a number of strategic, political and economic factors.² The imposition of UN arms embargoes in 1963 (voluntary) and in 1977 (mandatory)³ severely limited South Africa's access to foreign sources of armaments, and provided the impetus for a shift away from importing weapons toward the domestic production of various types of armaments.⁴

The country's military involvement in a number of regional conflicts during the 1970s and 1980s, such as those in Angola, Namibia, Mozambique and Rhodesia/Zimbabwe, required a guaranteed and continuous supply of military equipment geared to local conditions, and thus provided the impetus for the development of a domestic arms industry.⁵ The rapid expansion of the domestic arms industry during the 1970s and 1980s contributed to the development of closer links between the State and private capital, and by the mid-1980s, more than 2000 private-sector firms were directly and/or indirectly involved in domestic arms production.⁶ By the end of the 1980s, South Africa had transformed itself from an arms importer with a limited domestic production capability into a relatively self-sufficient arms producer. At this time, the local arms industry was able to supply the South African Defence Force (SADF) with most of its equipment requirements. One of the ways in which the country became increasingly self-sufficient in arms production was through its ability to obtain foreign inputs by circumventing the UN arms embargo.⁷ As a result of the embargo, South Africa's arms industry was 'forced' to adopt a number of covert and illegal practices (such as smuggling and the use of front companies) in order to obtain much-needed inputs, including technology and components.

During the apartheid era the arms industry occupied a privileged position in terms of its access to state resources. As a result, by the end of the 1980s the arms industry had developed into one of the most significant sectors of the country's industrial base. By

1989 the industry employed more than 130,000 people (8% of total manufacturing employment) and more than 10% of all manufacturing firms were involved in various aspects of domestic arms production.⁸

After 1989, South Africa's defence budget was cut quite dramatically, as a result of the country's military withdrawal from Namibia and Angola, the demise of the Cold War, and the ending of apartheid. Between 1989 and 1994 the defence budget was cut by more than 40% in real terms, and as a result, the local arms industry downsized quite significantly. More than 100,000 jobs were lost, and the value of the industry's output declined by more than 50%.⁹ Many defence firms went out of business or exited the defence market. Those firms that survived attempted to diversify into civilian products, or embarked on major export drives to help offset the declines in the local defence market.¹⁰

II. The history of South Africa's pre-1994 arms trade

Before April 1994, South Africa's arms export business was conducted in a highly secretive fashion because of UN arms embargoes.¹¹ Secrecy was institutionalised in various legislative measures; no official information about the destination, the value, or the content of arms exports was publicly available. South Africa first entered the international arms market in the early 1980s. Before then, its only significant export market was white-run Rhodesia, but when Rhodesia became Zimbabwe in 1980, this market effectively disappeared.¹²

During the early 1980s, the arms industry began to experience a number of economic problems because of rising overhead costs, excess production capacity, and poor economies of scale.¹³ Arms exports were seen as the solution to the problem of surplus capacity, while at the same time helping to preserve accumulated skills and technologies.

The country's surprise appearance at an international arms exhibition in Greece in 1982 marked the its 'official' entry into the international arms market. At the same time, new legislation was passed to regulate arms exports. A new international sales and marketing department, Nimrod, was created within Armscor, the state-owned arms production and procurement organisation.¹⁴ The apartheid government, through Armscor, enthusiastically embraced the local arms industry's export drive. Armscor established

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more than 130 front companies to assist with the import and export of armaments, and Armscor officials were given diplomatic status at many of South Africa's foreign missions to facilitate arms transfers.¹⁵ In 1982, the value of South Africa's arms exports amounted to US\$24 million. By 1993 this figure had risen to US\$271 million. Arms exports increased from 0.4% of total manufactured exports in 1982 to over 3% in 1993. Despite these significant increases, by 1993 South Africa's arms exports accounted for less than 1% of the global arms market.

Before April 1994, most of the recipients of South African arms were governments or rebel groups in other "pariah states" that were also excluded from access to major suppliers. South Africa sold arms to Iraq during the Iran/Iraq war, to the Pinochet regime in Chile, the Khmer Rouge in Cambodia, UNITA in Angola and RENAMO in Mozambique. It also supplied arms to Peru, Morocco, Oman, Sri Lanka, Taiwan, South Korea, Israel and Rwanda during this period.¹⁶ The 'success' of the arms export drive during the 1980s was related to the fact that South Africa emerged as a willing exporter to a number of nations, which for one reason or another, were cut off from military business with the leading Western arms producers.¹⁷ In response to South Africa's arms export drive, the UN Security Council unanimously adopted Resolution 558 of 1984, which requested all states to voluntarily refrain from purchasing arms manufactured in South Africa.

After 1989, as a result of the cuts in defence spending, and the declining defence market, South African defence firms began to vigorously pursue export markets. The introduction of the government's General Export Incentive Scheme (GEIS) in 1990 also played a significant role in stimulating arms exports. The unbanning of the ANC and other liberation movements in 1990, and the start of constitutional negotiations between the ANC and the South African government, improved South Africa's image abroad. As a result, the arms industry began to trade more openly on the international market, with

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South African defence firms attending a number of international defence exhibitions in Chile, London, Malaysia and Dubai. The value of South Africa's arms exports jumped from US\$78 million in 1989 to US\$271 million in 1993.¹⁸

III. South Africa's arms trade after April 1994

When the ANC Government came to power in 1994, it inherited a domestic arms industry that was considerably smaller than it had been in the late 1980s, and one that was struggling to survive. With the lifting of the UN arms embargo in May 1994, Armscor announced its intention to double the country's share of the global arms market. At the time, many multilateral organisations, such as the United Nations Development Programme (UNDP), expressed concern at the plan to promote exports. A senior official in UNDP warned that "the new South African government will have to be more careful about weapons sales...South Africa has a moral responsibility not to fuel regional conflicts because it was the United Nations arms embargo that ultimately helped bring down apartheid".¹⁹

In addition to launching a massive international marketing drive, Armscor and the arms industry were able to convince the new ANC government of the economic and strategic importance of the arms industry, and the potential benefits of arms exports. Since April 1994 the ANC Government, like the former apartheid government, has become a major supporter of the arms industry's export drive. Former President Nelson Mandela and recently elected President Thabo Mbeki are enthusiastic supporters of the local arms industry and use their foreign visits to promote arms exports and international collaboration with South Africa's industry.²⁰ To support the industry's export drive, the government helps to maintain South Africa's "arms export infrastructure", including the use of civilian and military government personnel in overseas offices and foreign missions to promote arms sales. Armscor maintains a number of overseas offices and helps to underwrite the participation of South African defence firms at overseas and local defence exhibitions.

As a result of the ANC Government's support, the value of South Africa's arms exports has increased quite significantly since 1994. In 1994, the value of arms exports in constant 1995 prices was R918 million (US\$258 million); by 1997, the value had increased by nearly 30% to R1166 million (US\$260 million). However, the share of arms exports in South Africa's total manufactured exports remained relatively constant during this period. This was because of the improvement in South Africa's overall manufacturing export performance since 1994 as a result of the ending of trade sanctions and South Africa's reintegration into the global economy.

Table I Value of South Africa's Arms Exports, 1994-1997

(Figures are in Rand Million in Constant 1995 prices. Figures in italics are in percentages.)

Year	1994	1995	1996	1997
Defence Exports	918	1033	488	1166
Manufacturing Exports	69825	81289	95659	100495
<i>Defence/Manufactured Exports</i>	<i>1.3</i>	<i>1.3</i>	<i>0.5</i>	<i>1.2</i>

Source: Armscor Annual Report, various years; National Conventional Arms Control Committee, South African Reserve Bank Quarterly Bulletin, various issues.

The significant increases in the value of South Africa's arms exports in the last few years have been accompanied by a series of arms trade scandals. Most of the scandals have involved illegal transfers of weapons by individuals or companies, rather than the government. The recipients of these arms transfers have tended to be governments and/or rebel groups in developing countries, many of which are in the midst of civil wars or some form of intra-state conflict.

In September 1994, Armscor was implicated in an aborted arms deal involving a consignment of small arms supposedly destined for Lebanon, but which had in fact been sold to Yemen, a prohibited destination for South African arms.²¹ This consignment was the second part of a dual shipment. The first shipment had found its way to the former Yugoslavia. The events surrounding these shipments led to the establishment of the Cameron Commission of Inquiry. The First Report of the Commission, which was published in June 1995, argued for the formulation of new arms export regulations and controls.

In November 1994, Human Rights Watch alleged that elements within the South African armed forces continued to supply arms to UNITA in Angola for several years

after the Angolan peace accords were signed.²² While the South African government denied these charges, it admitted that rogue elements within the local arms industry and private companies could be supplying arms to UNITA. In mid-1995, it was alleged that certain South African individuals had been involved in selling arms to the Hutu government in Rwanda before its defeat in 1994 by the Rwanda Patriotic Front.²³ While Armscor and the South African government stopped official arms sales in February 1993, unofficial sales by certain elements within the arms industry continued into 1994. Such scandals embarrassed the ANC government and damaged its attempts to portray South Africa as a responsible arms trader. They also highlighted the problems associated with implementing an effective arms control system, given the presence of rogue elements in the country's armed forces and arms industry.

Until 1994, Armscor controlled the export of conventional arms. In fact, it was charged with the marketing of armaments and the issuing of export permits, thus acting as both player and referee. In response to the various arms trade scandals, the ANC government began work on developing a new arms trade policy in 1995. The new policy, which drew heavily on the recommendations of the Cameron Commission, was spelt out in the White Paper on Defence, which was approved by Parliament in May 1996.

According to the new policy, each arms export application was to be assessed by considering the recipient's record on human rights and fundamental freedoms, its security needs, its record of compliance with arms treaties, the nature and cost of the arms in relation to the circumstances of the recipient country, and the effect of the transfer on South Africa's national and foreign interests.²⁴ The White Paper states that South Africa will not "transfer arms to countries which systematically violate or suppress human rights and fundamental freedoms".²⁵ It also states that South Africa will avoid arms sales if the weapons transferred are likely contribute to regional conflict, or to be diverted or used to support terrorism.²⁶ It also requires all applications for arms sales to be approved by a new four-level control system, which includes a cabinet committee – the National Conventional Arms Control Committee (NCACC) – which comprises six ministers and four deputy ministers. In terms of the new control system, the NCACC is responsible for ensuring that all conventional armaments and related technology may not be imported, transferred through South Africa or marketed or exported abroad without a duly approved permit.²⁷

IV. Destinations of South African arms exports, post 1994

Despite the presence of new arms control policies and procedures, the ANC Government has flouted its own policy guidelines on a number of occasions by approving a series of controversial arms sales, or proposed sales. The recipients of these controversial sales include countries such as Rwanda, Uganda, Congo-Brazzaville, Algeria, Colombia, Syria, Turkey, Kuwait, Saudi Arabia and Taiwan. Many of these countries are ruled by authoritarian and undemocratic regimes; have poor human rights records; or are experiencing various forms of intra and inter-state conflict. In terms of the government's new arms control policy guidelines, arms transfers to such countries should be avoided.

If one examines in more detail the official record of South Africa's arms exports between 1996 and 1998, it is evident that the majority of its arms sales are to developing countries, particularly in Africa, the Middle East, Asia and Latin America. Of the top ten destinations for arms exports between 1996 and 1998, five countries – India, Columbia, Pakistan, Congo-Brazzaville and Algeria have all experienced some form of intra- and/or interstate conflict in the last few years (see Table II).²⁸

In terms of South Africa's arms trade with the Commonwealth, three member states – India, Singapore and Pakistan – have emerged as some of the country's most important markets. India's importance as the largest market for South African armaments is directly related to the fact that both countries recently entered into a defence co-operation agreement to exchange views on strategic matters and trade in military equipment. It was also recently reported that the Hindu nationalist-led government had informally directed the Indian Ministry of Defence to source defence equipment from Israel and South Africa because both countries were "impervious" to sanctions and restrictions that India faced after last year's nuclear tests.²⁹ Pakistan has also become a significant market in recent years, although the value of sales to India is more than six times the value of sales to Pakistan.³⁰

Officially, the South African government maintains good diplomatic relations (including military relations) with both Pakistan and India, and has been careful not to be seen to be favouring either India or Pakistan, given the existing tensions between the two countries. However, South Africa continues to sell large amounts of conventional weapons to both countries, and it is clear that the ANC-led Government is using arms

Table II South African Arms Exports: Top 10 Destinations, 1996-1998

(Figures are in Rand (‘000) in current prices)

Country	Value 1996	Value 1997	Value 1998	Total Value
India*	13639	600518	13302	627459
Switzerland	18217	108106	66210	192533
Columbia	28746	71223	44633	144602
Singapore*	18163	87970	15425	121558
Thailand	1401	36477	67094	104972
Pakistan*	51457	33716	10048	95221
Congo-Brazzaville	61266	31920		93186
Algeria			84933	84933
Peru	38686	14639	30154	83479
United Arab Emirates	7814	17045	37221	62080

*Source: National Conventional Arms Control Committee**Note: * Commonwealth states*

sales to strengthen and solidify its existing diplomatic relations them. Recent newspaper reports have suggested that South African weapons are being utilised in the ongoing conflict in Kashmir, although Denel, which is a major supplier of weapons to India, has denied this.³¹

Most of India's recent purchases from South Africa include armaments and equipment for the Army. In 1998, it was reported that India had purchased 90 second-hand Casspir MKII mine-protected armoured personnel carriers worth US\$12 million for the Army³² and US\$15 million worth of 155mm high-explosive ammunition for use in its Bofors FH-77B howitzers.^{33*} The Indian Army is

* During the two-month conflict along the Line of Control in Kashmir, in June and July 1999, over 150,000 155mm shells were fired by Indian forces. The cost of a single shell exceeds US\$1,000.

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also currently evaluating the purchase of T6 155mm/52-calibre turret systems for use on the locally-developed Arjun main battle tanks.³⁴ The importance of India as a key market for South African armaments was highlighted recently, when it was reported that Armscor and about 20 of South Africa's defence firms would be taking part in a defence exhibition in India in October 1999. The main reason for South Africa's participation in this defence exhibition is to try to reverse the decline in the value of India's arms purchases from South Africa, down from over R600 million in 1997 to only R13 million in 1998.³⁵

South Africa's top five destinations for arms sales in Sub-Saharan Africa between 1996 and 1998 are given in Table III. Some of these recipient states have repressive or undemocratic regimes and/or have experienced some form of intra and/or interstate conflict in the last few years.³⁶

The vast majority of South Africa's arms exports to countries in Sub-Saharan Africa and Asia comprises small arms and light weapons, ammunition, and armoured vehicles. In many cases, these exports have included sales of South African National Defence Force (SANDF) surplus arms and defence equipment.³⁷ All member states of the Southern African Development Community (SADC), with the exception of Seychelles, have purchased small arms from South Africa since 1996.³⁸ Most of the protagonists in the current conflict in the Democratic Republic of Congo (Namibia, Zimbabwe, Rwanda and Uganda) have purchased arms from South Africa in the last few years.³⁹

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The fact that many of the recipient states of South African arms in Sub-Saharan Africa and Asia are undemocratic or repressive, and/or are experiencing some form of violent conflict, poses a serious dilemma for the ANC Government. Should South Africa be selling arms to such countries? What purposes are the arms serving – self-defence or internal repression?

In the last few years the ANC Government has approved a number of

**Table III South African Arms Exports:
Top Destinations in Sub-Saharan Africa, 1996-1998**

(Figures are in Rand ('000) in current prices.)

Country	Value 1996	Value 1997	Value 1998	Total Value
Congo-Brazzaville	61266	31920		93186
Uganda*	31218	9084	1523	41825
Tanzania*		8492	31399	39891
Rwanda**	4453	15647	19554	39654
Kenya*	19293	5627		24920

Source: National Conventional Arms Control Committee

Note: * Commonwealth states; ** Applicant for Commonwealth membership

The top five destinations for South Africa's arms sales in Asia between 1996 and 1998 are given in Table IV. Some of these recipient countries, such as India, Pakistan and Taiwan, have experienced some form of intra- and/or interstate conflict in the last few years (see Table V).⁴⁰

Table IV South African Arms Exports: Top Destinations in Asia, 1996-1998

(Figures are in Rand ('000) in current prices.)

Country	Value 1996	Value 1997	Value 1998	Total Value
India*	13639	600518	13302	627459
Singapore*	18163	87970	15425	121558
Thailand	1401	36477	67094	104972
Pakistan*	51457	33716	10048	95221
Taiwan	15176	38625	1035	54836

Source: National Conventional Arms Control Committee

Note: * Commonwealth states

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controversial arms transfers that highlight this dilemma. The government has been quite willing to approve sales to countries such as Rwanda, Uganda, Algeria, Syria, Saudi Arabia and Indonesia, but has refused to sell arms to countries such as Turkey.⁴¹ In the light of these controversial sales there has been speculation that former President Mandela's recent diplomatic efforts in Libya, which led to the lifting of UN sanctions, may result in South Africa becoming a major supplier of armaments to Libya.⁴²

Concerns about South Africa's arms transfers

On the evidence presented above, it is clear that South Africa has emerged as a major supplier of arms to Commonwealth states, many of which are authoritarian and undemocratic regimes with poor human rights records. Some recipient countries are experiencing various forms of intra and inter-state conflict, including regional arms races. Thus, it is possible to argue that South Africa's arms exports may be fuelling conflicts in many parts of the Commonwealth, particularly in Sub-Saharan Africa and Asia.

Such a disturbing record of arms sales since April 1994 has fed the perception, domestically and internationally, that the ANC Government's foreign policy is haphazard and that South Africa has failed to become a restrained and responsible arms trader. Furthermore, the arms deals that have been approved in recent years suggest that maintaining jobs in the arms industry, and other economic considerations, are more important than the Government's stated commitment to human rights principles.

Of the top ten destinations for South African arms exports between 1996 and 1998, five countries – India, Columbia, Pakistan, Congo-Brazzaville and Algeria – have all experienced some form of conflict in the last few years

A recent survey of 3,500 South Africans found that 91% either did not want their country to sell arms at all (38%), or would only approve such sales under strict humanitarian guidelines (53%). Only 9% (mostly white, male and well paid) said South Africa should sell arms to anyone who would pay.⁴³ Foreign governments and international non-governmental organisations, including Amnesty International and Human

Rights Watch, have also expressed concern over many of South Africa's recent arms sales decisions. One international observer noted that "as time goes on the sense of South Africa as an ethical arms trader is dissipating".⁴⁴

Meanwhile, the government's response to criticism of its arms sales decisions has been confusing. Some ministers, such as Kader Asmal, chairperson of the NCACC, have consistently defended the government's record as ethical, and have stated that a recipient's respect for human rights is the paramount concern in arms sales decisions. Other ministers, such as Aziz Pahad, deputy foreign minister, have adopted a more traditionally hard-line position, arguing that arms sales have the potential to create jobs and earn foreign exchange.

When the Government's arms trade decisions and foreign policy initiatives are challenged on the basis that they promote relationships with abusers of human rights, the response from ministers such as Pahad is that engagement is the most constructive way of doing business – that influence can be more effectively brought to bear on governments through diplomatic dialogue rather than by strident public criticism. The irony of such comments, given South Africa's recent history, is obvious. They echo the words that U.S. President Ronald Reagan and Britain's Prime Minister Margaret Thatcher used in the 1980s, when they repeatedly defended their relations with apartheid South Africa.

According to Laurie Nathan, a member of the Cameron Commission of Inquiry, "respect for human rights in the conduct of the arms trade is as much a legal as a moral duty, because these rights are enshrined in South Africa's new Constitution and in international covenants of which South Africa is a signatory. The Constitution also compels the Government to adhere to international law, which prohibits the use and threat of force. It follows that South Africa is precluded from arming states that defy this rule".⁴⁵

V. South Africa's arms trade and conflict in Sub-Saharan Africa

In addition to its record of controversial arms sales to governments in Africa, and despite the presence of new arms control policies and procedures, the ANC government has been confronted by a growing number of arms trade scandals in recent years.

- In September 1997, newspaper reports suggested that South African arms, including armoured vehicles, small arms and ammunition, which were sold to Uganda in 1995 and 1996, had found their way into the hands of the Sudanese People's Liberation Army (SPLA).⁴⁶

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- In December 1997, a report by Human Rights Watch stated that certain South African individuals and companies had been supplying arms and military assistance to rebel movements in Burundi with the knowledge of senior ANC and government officials.⁴⁷
- In April 1998, newspaper reports suggested that South African individuals and companies were still involved in supplying food and military equipment to the rebel National Union for the Total Independence of Angola (UNITA) in violation of a United Nations interdict.⁴⁸ These allegations provide further support for reports, which appeared in June 1997, in which South African individuals were implicated in supplying arms and equipment to UNITA in Angola via Mozambique.⁴⁸

On the basis of the above it is evident that South Africa's illegal and clandestine trade in arms, particularly small arms, is flourishing and that South Africa's new arms control policies and procedures are proving to be relatively ineffectual. The need for more effective arms control policies and procedures, particularly with respect to monitoring, compliance and enforcement mechanisms has thus become a key priority for the ANC Government.

Conclusion

South Africa's recent history, and the key role of the UN arms embargoes in helping to bring about the end of apartheid, together with the increasing incidence of illegal arms transfers from South Africa to countries in Sub-Saharan Africa, imposes a moral duty and a political responsibility on the new ANC Government to become a more restrained and responsible arms trader.

In the light of the arms industry's desire to maximise arms exports, there is an urgent need for the government to implement more effective monitoring, compliance and enforcement mechanisms, such as the establishment of an independent Arms Control Inspectorate, to prevent the growing illegal trade in arms, particularly small arms, from South Africa to countries in Sub-Saharan Africa.

A number of recent developments suggest that the South African government is showing a greater commitment to becoming a more responsible and restrained arms trader. In January 1997, it announced a ban on the production, stockpiling, transfer and use of anti-personnel landmines. During 1997, the Department of Defence destroyed 243,423 anti-personnel landmines, while keeping 18,000 for training and research and

development purposes.⁵⁰ At the Ottawa meeting in December 1997, South Africa was one of the first countries to sign the anti-personnel mines (APM) Convention.⁵¹ In January 1999, the government wrote a letter to the UN Secretary-General stating that it was committed to curbing the flow of small arms to civil wars and conflicts world-wide, and that it was further committed to stopping the flow of illegal small arms across its borders.⁵² As concrete proof of this commitment, in February 1999, the South African government announced that during 1998 it had destroyed 70 tons of small arms and ammunition, as well as 100 tonnes of small arms and ammunition on site in Mozambique.⁵³ In May 1999, South Africa's Department of Defence announced that it would destroy its stock of surplus small arms (262,667 small calibre weapons of less than 12.7 mm) rather than sell them.⁵⁴

Despite these positive developments and the ANC Government's support for international disarmament campaigns which have popular appeal, South Africa's policy on arms exports remains contradictory. The Government, despite domestic and international criticism, remains committed to the export of arms, particularly conventional arms, because of the perceived economic benefits such as job creation and foreign exchange.

The Government's commitment to supporting arms exports is based on the assumption that the arms industry is an economic asset and that arms exports are extremely lucrative in terms of foreign exchange earnings and job creation. In fact quite the opposite is true, and a number of recent studies have highlighted the opportunity costs associated with maintaining a domestic defence industry, and that once the value of subsidies are included, the net returns from South Africa's arms exports are in fact relatively insignificant.⁵⁵

The problems of illegal arms transfers and small arms proliferation confront many countries in the developing world. Therefore the implementation of more comprehensive national (and regional) arms control policies and procedures, together with more effective monitoring, compliance and enforcement mechanisms should be a key priority for South Africa and all Commonwealth states.

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Recommendations to the South Africa Government

The implementation of the following recommendations would help to ensure a more effective arms control system in South Africa, and thereby prevent illegal arms transfers from South Africa to countries in Sub-Saharan Africa and other developing countries.⁵⁶

i) Compliance

Defence companies and firearms dealers in South Africa should be required by law to take the following steps to ensure compliance with existing arms export legislation and regulations:

- Establish internal control, verification and audit procedures as specified in an official compliance manual;
- Nominate a senior company official who will be held responsible for compliance;
- Maintain detailed records of all exports for a period of 5 years from the date of transaction; and
- Introduce a national training programme on arms transfer regulations and procedures, in collaboration with the government's official arms control body, for all employees involved in the marketing and export of arms.

ii) Sanctions

The statutory penalties for contravening arms control legislation and regulations should be strengthened in order to signal the seriousness of the offence and provide an effective deterrent against transgressions:

- Individual offenders should be liable on conviction to a mandatory jail sentence.
- Company offenders should be banned from marketing and exporting arms for a period of up to twenty years.
- Financial penalties should be equivalent to five times the value of the exported goods.
- There should be provision for confiscation of the goods in question and/or the profits or turnover emanating from an unlawful transaction.

South Africa's existing arms control legislation should be amended to include a positive duty to report illegal arms transfers. Failure to report should be regarded as a criminal offence. The amended legislation should also provide for sanctions in respect of both wilful contraventions and acts of omission and commission, which are deemed to be grossly negligent. The legal penalties should extend to South African citizens and companies which breach domestic arms controls and international arms embargoes from outside the borders of South Africa.

Monitoring and Enforcement

South Africa's official arms control body (e.g. the NCACC) should be empowered by law to examine the records of all companies and firms involved in the production or supply of armaments, even in the absence of alleged wrongdoing, for the purpose of monitoring compliance with arms controls.

The South African Police Service (SAPS) should have a dedicated unit for investigating allegations of persons or companies involved in illegal arms transfers.

SANDF units and facilities dedicated to border control should be tasked to prevent illegal cross-border movement of armaments.

South Africa's Department of Customs and Excise should have an explicit mandate to monitor compliance with arms controls. Customs and Excise should make a concerted effort to tighten border controls, and air and port surveillance in particular. It may also be necessary to reduce the number of South Africa's official international ports of entry and exit.

The mandate of South Africa's intelligence agencies, including the intelligence divisions of the SANDF and the SAPS should include the gathering and analysis of information regarding contraventions of South Africa's arms control policies. The SANDF, SAPS and South Africa's intelligence agencies should perform these functions in co-operation with their counterparts in other countries, and with multilateral agencies such as Interpol.

South Africa should formally co-operate with neighbouring states in the region, and support the strengthening of formal regional arrangements (e.g. regional arms register, bilateral and multilateral treaties) to deal more effectively with the issue of arms transfers into, out of, and within Southern Africa.

An independent Arms Control Inspectorate (as provided for in existing policy) should be established. The mandate and powers of the Inspectorate should be specified in legislation.

South Africa should establish a statutory arms control body, to ensure effective co-ordination between all the various government agencies and departments that should be involved in monitoring and ensuring compliance with arms control legislation and regulations.

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¹ *Business Day*, 14 April 1998.

² For comprehensive accounts of the history and development of South Africa's arms industry, see Batchelor & Willett, *Disarmament and Defence Industrial Adjustment in South Africa*, Oxford University Press, Oxford (1998), and Landgren, *Embargo Disimplemented*, Oxford University Press, Oxford (1989).

³ Between 1945 and 1990 the UN Security Council imposed arms embargoes on only 2 countries: South Africa and Southern Rhodesia. The embargo against Southern Rhodesia was lifted in 1980 with the independence of Zimbabwe. See Landgren, 1989, p.12.

⁴ Batchelor and Willett, 1998, p.28.

⁵ Batchelor and Willett, 1998, p.25.

⁶ Batchelor and Willett, 1998, p.38.

⁷ For the ways in which South Africa circumvented the UN arms embargo, see studies by R. Vayrynen, "The role of transnational corporations in the military sector of South Africa," *Journal of Southern African Affairs*, Vol.5, No.2, (1980) pp. 199-255; M. Brzoska, "South Africa: Evading the Embargo," in Brzoska & Ohlson (eds.), *Arms Production in the Third World*, Talyor and Francis, London (1985); M. Brzoska, *Arming South Africa in the Shadow of the UN Arms Embargo*, *Defence Analysis*, Vol. 7, No. 1 (1991), pp. 21-38; Landgren (1989).

⁸ Batchelor and Willett, 1998, pp.40-48.

⁹ Batchelor and Willett, 1998, pp.75-83.

¹⁰ For a discussion of the restructuring of South Africa's arms industry since the late 1980s, see study by Batchelor & Dunne, "The Restructuring of South Africa's Defence Industry," *African Security Review*, Vol. 7, No. 6 (1998), pp. 27-43.

¹¹ For comprehensive discussions of South Africa's arms trade prior to April 1994, see studies by S. Willett, "The Legacy of a Pariah State: South Africa's Arms Trade in the 1990s," *Review of African Political Economy*, No. 64, (1995), pp. 199-255; and Willett & Batchelor, "To Trade or Not to Trade: the Costs and Benefits of South Africa's Arms Trade," *Working Paper No. 9*, Military Research Group, Johannesburg (1994).

¹² For details of South Africa's arms exports prior to 1980 see Landgren, 1989, pp.177-182.

¹³ Batchelor and Willett, 1998, p.33.

¹⁴ Landgren, 1989, p.182.

¹⁵ *Sunday Times*, 30 July 1995.

¹⁶ See studies by Batchelor and Willett (1998) and Landgren (1989) for comprehensive accounts of South Africa's arms trade before April 1994.

¹⁷ Landgren, 1989, p.12.

¹⁸ *Armcor Annual Report*, 1994/95, p.22.

¹⁹ Quoted in *Southscan*, Vol.9, no.22, 10 June 1994.

²⁰ During a visit to China and South Korea in April 1998, Mbeki discussed possible purchases of South African armaments. *Cape Times*, 16 April 1998

²¹ *Sunday Rapport*, 18 September 1994.

²² Human Rights Watch, *Angola: Arms Trade and violations of the laws of war since the 1992 elections*, London & New York (1994), pp.51-52.

²³ Human Rights Watch, *Rwanda/Zaire: Rearming with impunity*, London & New York (1995), pp. 14-15.

²⁴ *White Paper on Defence*, 1996, p.55.

²⁵ *White Paper on Defence*, 1996, p.55.

²⁶ *White Paper on Defence*, 1996, p.56.

²⁷ *White Paper on Defence*, 1996, p.56.

²⁸ Information on conflicts in these countries obtained from the following sources: *Amnesty International Report, 1998*; *SIPRI Yearbook 1998: Armaments, Disarmament and International Security*.

²⁹ *Jane's Defence Weekly*, 5 May 1999.

³⁰ Between 1996 and 1998 India purchased arms worth US\$100 million from South Africa. During the same period Pakistan purchased arms worth US\$15 million. Information obtained from the Directorate Conventional Arms Control, Department of Defence.

³¹ Denel has rejected reports that the sale of its 155mm ammunition to India was being used in the conflict in Kashmir. See *Business Report*, 21 June 1999.

³² *Jane's Defence Weekly*, 12 August 1998.

³³ *Jane's Defence Weekly*, 9 December 1998.

³⁴ *Jane's Defence Weekly*, 5 May 1999.

³⁵ *Business Times*, 9 May 1999.

³⁶ Information on conflicts in these countries obtained from the following sources: *Amnesty International Report, 1998*; *SIPRI Yearbook 1998: Armaments, Disarmament and International Security*.

³⁷ In late 1998 the South African government was criticised for donating surplus SANDF arms, including troop carriers and artillery guns, to the Namibian government. See *The Namibian*, 13 October 1998.

³⁸ Based on information obtained from the National Conventional Arms Control Committee.

³⁹ *The Namibian*, 2 March 1998.

⁴⁰ *Ibid*.

⁴¹ For a discussion of South Africa's controversial arms deals since 1994, see Batchelor, "Arms and the ANC," *Bulletin of Atomic Scientists*, Vol. 54, No. 5, September/October (1998), pp. 56-61. for a discussion of South Africa's controversial arms deals since 1994.

⁴² Denel, the state-owned arms company, was part of a South African trade delegation which visited Libya during May 1999. *The Citizen*, 24 May 1999.

⁴³ *Business Report*, 4 December 1997.

⁴⁴ Joost Hiltermann of Human Rights Watch quoted in *Sunday Independent*, 19 January 1997.

⁴⁵ Nathan, L. (1997), "Doing no Harm: Ethical Guidelines for South Africa's Arms Trade Policy", *Track Two*, Vol. 6, no.2, pp. 7-9.

⁴⁶ *Mail and Guardian*, 5 September 1997.

⁴⁷ Human Rights Watch (1997) *Stoking the Fires: Military Assistance and Arms Trafficking in Burundi*, pp. 75-84.

⁴⁸ *Cape Times*, 16 April 1997.

⁴⁹ *Mail and Guardian*, 20 June 1997.

⁵⁰ *The Citizen*, 26 November 1997

⁵¹ *SIPRI Yearbook 1998*, pp.545-558.

⁵² *Inter-Press Service*, 21 January 1999.

⁵³ *Inter-Press Service*, 21 January 1999.

⁵⁴ Department of Defence Statement, 12 May 1999.

⁵⁵ See studies by Willett & Batchelor (1994) and Batchelor & Willett (1998) for a discussion of the economic costs and benefits of South Africa's arms trade.

⁵⁶ These recommendations are drawn from the *Second Report of the Cameron Commission on Inquiry*, (Cameron Commission, Cape Town, November 1995).



Niobe Thompson

Rhetoric and Reality: British Arms Exports and Human Rights

Determined and principled control of arms exports is a litmus test of this Government's concern to prevent conflict and inject an ethical dimension into foreign policy.

*From a report by the UK Commons International
Development Committee, August 1999'*

In July 1999, two months after the Labour victory, Foreign Secretary Robin Cook announced a new baseline criteria for the arms trade, stating that, "Labour will not permit the sale of arms to regimes that might use them for internal repression." He also said that no export licences would be granted "if there is a clearly identifiable risk that the intended recipient would use the proposed export aggressively, or to assert by force a territorial claim." More recently, Clare Short, the Secretary of State for International Development, stated that it is imperative that "developed countries – such as the UK – do not encourage excessive levels of military spending, either by an irresponsible approach to the export of arms or by irresponsible use of export credits."² Two years into the mandate of the current Labour Government, it should be possible to measure the rhetoric of the promised "ethical foreign policy" against the record of concrete progress.

Upon coming to power, the Labour Administration faced a considerable task in reforming the tradition of official secrecy and the well-worn assumption that arms exports were, regardless of the destination of British weapons, good business for "United Kingdom plc." However, in launching a verbal crusade against this tradition, Tony Blair's Government was responding to the widespread disgust of the British electorate with the UK's own "military-industrial complex," a network of unacceptably cosy relations between the Ministry of Defence (MoD), the British arms industry, and the government organs responsible for approving and promoting the sale of British

arms abroad.* The Scott Report, released under the Conservatives in 1996, had revealed a pattern of deliberate obscuring of the details of arms exports under Prime Minister Margaret Thatcher, including those to Iraq and Iran which contravened international law. A High Court ruling the same year found that government aid to Malaysia to build a hydroelectric dam had been used as an enticement to promote British weapons exports. The former Tory Cabinet minister Jonathan Aitken was finally convicted in early 1999 of concealing huge “commissions” attached to the sale of British fighter jets to Saudi Arabia in the 1980s. After years of such revelations, a poll conducted in May 1998 found that 77% of the British public believed that there is too much secrecy surrounding the sale of arms.

When viewed from the perspective of the Commonwealth – of which the UK is a leading member, possessing a democratic tradition and democratic institutions which have been emulated by many of the other 53 Commonwealth states – Britain is obliged to temper her arms sale policy with her commitments made in the 1991 Harare Declaration.** It was estimated in the year before Labour’s victory (1996), that, far from supporting the human rights agenda, 68% of British arms sales were to regimes with poor records of human rights observance.³ Two years later, in 1998, Oxfam reported that 71% of those 27 African states which received British arms – mostly light weapons – were suffering from some degree of political violence or active conflict.⁴ It was recently revealed in a new

government review of arms exports that fewer applications for weapons exports were refused in the first eight months of the Labour regime than were refused over a similar period in 1994: 0.69% of total applications refused, down from 0.79%.^{5†}

These figures reflect the dilemma faced by the current Labour Government. The UK traditionally leans heavily on the projection of military power to maintain its leading position in international affairs. Military strength in Britain is based in part upon generous government support for an indigenous arms industry, whose exports it aggressively promotes to ensure greater economies of scale and the health of the military-industrial complex. By European standards, military strength

* On 31 March, 1999, a special report of the Commons Select Committee on Defence referred to the continued perception of such a relationship between government and industry in the UK, stating: “The ‘Military Industrial Complex’ is a well-worn cliché, but the causes of its persistence as a term of abuse should not be left unexamined.” Select Committee on Defence, Second Report, March 1999.

** A key article of the Declaration recognises that the “build-up of conventional weapons must be curbed if this accumulation of arms exceeds the legitimate requirements of self-defence”.

and levels of procurement in the UK are disproportionately high in comparison with other means of projecting influence internationally. According to 1997 figures, Britain supports half the number of diplomats abroad as France or Germany, fewer even than Italy. Meanwhile, Britain spends one quarter the average per capita for EU states on development aid as a proportion of defence expenditure (8% versus 31%).⁶ The Government has announced large increases in development aid to redress this imbalance, but as of 1999, the UK still contributes less as a proportion of GDP than France and Germany.⁷ The Ministry of Defence is by far the largest employer in the civil service; with 102,020 employees, over two of every five British civil servants work for the MoD. In terms of personnel, the Foreign Office is only 5.3%, and the Ministry of Culture is only 0.6% the size of the MoD.⁸ Strong support for the military has recently translated into a large contribution to the air campaign in Serbia and Kosovo, for which the UK contributed 12% of the total cost, and has led to the British becoming the largest military presence in the Kosovo peace-keeping force (KFOR).⁹ Quite notably, Tony Blair and Robin Cook have squared the hawkish stance taken by the UK in prosecuting the war in the Balkans with the Labour Government's emphasis on an "ethical foreign policy" by describing NATO as a "humanitarian alliance" and the campaign as a "just war," based not on territorial ambition, but on "values."¹⁰

This chapter will endeavor to define the blurry line between what the Blair Administration has promised it would do to improve transparency and accountability in the export of arms, and what has indeed been accomplished, while recognising the monumental challenge the present Government faces in this regard. At all times, the record will be attributed either to the present Labour Government or to previous administrations, in order to draw out the contrasts in policy. I will begin in **Part I** with an exploration of traditional government policy towards the defence industry, and endeavor to explain how a set of foreign policy and domestically-rooted motives created a "national security mentality" in the past. **Part II** will address the dilemma of continuing state support for arms exports, as those exports have become more important for the health of Britain's military industries. **Part III** will examine the human rights crisis that British arms exports have contributed to and describe the manner in which wealth continues to flow from the developing South to the developed

† There are a variety of possible explanations for the declining rate of refusals, including the improvement of the practice of screening licence applications before they are formally lodged. After a set of export licences for contracts with Indonesia, approved before Blair came to power, were honoured in 1997, there have been very few applications for export to Indonesia since. This may reflect the understanding by industry that the present Government is not likely to approve such controversial applications.

North through the sale of arms. **Part IV** will recall the arguments made, both from the perspective of governance, and from the economic point of view, which question the true value of arms exports to the UK. Finally, in **Part V**, I will address the manner in which the Labour Government has addressed large-scale arms exports with new policy initiatives. This chapter will conclude by probing the question of whether the Blair Administration, in its first two years in office, has indeed lived up to its promises to reign in the arms industry and make exports accountable to human rights-based criteria.

I. Traditional conceptions of British self-interest and arms exports

The endorsement of a policy linking arms exports to the satisfaction of human rights criteria breaks with tradition in the United Kingdom, and indeed within the global arms market. In the past, successive Conservative and Labour administrations justified the promotion of arms exports and generous support for the arms-manufacturing sector by citing both the permissive character of international law in this regard and the value accrued to British security and prosperity by the sale of weapons. Article 51 of the UN Charter – the founding document signed in 1945 – affirms the inviolability of the State’s frontiers, a guarantee which itself was (at that time) considered to be the first requirement of peace and international rule of law. Former Tory Foreign Secretary Douglas Hurd applied this principle to British trading practice when he stated: “All Sovereign States have the right to their own self-defence. So there is nothing wrong with selling arms to friendly countries to allow them to defend themselves.”¹¹

The Genocide Convention (1948), the Universal Declaration of Human Rights (1948), the Geneva Conventions governing the ‘rules of war’ (1949), and the International Covenants on Economic, Social, and Cultural Rights and on Civil and Political Rights (1966) have all enhanced the idea that governments are accountable to uphold a set of universal standards, which should in theory condition arms export policy. In a realpolitik world, however, only occasionally has international opprobrium of human rights abuses led to a coordinated punitive response, as was the case with apartheid-era

South Africa, which suffered among other measures, an arms embargo.* Most often, self-interest has instead led the international community to ‘engage’ with regimes that violate human rights; China trades with the world, and is expected to join the WTO; western oil companies did business with General Abacha’s military dictatorship in Nigeria; and until

* NATO’s prosecution of war against Serbia, in defence of Kosovar civilians, suggests that an international law may now be leaning more heavily in favour of nullifying the principle of ‘inviolable State Sovereignty’ when human rights are egregiously abused

very recently, British firms were actively expanding trade with SLORC, the military regime ruling Burma (Myanmar) with almost no evident concern for democracy and human rights whatsoever.[†]

The British record of arms sales since World War II has in the main been divorced from human rights considerations while conforming closely to the principle of arming allies and seeking a profitable sale wherever it may be found. Margaret Thatcher, in her *laissez-faire* approach to arms sales, was not breaking tradition with her Labour predecessors. In the 1960s, Wilson's Labour Government sold arms to the apartheid regime in South Africa and supported the American war effort in Vietnam. There is also evidence to suggest that Britain aided General Suharto in 1965, who came to power in a bloody civil war that resulted in the killing of over 500,000 Indonesians.¹² Through the Tory years (1980-97), human rights concerns were quite explicitly de-linked from arms trade policy. Margaret Thatcher aggressively promoted the sale of military hardware to Iraq, Saudi Arabia, Indonesia, and even Argentina, up until the point at which Britain went to war with its own client in 1983.* Indeed, British Harrier jets shot down by Argentine fighters in the Falklands War were probably the victims of British-made ammunition.

From a foreign-policy perspective, one reason that Britain has been able to 'punch above its weight' in international affairs whilst suffering the emasculation of its colonial possessions since WWII is rooted in a consistent emphasis on militarism and armed force.^{††} In 1997, the UK possessed 23% of the world arms market while spending 127% of the NATO Europe average on defence.¹³ Unlike in most of the industrialised world, drastic cuts in British defence spending did not follow the end of the Cold War – unlike the US, whose defence budget was cut by 35% in the period 1985-94, in the UK only a 4.3% drop in spending occurred.¹⁴ When Prime Minister Blair states that "Britain must maintain its historic role as a global player," he echoes the sentiments of his Thatcherite predecessors, who issued this House of Commons statement on defence exports in 1994:

[†] By 1998, Britain had become the largest foreign investor in Burma, with US\$634. Foreign direct investment (FDI) in Burma has increased five-fold since 1992, in defiance of the recommendations of the ILO, the IMF and the World Bank. Britain has recently become a leading critic of the SLORC regime, however, and has worked with Burmese opposition leader Aung San Suu Kyi to discourage British tourists from visiting. Burma in turn has singled the UK out for criticism. Geoffrey Hoon, Minister of State, FCO, in a letter to the *Guardian*, 1 July 1999; John Pilger, *Hidden Agendas*, London: Vintage (1998), p. 125.

* On Thatcher's efforts to secure the largest arms sale of the 1980s, of British-made aircraft to Saudi Arabia, Cooper writes, "Only the personal intervention of the British Prime Minister...and the UK's willingness to incur high commercial expenses secured the deal." Cooper, p. 135-136.

^{††} As a Permanent Member of the five-nation UN Security Council, the UK provided roughly 20% of the striking force of Operation Allied Force in Kosovo and Serbia. *Globe & Mail*, (22 April, 1999)

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Our foreign policy objectives can also be served through defence exports; by helping friends to defend themselves; promoting regional stability and international security; and fostering good bilateral relations.¹⁵

The Government continues to support the idea of a strong arms industry as a cornerstone of Britain's security and international presence. The officially stated aim is to "foster a healthy, technologically capable and competitive UK defence industry."¹⁶ Indeed, weapons exports bolster the productive potential of the very industry that equips British defence forces, and as such, a 'healthy defence sector' is perceived as a vital national resource, "a strategic asset rather like standing armed forces."¹⁷ British jobs depend on the export of arms: the MoD reports that of 420,000 employed in the defence sector, 150,000 are dependent on export contracts, and the remainder on government procurement orders.¹⁸

While in opposition to John Major's Tory Administration, Blair's Labour Party was ironically both critical of "irresponsible arms exports" to regimes such as President Suharto's in Indonesia and strongly against moves to weaken the British arms industry through defence cuts. Regardless of the fact that Blair has now committed his administration to cutting the defence budget by 1.5% a year until at least 2002,¹⁹ while in opposition, his party attacked the Major Government's cuts to defence:

It is because we believe that it is in Britain's national and economic interest to have a defence industrial base and because the Tories have inflicted such damage on it that we have launched our own strategy for a secure future for the defence industry. Labour believe, unlike the government, that the British defence industry is a strategic part of not only our defence effort but of our manufacturing capability.²⁰

In the same vein, Labour pointed out that "the Tories spend an average of only 5.8% of GNP on defence, whereas Labour Governments have consistently spent 6.45%."²¹ Such comments, made while still in opposition, suggest the nature of the dilemma the Labour Government now faces. It has taken pains not to alienate the arms industry, and to emphasise the importance of arms exports to the strength of British industry and military strength, while promising in unambiguous terms that arms exports will be transparent, and will only be approved if they conform to very high "human rights friendly" standards.

II. Britain's role in the changing global arms market

In 1998, the then head of the government body devoted to promoting the sale of British arms abroad, Sir Charles Mansfield, stated that "The British defence industry has been able to achieve very brilliant results in the export markets. In 1997, the UK was the world's second largest defence exporter after the US, and it is currently exporting more defence products than all other Western European countries combined."²² Britain's current success as a weapons-exporting country is a reflection of a very complex process of change and re-alignment in the global arms industry since the end of the Cold War, and indicates a "new age of export-driven proliferation."²³ The principal factors in this shift have been:

- the end of extremely high defence expenditure in industrialised countries during the Cold War;
- the end of Cold-War imposed discipline on the transfer of weapons, leaving buyer states a high degree of autonomy in procurement decisions;
- massive over-capacity and over-supply in the military industrial complexes of weapons-producing nations;
- the imposition of a much higher degree of market discipline on previously protected arms industries in most of the industrialised world; and
- the emergence of a 'second tier' of arms-exporting nations with newly developed and highly competitive arms industries.

These changes have created a 'buyer's market', one in which the lack of international control mechanisms and the variety of weapons of different origin to choose from have shifted power out of the hands of producers and into the hands of militarising states from the developing world, most with significant and growing resources to spend on weapons.

World military expenditure peaked in 1987, when the global market for arms reached US\$74 billion.²⁴ At that time, over 90% of the British arms industry was producing for domestic procurement.²⁵ By 1993, as the end of the Cold War impacted on spending decisions, the global market had shrunk by 70%, before beginning to grow slowly through the 1990s. By 1997, only 75% of the arms produced in the UK were procured by the Ministry of Defence – the remainder was exported.²⁶ Simultaneously, the total cash value of the world arms market has shrunken dramatically since 1991. In the UK

and other traditional arms-producing nations, the 1990s have brought industry downsizing and restructuring, and in an effort not to collapse altogether, an increased interest in arms exports to the shrunken global market. Exports now account for 40% of British defence production, according to the MoD.²⁷ In Europe, the demand for arms declined by over 50% after 1991, and by mid-1995, 350,000 jobs had been lost in the defence industry.²⁸ In the US, where military spending was cut by 35% between 1985 and 1994, two million jobs were lost.²⁹

The end of the Cold War has been traumatic for arms producers world-wide, but at the end of the decade, we are witnessing the emergence of a smaller but better adapted industry, in which firms in the UK, the US and elsewhere have learned to exploit what opportunities exist in the export market. The big American firms have merged into four or five, each reporting sales of over US\$5 billion in 1997. In January 1999, British Aerospace completed a merger with Marconi to form the world's third largest defence company and Britain's biggest manufacturer, employing 99,500 people.³⁰ This is the latest stage in the process that has been described as the 'cartelisation of the arms industry' by some analysts, a process that has already seen the British firms Plessey and Royal Ordnance acquired by the larger groups British Aerospace and GEC-Marconi.

A Darwinist struggle of the arms industries of the West, of Russia and China, and of a growing number of smaller arms exporters such as Israel, South Korea, and South Africa, to survive and prosper informs the trading culture of the new global arms business. "The supposedly more peaceful, less antagonistic, post-Cold War world has an arms market which, although considerably smaller, is in many respects more diverse, vigorous and competitive than its Cold War predecessor."³¹

In Europe, roughly one third of weapons production is now for export, with the greatest volume of production coming from the UK, France and Germany.³² Arms are Russia's sole manufactured export of any significance, with sales peaking in 1996 at US\$3.6 billion. So desperate for a share of the export market is the Russian government's primary export agency - Rosvooruzhenye - that in 1997, it approved the sale of eight fighter aircraft (Su-30M), more advanced than anything the Russian air force itself possesses, to India.³² In the US, which sells half the arms on the global market, "eight of ten fighters are now made for export."³⁴ Recently, a deal with the United Arab Emirates to supply advanced F-16 fighter aircraft included the APG-68 Agile Beam Radar system, which is superior to any weapons-targeting system the US itself possesses.

The export by two great military producers – the US and Russia – of weapons technology more advanced than that possessed by their own armed forces neatly expresses the most dangerous dimension of the current global arms market: the initiative is now in the hands of the buyer. “With the ‘new world order’ offering very little in the way of Cold War style spheres of influence, something approaching political and economic free trade in arms may have arrived.”³⁵

Compounding the wide array of choices buyers are now presented with, NATO expansion in Europe has released a huge volume of older generation surplus weapons,* and the hegemony of the principal arms manufacturing states is facing brisk competition by a host of ‘second tier’ producers, many of them with no scruples whatsoever about the human rights record or political proclivities of their clients. In 1997, there were two cases when refusals to deliver weapons to countries that had abused human rights led would-be buyers to seek and find willing suppliers elsewhere. In the first case, Turkey, faced with complaints from the US Congress on its human rights record in the civil war with its Kurdish population, cancelled a purchase of combat helicopters and instead bought from France, a deal worth US\$150 million. US reluctance to supply fighter aircraft to Indonesia arising from concerns about its human rights record led to the eventual purchase of Russian aircraft instead, worth \$1 billion.³⁶ It now seems likely that the \$300 million returned to Pakistan by the US, a sum that was to pay for F16 fighter aircraft in a deal cancelled because of US concerns about political stability and failing democracy in Pakistan, will go to China in exchange for F-7 MG aircraft.³⁷ North Korea has a long record of supplying missiles to Pakistan, Iran, Iraq and Syria, a fact which it has publicly acknowledged.³⁸ Finally, Russia has been accused of supplying arms to Iraq despite the UN trade embargo, and until late 1998 planned to conclude a deal with Turkey to supply attack helicopters while simultaneously selling Greek Cyprus air defence systems, a clear case of ‘selling to both sides of the conflict’.³⁹ Indeed, in a warning to any supplier state intending to link human rights concerns to arms deals, Turkey has now placed the most critical states – Austria, Finland, Sweden, and Switzerland – on a ‘red list’.⁴⁰

In the absence of any viable multilateral system that might control arms exports, and in a global market where multiple sources now exist, domestic economic interests often resist the idea that the arms market should in any way be constrained. Indeed, one analyst suggests that “the

* The Bonn International Centre for Conversion reports that the German government exported 500 main battle tanks, 1,400 armoured personnel carriers and 400 artillery pieces between 1992 and 1995. *International Herald Tribune*, 11 June, 1998.

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management of key parts of the international arms trade may now have moved beyond the control of any one government or any small group of supplier governments, even when those governments agree to act in concert.”⁴¹ As Prince Charles famously put it at a Dubai arms fair, “It’s a hoary old chestnut. If we don’t sell [cluster bombs], someone else will.”⁴² Consequently, governments such as Britain’s have been for some time actively promoting their arms industries, furnishing support which in the very competitive international market has become a prerequisite for success. US arms makers received US\$7.6 billion in subsidies in 1995, despite the fact that many of the weapons they sell abroad face no serious competition.⁴³ Partly in response, the UK has developed a set of well-funded programmes which, through providing free promotion, large export guarantees, and logistical support for British arms firms trading overseas, represent a subsidy for the industry worth millions of pounds per year. For example, the Export Credit Guarantee Department (ECGD) has received £1 billion in additional funding to subsidise interest rates for buyers and guarantee British firms against default. The Defence Export Services Organisation (DESO), through which the MoD aids defence exports by providing marketing support, has an annual budget of between £15-21 million.⁴⁴

This diffusion of defence technology and production, which is gradually eroding the hegemony of the ‘big five’ arms makers (USA, UK, France, China, and Russia), might be hailed as a positive development by much of the developing world. However, it pushes the prospect of co-ordinated control of the arms trade further away from the realm of the possible. Whereas the influence of the US Senate and the actions of European signatories to the Code of Conduct on Arms Exports modify somewhat the movement of arms to states that abuse human rights, increasingly, unscrupulous arms-exporting states – such as Israel, China and Russia – are making up the difference. Even ‘third tier’ arms producers are now making an appearance: India, Zimbabwe, Uganda, and Kenya. The economist Paul Cornish provides an ominous judgement of the prospects for concentrating, and thus controlling, the production of arms:

*What remains of the international market for arms and military technology is much less predictable and controllable. A ‘world government,’ properly constituted and with real powers of enforcement, could manage and restrain such a market. But there is no such body, and the United Nations is at best a blurred outline of what might be achieved.*⁴⁵

III. British arms sales and human rights

Twenty of the 34 poorest countries are in conflict or just emerging from it. Many of these conflicts could have been averted and the money wasted spent on development.

MP Ann Clwyd, 1999⁴⁶

Clare Short recently made clear the link between the arms trade and poverty in the developing world, when she stated that it is the UK's duty to discourage "excessive levels of military spending" among its poorer trading partners. When British firms sell arms, human rights are imperilled in two ways: funds are channelled away from development spending to pay for weapons, and the weapons themselves fuel and complicate conflicts that lead to human rights catastrophes.* Furthermore, the pattern of spending evident in the trade of arms reveals a flow of wealth from the poorest nations to the richest in a manner just as damaging to the development of the Third World as the debt payments highly indebted poor countries pay to the industrialised world. Indeed, two-thirds of Heavily Indebted Countries were recipients of UK arms in 1997.⁴⁷

The end of the Cold War has translated into a 'peace dividend' for much of the developed world, with military expenditure cut by one third in North America and 14% in Europe (outside the former Soviet Union) in the last decade.⁴⁸ The money saved represents a massive reinvestment in human development in the wealthiest nations on the planet. Even parts of the developing world have seriously cut back on military spending, including the countries of southern Africa, most of which belong to the Commonwealth. However, this trend of globally lower defence expenditure hides the grim reality of much higher spending in some of the poorest and most war-torn parts of the world. Through the 1990s, military spending has been growing in North and Central Africa, the Middle East, South and East Asia.

In 1997, while the developed world exported almost US\$24.5 billion in weapons, it imported only US\$7 billion. Meanwhile, the developing world, including those countries on the UNDP list of Least Developed Countries (GDP per capita under US\$765) imported US\$18.3 billion while exporting arms worth only US\$713 million.⁴⁹

This represents a massive flow of wealth out of the pockets of the world's poorest citizens in exchange for weapons, and

* Because Saudi Arabia is considered a "developing country" in most statistical accounts of arms exports, in theory, 80% of the UK's arms exports go to the developing world. If exports to Saudi Arabia are discounted, the UK exports a much smaller share to the developing world.
Cooper (1997)

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underlines the fact that the growing global arms trade is buoyed to a large degree by conflict and high defence spending where economies are most fragile.

In 1997, US\$740 billion was spent on military activities globally, the UK exported £5.5 billion in weapons, and one third of the African continent's resources were used to buy arms and fight wars. In the face of such misplaced plenitude, UNICEF has reported that aid from the developed world has dropped by a "shocking" 30% since 1992. Arms sales, according to government figures, have added roughly £5 billion per year to the British balance of payments. Yet within Europe, the only countries to have given the 0.7% of their economic output to the world's poorest countries (the benchmark agreed on by all OECD members) are Denmark, Norway, Sweden and the Netherlands.⁵⁰ Under the Blair Administration, British foreign aid is now rising. However the target level of the Labour Government is still only 0.3% of GNP by 2001.⁵¹

The Stockholm International Peace Research Institute (SIPRI) reports that, in the context of declining global military spending, overall increases in expenditure are located in the 30 poorest countries in Africa and the five countries of South Asia. This group, which contains over 80% of the population of the Commonwealth, has raised defence spending by 19% in the past ten years, while the richest league of countries have cut military spending by 21%. India alone requires at least \$1 billion in additional funds over the next five years to provide basic education to its children, yet in a world of declining defence expenditure, British arms firms regard the subcontinent to be one of the areas of greatest potential. Indeed, the second largest buyer of British arms is India, while Pakistan, with whom it has gone to war three times since independence, is the seventh largest buyer. Sri Lanka, Pakistan and India all divert huge sums from human development to pay for arms imports: military spending as a percentage of investment in education is 107%, 125% and 65% respectively, while the average ratio in the developed world is only 33%.⁵²

The contrast of high military expenditure versus deep poverty and low spending on development is acute among Britain's Commonwealth partners in Africa as well. SIPRI reports:

In many of the poor countries of Africa, the military sector constitutes a substantial economic burden and its consumption of scarce resources is a severe constraint on economic expenditure...African economies are very vulnerable to any

reversal in economic growth and other external factors, such as development aid and debt policy, and are increasingly aid dependent. They carry an external debt load of 63% of GDP and a 22% ratio of debt-service payments to export incomes.⁵³

Much of Africa is perennially unstable, and the demand for arms has always been high: “Over the past 25 years, Africa alone has been the theatre of 10 major conflicts affecting almost 155 million people. Between 3.8 million and 6.8 million have been killed as a result – that is to say between 2.4% and 4.3% of the continent’s population.”⁵⁴ Africa currently spends \$US8 billion on arms every year, and a peculiar feature of militarisation on the continent is that while wealthier countries such as South Africa, as well as most of the Commonwealth states belonging to the Southern African Development Community (Botswana, Malawi, Mozambique, Namibia, Zambia, Zimbabwe, and South Africa), have cut military spending, the poorest countries, including the Commonwealth state of Sierra Leone, are spending the most on arms.⁵⁵ Experts believe that with the current instability in Central Africa, which several SADC members are now fuelling through their involvement,* as well as conflicts in Ethiopia/Eritrea and Sierra Leone, military spending is likely to increase.†

While the UK is now the world’s fifth largest aid donor, behind the US, Japan, France, and Germany, it faces the task of distancing present aid policies from past revelations of “tied aid:” development funds given as sweeteners to clients of the British arms industry. Research by the World Development Movement published under the Conservatives in 1995 showed a strong correlation not between levels of poverty and grants of aid, but rather between aid and arms sales. Increases in aid of between 75% and 189% over ten years were registered to the relatively wealthy developing countries of Oman, Thailand, Jordan and Malaysia. The Pergau Dam scandal, arising from the tying of aid to arms sales in Malaysia in 1988, a deal personally arranged by Margaret Thatcher, led to a High Court decision which confirmed the illegality of the deal. The Labour government, through the Department for International Development (DfID), has restructured its aid policy, and funds will now be focussed on low income countries, particularly in

* “Analysts estimate Zimbabwe is spending \$US1 million a day in the Congo, a fact blamed for the weak local currency, down by over 50% against the US dollar since January.” “Zimbabwe, which has sent troops to help Congolese President Laurent Kabila fight Tutsi-led rebels, want to buy fight aircraft and bombs worth \$US99 million...” The Newswire, 18 Dec. 1998. To counter criticisms of his regime’s actions in the DRC, President Mugabe has said that DRC President Kabila is paying Zimbabwe for its contributions to the war by offering lucrative mineral concessions and munitions contracts.

† A peace agreement was reached in Sierra Leone on 7 July, 1999 between representatives of the rebel RUF and the elected government.

Sub-Saharan Africa and Asia, which will receive 76% of the total aid budget in 2001-02, in contrast with 67% in 1996-97.⁵⁶

British arms can also erode human rights in recipient states through the manner of their use, a theme continually highlighted in the research and campaigning of Amnesty International, and an issue which the “Cook criteria” explicitly addresses in its mention of internal repression. Regardless of the suspension of Nigeria from the Commonwealth after the CHOGM in Auckland in 1995, the Conservative Administration under John Major continued to honour previously concluded arms-export contracts with the military regime, which was perpetrating gross human rights abuses against the Ogoni people. This episode recalls Margaret Thatcher’s resistance to the expulsion of South Africa from the Commonwealth in the 1980s, a position that was clearly linked with her perceptions of Britain’s trade interests. The Pakistani dictator General Zia was a customer of the British arms industry in the 1980s, as were both Saddam Hussein and the Iranian government, while they fought a war that produced a million casualties. Reaching further back, British-made “Saracen armoured cars took part in the Sharpeville massacre in South Africa in 1960 and British communications equipment helped the Ugandan mass murderer Idi Amin track down his victims.”⁵⁷ The British record of arming Suharto’s regime in Indonesia is a particularly glaring case of providing arms which might have been used to suppress the rights of internal populations, as the present Foreign Secretary Cook explained in 1978, while still in opposition:

*The current sale of Hawk [Harrier] aircraft to Indonesia is particularly disturbing, as the purchasing regime is not only repressive but actually at war on two fronts: in East Timor, where perhaps a sixth of the population has been slaughtered...and in West Papua, where it confronts an indigenous liberation movement.*⁵⁸

Whether the present administration has begun to bring its arms sales policies in line with the rhetoric of concern for human rights everywhere remains a highly contested question, and one which I will return to in the conclusion to this chapter.

IV. The corrosive effects of the arms trade on governance and the economy in the UK

Quite apart from the effects of arms exports beyond the UK’s borders, opponents of the arms trade in Britain often point to the culture of secrecy surrounding arms sales in

the past and the continuing high level of government subsidies to the arms industry to make the point that a “healthy arms-exporting industry” may not be in the best interests of British citizens themselves.

Having concluded an exhaustive study of small arms exports from the UK in 1998, Oxfam, while finding that “Britain is a key player in the world’s small arms business,” had this comment:

If a country had deliberately set up a system of license control which was specifically designed to frustrate parliamentary scrutiny and obfuscate any attempt to discover the level and extent of the current light-weapons business, it would probably look something like the present British system.⁵⁹

Oxfam described a pervasive ‘culture of secrecy’ inhabiting the Foreign and Commonwealth Office (FCO), the Department of Trade and Industry (DTI) and the Prime Minister’s Office (PMO) in all matters relating to arms trade negotiations, which retards the ability of the parliament and the media to question the appropriateness of any deals being concluded. The Labour MP Anne Clwyd, a supporter of human rights responsive trade, noted in late 1997 continued large weapons sales to Indonesia, and asked the Trade Minister which British banks were funding £700 million in sales with government credit. She was told that “getting the information would incur “disproportionate costs.”⁶⁰ Yet the Scott Report (1996) had explicitly called for more openness and parliamentary oversight in matters relating to defence exports, noting that the manner in which government organs acted in concert with industry to promote arms sales in the past had fostered a “culture of corruption.”*

Analyst Neil Cooper asserts that as a consequence of the UK’s particular dependence on arms deals with Saudi Arabia, “In a number of instances the by-product has been an erosion in public accountability and the integrity of government institutions.”⁶¹ Cooper describes, in connection with Saudi defence sales, the banning of one public report, the deletion of items in others, and the persecution of a Saudi dissident “with a recognised right to claim asylum.” In 1996, the Major Government announced changes to immigration procedures that would have prevented refugees considered to be “inciting terrorism” from claiming asylum. *The Guardian* reported that “British ministers admitted that the attempt was prompted by concern expressed by Saudi Arabia and fear of

* “Britain largely owes its position as the third-largest arms dealer [sic.] in the world to the bribery of foreign generals, ministers, high-ranking officials and princes.”
Quoted in *Guardian Weekly*, 12-18 August 1999.

losing arms export deals.” The proposed changes provoked an official protest from the UN High Commissioner for Refugees.⁶²

Two years after the defeat of Major’s Conservative Government, Britain’s antiquated anti-corruption laws – last updated in 1916 – have yet to be overhauled.⁶³ The bribery of foreign officials in the course of securing arms contracts is still not a criminal offence. Tornado fighter engines, made by Rolls-Royce in the UK, are still being sold to Saudi Arabia via arrangements which involve a large commission paid to relatives of the Saudi king. A deal worth £100 million for the sale of gun turrets was signed between GEC and the Polish Army in 1998, which involved a secret commission of 10% siphoned into offshore accounts.⁶⁴

British citizens might also consider the growing consensus among defence economists that suggests the defence industrial complex is a brake on the economy, rather than an engine of growth, as is usually claimed. The latest attack on the assumption that the arms industry is a pillar of Britain’s economic success suggests that there may in fact be a net cost from defence exports. The study, from the University of York, estimates that over the past ten years, the amount of government subsidy for the arms industry has cost each British taxpayer £230 per year.⁶⁵ While not disagreeing with the assertions made in this study, the Government has justified its subsidies by noting the “significant industrial, employment, operational and foreign relations benefits they bring.”⁶⁶ Ironically, this is a similar argument to that made by representatives of the defence industry in the Soviet Union in the early 1980s, at a time when defence expenditure had

The British record of arms sales since World War II has in the main been divorced from human rights considerations while conforming closely to the principle of arming allies and seeking a profitable sale wherever it may be found.

reached 15% of GDP – a distortion of the economy that led to its bankruptcy less than a decade later. Indeed, Cooper notes that, “while individual arms firms probably do profit from defence sales it is less clear whether this is the case for the UK economy as a whole once the various forms of subsidy and support for defence sales are taken into account.”⁶⁷

In the UK, roughly half of all government Research and Development funding is channelled to military

research, which explains why each job created in the defence industry over the past decade has cost the government £2,000.^{68*} In 1995, the World Development Movement estimated that if military expenditure in the UK (which has fallen by 5% since 1995) were brought into line with the EU average, £42 billion could be redirected into other forms of investment in the British economy over six years.⁶⁹ These funds could go some way, for example, toward redressing the fact that Britain is now the most unequal society in the Western world, according to the 1999 UNDP report on human development.^{70†}

Another deleterious effect of high government subsidies for defence production in the UK is inefficiency: the cost overrun on the Eurofighter project alone is equal to Britain's entire foreign aid budget in 1996-97, a sum of £2.2 billion. Cooper estimates the total cost to the British taxpayer of cost overruns in projects supplying the armed forces, the higher price of buying UK-made arms, fraud and other 'inefficiencies' to be £5 billion per year. Compare this sum to the annual British contribution to the UN regular budget: £35 million.⁷¹ The manner in which Research and Development resources are channelled to a sector noted for the inefficient use of investment, and the fact that, like military industrial complexes everywhere, the British defence sector is heavily subsidised and therefore not inured to market realities of cost-effectiveness and competitive marketing, suggests that, in Cooper's words, "using defence exports to preserve the key position of the defence industry in the UK economy may actually be detrimental to Britain's long-term economic security."⁷² To underline the extremely privileged position of the defence sector relative to its worth to the economy, consider that in 1994, the food and drink industry exported goods worth £9.2 billion while arms exports totalled £2.9 billion. The government department responsible for promoting British foods exports had a budget of £5 million, mostly funded by the industry itself, while DESO, which markets British arms, had a budget that year of £15 million.⁷³

The MoD has launched a "smart procurement" initiative in an effort to address the huge cost overruns that have dogged the procurement process in the past. However, the latest review of military spending by the National Audit Office, published in July 1999, states: "There is no sign of the trend in the

* Arriving at such figures is a notoriously inexact science, as the true value or cost of such intangibles as marketing support, "slippage" on production schedules, export credit guarantees, and the policy of favouring more expensive British-made arms in procurement decisions is very difficult to measure.

† The gap between the poorest and wealthiest in the UK is on par with Nigeria, is larger than that of Ghana, and is twice that of Sri Lanka. Malnutrition, stunted growth, and ill health are apparent in almost 2 million children in Britain, reports The School Milk Campaign, in *The Hunger Within*, Stafford (1997).

department's performance stabilising or improving." With weapons ordered during the Cold War still not delivered and the MoD's most expensive weapons entering service three years on average after originally planned, huge costs in "slippage" are mounting.⁷⁴ The Commons Defence Committee's response to mounting criticisms of the costs of state subsidies to arms industry is that, "the costs identified are a small price to pay for making the political choice to ensure supplies by supporting strategically important defence manufacturing capabilities in the UK."⁷⁵

V. Policy change under the Labour Government: the recent record

In March 1999, the UK Government released the most comprehensive report on military exports and government export-licensing policy produced to date by any EU government. The Annual Report on Strategic Exports for 1997, which pertained to the first eight months of the Labour Administration, represents a major step toward increasing transparency in the arms export licensing system, and follows on the British-sponsored EU Code of Conduct on Arms Exports, ratified in May 1998.*

In the first year of its mandate, the Labour Government was heavily criticised for failing to act quickly to block controversial arms sales and expose the licensing system to public scrutiny. The Blair Administration, for example, honoured an £80 million deal made while the Conservatives were still in power, to supply Scorpion tanks and Stormer support vehicles to Indonesia.⁷⁶ Indonesia was at the time convulsed by public unrest,

which led to a series of brutal military-style crackdowns before President Suharto was forced to resign.[†] Only after sustained criticism were licenses permitting the export of machine guns, tear gas and handcuffs to Kenya – where high levels of police brutality against dissidents has been recorded – suspended by the Government.⁷⁷ Amnesty International reported that over the same period, police forces in the Commonwealth states of Zambia and Zimbabwe had also received tear gas and riot control equipment under license from the UK.

Controversy of this kind is inevitable, considering that the UK remains the second largest arms exporter after the United States and that the volume of licenses processed by the MoD and the FCO is very high. With this in view, the importance of the

* The EU Code of Conduct obliges members to compile annual reports of their arms exports, but only for confidential circulation to each other, rather than to parliaments and the public. This makes the fact that the UK Government placed its report in the public domain all the more remarkable.

† At the time of going to press, Robin Cook was again defending the sale – *and delivery* – of Hawk fighters to Indonesia at the same time as Indonesian Army troops were abetting violence in East Timor, creating a huge humanitarian crisis (September 1999).

Annual Reports in developing a system of thorough scrutiny of arms export licencing is great. For the first time, the public possesses two crucial sets of data on British arms exports: crude descriptions of military items approved for export, and the value of arms exports broken down by country. The Annual Report has been recognised as one of the key concrete accomplishments of the Blair Administration in fulfilling an election promise to increase the transparency of the export process. Indeed, in general terms, the response of the NGO community has been positive. The British American Security Information Council, for example, stated:

Production of an Annual Report demonstrates a recognition that NGOs, the media, parliamentarians and, above all, the public have a right to know what weapons are being sold and to whom.⁷⁸

However, a special inquiry into the Annual Report held by a Select Commons Committee in June 1999 revealed a clear set of shortcomings, and it became clear that the form and content of the first Annual Report requires improvement. First, information on arms exports approved two years previously (1997) was only made available in 1999, thus making a real assessment of government changes in licencing policy since 1997 very difficult. Subsequent reports are promised within a year of the reporting period. Second, the quality and completeness of the data supplied were attacked, with Amnesty International UK stating that, "Although [the Report] contains data not previously in the public domain, data is not equivalent to information". Amnesty went on to say:

The Annual Report provides information which is unacceptably dated, contains significant omissions and fails to provide convincing reassurance that UK exports are not being used to commit human rights abuses.⁷⁹

A key recommendation put forward by Amnesty, Saferworld, BASIC and other groups submitting evidence to the Select Committee was the integration of human rights assessments in the Annual Report on all of the countries granted or refused weapons export licences. The mandate of the Department for International Development (DfID), which was set up in 1997 by the Labour Government to combat poverty in the developing world, includes ensuring that arms exports do not jeopardise development in recipient countries and that UK arms are not used to commit human rights abuses. Indeed, DfID would be the best-equipped government department to inject a human rights component

into the licencing procedure, and it was suggested to the Select Committee that DfID become a co-sponsor of future Annual Reports, together with the MoD, the FCO, and the Department of Trade and Industry (DTI). However, Oxfam reported that DfID had been sent less than ten percent of the licence applications sent to the three other departments previous to the publication of the first Annual Report, and recent research suggests that no extra institutional resources or funding have been allocated to increase DfID's capacity to monitor the ethical dimension of British arms exports.⁸⁰

The next Annual Report, pertaining to exports in 1998, is due to be published in late 1999, and its content and form will confirm whether momentum towards increasing transparency in the licencing process continues to exist. Commenting upon the 1997 Annual Report, a representative of the British Defence Manufacturers Export Licencing Group stated: "We would not wish this desire for greater openness to go any further than has been the case with the first Annual Report."⁸¹ Robin Cook, however, had already committed himself to the task of improving transparency in arms exports across Europe while still in opposition, and if his past promises bear fruit, the future will see the development of a EU-wide register, compiling the data contained in the Annual Reports of all EU states. Unfortunately, Britain is the only EU state thus far to have published an Annual Report of this kind.

The Blair Government has made progress in certain other key areas in the direction of developing a more ethical foreign policy, which must be considered in concert with its record on arms export licencing. The establishment of DfID in 1997, as an agency devoted to increasing Britain's aid-giving profile and making British aid more relevant to reducing poverty, has clearly set a precedent. DfID's new authority to dispense with a now growing aid budget has gone some way to fulfilling a promise contained in the Labour Manifesto, to "strengthen and restructure the British aid programme and bring development issues back into the mainstream of Government decision-making."⁸² Britain has also led the developed world in championing debt relief for highly indebted countries, and in June 1999, arranged US\$50 billion in extra debt relief at the meeting of G7 states in Cologne. When the additional funds pledged for debt relief, totalling almost \$200 million, are set beside \$3.8 billion in official overseas development aid in 1998 (0.27% of GDP) and Britain's commitment to the costs of reconstruction and democracy-building in the Balkans over the next decade (which will cost the EU \$1 billion a year), the UK's contributions to building peace abroad are certainly much larger than they were before Labour came to power.

Conclusion

Regardless of improvements in the transparency of government policy-making and the restoration of past levels of overseas aid, the Labour Administration faces an intractable dilemma in trying to square the rhetoric of responsible arms sales and the reality of the arms market within which British producers compete. The MoD admits that as defence budgets fall, and procurement levels subsequently drop, arms exports are increasingly vital to the health of the “defence industrial base” in the UK. The global arms market is much more competitive than it was a decade ago, with arms-producing states proliferating and weapons-producing companies competing within a ever more constrained procurement environment. As the industrialised world has cut defence expenditure, an ever-increasing portion of arms exports has gone to the developing world, where conflict, or at least the prospect of it persists. Countries such as India, Pakistan, Indonesia and Malaysia, all of which have poor human rights records, have become prime clients of the British arms industry. Indeed, Britain has done exceedingly well at preserving its share of the market, selling 23% of the world’s arms in 1997 (by contracts signed, as opposed to deliveries made), and this financial health is due in no small part to the proliferation of British weapons in South Africa, South Asia, and South-East Asia.

The Defence Export Services (DESO) remains a well-funded (£14.4 million per year) promotion vehicle for British arms exports, and together with the Export Credit Guarantee programme, aggressively fulfils its mandate to “maximise legitimate UK defence exports.”⁸³ On the other hand, while the MoD is the principal government body reviewing export licences, it is DESO itself, within the MoD, that actually carries out the screening process. (The FCO reserves final authority in the granting of export licences.) *The body responsible for assisting industry to maximise sales of arms abroad, is empowered to accept or refuse licence applications.* The actual refusal rate since Robin Cook announced the “ethical criteria” has fallen from 0.79% to 0.69% in four years. Meanwhile, DfID’s involvement in cooperating in the review as an equal partner has not in fact occurred, and is not expected to before the publication of the next Annual Report.

It is crucial that New Labour’s “ethical” foreign policy translates into a major re-examination of how British arms are sold, and to whom, rather than amounting to a set of initiatives aimed at cultivating the appearance of supporting peace and responsible trade. There have been laudable achievements in the last two years in the direction of

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Labour's rhetorical promises, but arms are still sold to parts of the developing world which the UK recognises as unstable regions, prone to violence and armed conflict. Large exports of arms to Pakistan and India in recent years are prime examples. While DfID encourages governments to reduce unnecessary military expenditure, the MoD's

Military Assistance Fund is devoted in large part to promoting arms sales.^{84*} There remains an un-erased hypocrisy in these two faces of British foreign policy. The record of human rights on the weapons trade agenda is simply incompatible with the UK's increasing reliance on conflict-prone, unstable, and often un-democratic states in the developing world, many within the Commonwealth, as markets for British arms.

* "Although Clare Short's Department for International Development wins praise for its reforms, not least in promoting the European Union's code of conduct on arms exports, the Department of Trade and Industry is repeatedly singled out for not factoring war and human rights into the trade deals it promotes in places such as Indonesia or Eritrea." Quoted in *Guardian Weekly*, 12-18 August 1999.

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- ¹ *Guardian Weekly*, 12-18 August 1999.
- ² Department for International Development, *DfID Departmental Report 1999*, p. 96.
- ³ The poll, commissioned by Amnesty International, Saferworld, Oxfam, Christian Aid, BASIC, and the World Development Movement, was conducted by Opinion Business Research, an established member of the Market Research Society, and was published in *The Observer*, 24 May 1998.
- ⁴ Paul Eavis & Oliver Sprague, "Does Britain need to sell weapons?", in John Gittings and Ian Davies (Eds.), *Britain in the 21st Century: Rethinking defence and foreign policy*, Nottingham: Spokesman (1996), p. 129.
- ⁵ Oxfam GB Policy Paper, *Small Arms, Wrong Hands: A case for Government control of the small arms trade*, Oxfam, (April 1998), p. 1.
- ⁶ British Defence Manufacturers Export Licencing Group, *Memorandum submitted to the Commons Select Committee Special Report on the Annual Report on Strategic Export Controls for 1997*, 30 June, 1999.
- ⁷ Neil Cooper, *The Business of Death: Britain's Arms Trade at Home and Abroad*, London: Tauris (1997), p. 182.
- ⁸ Department for International Development, *1999 Departmental Report*, June 1999.
- ⁹ *Guardian*, 9 July, 1999.
- ¹⁰ *Guardian*, 11 June, 1999 & 20 June, 1999.
- ¹¹ *Guardian*, 30 June, 1999.
- ¹² John Pilger, *Hidden Agendas*, London: Vintage (1998), p. 119.
- ¹³ John Pilger, p. 139.
- ¹⁴ Stockholm International Peace Research Institute, "Transfers of major conventional weapons," in *SIPRI Yearbook 1998: Armaments, disarmament, and international security*, New York: Oxford (1998), p. 293; *Defence Statistics 1998*, House of Commons Library, 22 Dec. 1999.
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- ¹⁹ MoD, *Memorandum*.
- ²⁰ *The Editor*, in *Guardian*, 11 June, 1999.
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- ²² David Clark, interviewed in Pilger, p. 150.
- ²³ "The best possible government support to the British Defence Industry," *Military Technology*, Sept. 1998, p. 51.
- ²⁴ Susan Willet, "The European Arms Trade: An Overview," in Martin Navias & Susan Willet (eds), *The European Arms Trade*, New York: Nova (1996), p. 9.
- ²⁵ Cornish, p. 26.
- ²⁶ *Miltech* (1997), p. 28.
- ²⁷ *Ibid.*
- ²⁸ MoD, *Memorandum*.
- ²⁹ Willet, p. 4.
- ³⁰ "Platform envy," *The Economist*, 12 Dec. 1998, p. 22.
- ³¹ *Financial Times*, 20 Jan. 1999.
- ³² Willet, quoted in Cornish, p. 3.
- ³³ Willet, p. 2.
- ³⁴ *Ibid.* p. 295
- ³⁵ *Boston Globe*, 15 Feb, 1997.
- ³⁶ Cornish, p. 6.
- ³⁷ *SIPRI 1998*, p. 292.
- ³⁸ *Indian Express*, 17 Feb, 1999.
- ³⁹ *The Hindu*, 18 June, 1998.
- ⁴⁰ *The Telegraph*, 14 Feb. 1999.
- ⁴¹ *SIPRI 1998*, pp. 292-293.
- ⁴² Cornish, p. 36.
- ⁴³ Prince Charles quoted in Pilger, p. 119.
- ⁴⁴ William D. Hartung, *Welfare for Weapons Dealers: the Hidden Costs of the Arms Trade*, World Policy Papers, New York: World Policy Institute (1996).
- ⁴⁵ Cooper, p. 143.
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⁶⁸ Martin (1999), p. 22.

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⁷⁰ UNDP *Human Development Report 1999*, UNDP, New York: Oxford (1999).

⁷¹ Cooper, p. 173.

⁷² *Ibid.*, p. 145.

⁷³ *Ibid.*, p. 144.

⁷⁴ *Guardian*, 6 July, 1999.

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⁸⁰ Oxfam, in oral evidence to the Select Commons Committee, 15 June, 1999.

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⁸⁴ *Ibid.*

Gun Runners in the Commonwealth: Weapons Brokering and Shipping

In today's global markets, international arms transfers are often brokered by agents and transported by intermediaries. This paper seeks to illuminate the process of unregulated arms diffusion affecting countries in the Commonwealth by illustrating the activities of arms brokering and transport agents (shipping agents) and their associated sub-contractors. These dealers* and operators have developed considerable expertise and international networks to exploit loopholes in existing national systems of arms transfer management. It is evident from the preliminary analysis of laws in many Western states that most governments do not properly regulate the activities of such persons and companies, especially where the arms deliveries originate and are transferred outside the brokers' home territory. This allows unscrupulous arms dealers to easily undermine the stated policies and international assistance programs of their own governments.¹

Under current laws in most Commonwealth member states, a transfer may be initiated as a transaction after an exporting agent has obtained approval from their home government. However, the need to obtain such approval is rare when the arms are procured in a foreign country to the one in which the broker or shipping agent resides. Even where licenced export cargoes are checked and approved by the authorities in the territory of trans-shipment or transit, there is little co-operation between the sending and receiving government authorities to ensure the end use is legitimate and the storage is safe.

With increasing globalization of trade and electronic commerce, this has meant that national arms control systems have become more easily circumvented by dealers and operators who know how to exploit the weakest links in the international regulatory chain. In such an environment, arms,

* Arms manufacturers and arms dealers are defined in the following manner. *Manufacturers* develop, make, assemble, repair or convert small arms and light weapons and ammunition (and components). Manufacturing operations in many cases involve co-production and other licensing arrangements. *Dealers* in arms, on the other hand, are engaged in one of at least three major types of commercial activity.

They can be:

- retailers and wholesalers who buy and sell arms;
 - brokers who arrange arms deals (i.e. who materially benefit from facilitating a deal);²
 - transportation agents who arrange the delivery of arms (i.e. who ensure the transport to complete the deal).
-

especially light weapons, are allowed to fall into the hands of criminals as well as unauthorized, unaccountable, untrained and irresponsible soldiers and police. This results in horrific atrocities and preventable abuse against millions of people, many of them in vulnerable circumstances, as shown in the case studies below.

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 is massive compared to the very small income from sales of low value arms, much of it regarded as surplus. It should therefore be a vital common interest of the international community for all states to bring arms brokers and transport agents into a strict regulatory system that is harmonized across frontiers so that the problem is not simply chased from one country to the next.

This chapter begins with a number of case studies of recent brokering incidents involving Commonwealth states. In selecting such illustrative examples, the authors do not mean to single out a few governments for blame since the problem is widespread. Following these illustrations, an examination of the methods used by international arms brokers and transport agents is supplied. Finally, this chapter explores some of the regulatory deficiencies that might be addressed at the international level, and describes the systems of Sweden and the USA as ones worthy of emulation within the Commonwealth.

I. Arms drops in India

In May or June 1995, Peter Bleach, a military equipment broker living in North Yorkshire in the UK, heard from a Danish business friend living in Munich, that another businessman he knew in Copenhagen was looking for a supplier of cigarettes. Bleach contacted the Dane and after weeks of talking about the prices of cigarettes, the Danish businessman said he actually 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 said the quote should be for Calcutta. Within days, Bleach said he provided a quote of US\$475,000 for purchasing and delivering Chinese AK rifles with ammunition to Calcutta. Payment was to be made in advance with a 100% irrevocable letter of credit. Bleach claimed that his own company Aeroserve had a licence to handle weapons from the UK Defence Ministry. A few days later, Bleach said

he went to Copenhagen to sign the contract.³ Bleach was a 46 year-old former military intelligence officer whose full name is Peter von Kalkstein-Bleach. He served for over 25 years in places like Southern Africa and Belfast. Although only three years in the brokering business, he knew that *‘The skill in defence trading is in dealing with the apallingly complicated paperwork – supplying goods is easy, anyone can do that.’*⁴

Gradually it became clearer that the delivery was not for the Indian government, but for an insurgent group. Bleach later said that he had to play along with the idea so as not to endanger his life, but intended to inform the UK security services later. He offered to work out another quote for the clandestine delivery and then, to his surprise before leaving, was introduced to a 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, just inside West Bengal. He claimed “his people” were peaceful, but had been abused by forces of the communist government of West Bengal, so he wanted the arms to hit back. Bleach advised that arms could only be delivered to such an area by parachute drop or by covert landing.⁵ *‘I stressed from the very beginning that, in order to be successful, it is most important that this resembles a perfectly normal transaction in every possible way’*, Bleach wrote in one five-page fax, adding: *‘No single contractor should be aware of the entire route.’* He insisted that only the pilot who would deliver the arms should know the ultimate destination of the arms.⁶

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 they put him onto a colleague whom he fully informed of the clandestine plan. Bleach claims that the official promised to refer the matter to the relevant authorities and told him to meanwhile carry on as normal and gather as much information as possible. Bleach says he told the Danish businessman 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 another Dane offering \$470,000. The letter was issued by a Hong Kong bank and signed by “Kim P Davey” – the third man.⁷

Friends of “Davey” apparently called him “Peter”, but INTERPOL now believe 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

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Zealand. Copenhagen police records show Nielsen had committed two or three robberies before fleeing Denmark in 1982.⁸ INTERPOL claims that at least since 1988 he has been involved in gold and drug smuggling, money laundering and counterfeiting US\$100 notes. Nielsen was described as a tea-totaler and vegetarian, and a member of a Hindu fundamentalist sect, the *Ananda Marga* founded in 1955 in India. The sect has been in dispute over land with the government of West Bengal for many years. The authorities of West Bengal blame the sect for acts and threats of violence against Indian government personnel and property. “Kim Davey” appears to have told Peter Bleach that the arms were to be delivered secretly to the *Ananda Marga* sect.

Bleach continued to inform officials at the UK Defence Sales Organization, part of the Ministry of Defence (MoD), by fax to ask for help. On 22 September 1995, Bleach did meet police Special Branch officers in North Yorkshire and told them about “Davey” and about his three Danish associates. Bleach said he told the Special Branch that “Davey” had deposited a US\$460,000 letter of credit in London for the aircraft and the purchase and delivery of rifles, pistols, ammunition, grenades and rocket launchers. He 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.*”⁹ “*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.¹⁰ However, the local UK Special Branch officers claim to have told Bleach: “*don’t do it*”.¹¹ Whatever the truth of this, Bleach nevertheless continued to broker the arms deal.

On 24 September, Bleach and his Danish friend flew to Dubai and then on to Dhaka where Bleach had to attend to his “normal” business. On 27 September, they flew to Bangkok where they had arranged to finalise the new contract. Bleach said the Dane told him on the journey that “Davey” was in charge and was a very rich businessman based in Hong Kong who had made his money out of smuggling gold and electronics. Attending the Bangkok hotel dinner meeting were “Davey”, his lawyer, his business partner, the Dane, Bleach and an Indian called “Randy”. “Davey” wanted to know if the arms could be delivered by ship and then taken by road to Purulia. But Bleach convinced him that this was too difficult and that it was much better to use an aircraft. If the aircraft was 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, Bangladesh.¹²

“Davey” arranged with Bleach to purchase a cargo plane to ferry the arms. This turned out to be an old Russian-built Antonov 26. A preliminary report of the Indian Central Bureau of Investigation (CBI) claims that “Davey” used US\$250,000 to buy this freighter aircraft from bankrupt Latvian Airlines (or Latvio Air) — previously part of the USSR state-owned Aeroflot — and hire the five person air crew and two ground engineers for three months.¹³ Another report says Peter Bleach took US\$30,000 from “Davey” to hire the services of the crew on condition that the plane would in future be based in Dhaka.¹⁴ The Antonov 26 registered as AH 266 was transferred to Carol Air Services Ltd, a company based in Hong Kong but registered in the Turks and Caicos Islands in October 1995. Carol Air appeared to be a subsidiary company of a Hong Kong company that had employed Davey.¹⁵ The Russian-built Antonov 26 was based for the time being in Riga, Latvia, home of the five-person crew. The crew were each offered a salary of about US\$1,000 for three months provided they moved in due course to Bangladesh. On 21 November, the Antonov left Riga for India and Pakistan, but apparently did not visit Bangladesh.

In November 1995, Bleach and Davey were ready to order the consignment of arms from a UK weapons trading company known to Bleach. This was Border Technology and Innovations Ltd (BTI) of Hexham, England. BTI claim that Bleach showed them what appeared to be a valid end-user certificate from the Bangladesh Ministry of Defence.¹⁶ In any case BTI did not need to apply for a UK arms export licence from the Department of Trade and Industry because like so many other UK-arranged arms deals, it 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 eager to sell Kalashnikov rifles and pistols at low prices.

On 10 December 1995, the Antonov landed in Burgas, Bulgaria, to collect the 77 cases of arms. At first, the old Antonov was grounded because it was alleged to be “not airworthy”. 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.¹⁷ Both “Davey” and Bleach boarded the plane before it took off and headed for Karachi. Bleach’s previous fax to the UK Ministry of Defence had suggested that the Indian air force shoot down the Antonov, so Bleach explained subsequently that “Davey” had threatened to harm his family if he did not board. *‘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.¹⁸

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Flying from Karachi on 17 December, the old Antonov lumbered towards Calcutta, landing at Varanasi. To Bleach's surprise, the Indian police and customs took no action. They then took off again for Calcutta but did not land due to "poor visibility".¹⁹ Over the villages of Purulia, using parachute rigging bought in South Africa, the crew dropped the cases containing 300 Kalashnikov assault rifles, 15 Makarov pistols, two sniper rifles, 24,000 rounds of ammunition, 10 RPG-7 rocket launchers, 100 anti-tank grenades and night sights. The cases were marked "Technical Equipment" and bore the name "*Central Ordnance Depot, Rajendrapur, Bangladesh*".²⁰ The aircraft then returned to Calcutta to refuel and took off towards Rangoon, Burma. Claiming that Rangoon had refused permission to land, Davey ordered them to instead proceed to Phuket in Thailand.

Seeing the parachutes falling from the sky, and finding with amazement the broken crates of arms, the villagers of Purulia ran to tell the authorities whom, it appears, had already been tipped off. The drop was way off target and far too conspicuous. It was reported afterwards that India's external security agency, the Research and Analysis Wing (RAW), had been tipped off in November by UK counterparts. A security memorandum to the Indian Government on 25 November stated that a Europe-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 an old colliery airstrip in Dhanbad near Purulia called Panchet Hill.²¹

On 21 December, the old freighter re-entered Indian airspace supposedly en route to Calcutta, but because of bad weather it changed course to land at Madras to refuel for an onward journey back to Pakistan. Again, no action was taken by the Indian security services. It took off again at 10.45pm the same night and headed for Karachi. Finally, within two hours flying time from Pakistan, the old Antonov was forced to land. It arrived at Sahar airport in Bombay at 1:39am.²² According to Bleach, "Davey" took advantage of the lax security at the airport and quickly disappeared, while Bleach and the five Latvians were arrested and jailed.²³

Immediately after the drop on 21 December, India's media was awash with speculation as to what had happened, with suspicions directed mainly at Pakistan's secret service since the aircraft had flown from Karachi. The West Bengali authorities denied receiving a warning. The Bangladesh Government dismissed any involvement in ordering the arms. Some journalists speculated on possible links to arms for the Tamil Tigers in Sri Lanka but without proof.²⁴ The Bulgarian government issued a statement rejecting any

responsibility for the supply of the arms, apparently insufficient* because, within two weeks the Indian Government decided to switch its purchase of 100,000 assault rifles from Bulgaria to Romania.²⁵

Meanwhile, 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. If found guilty, the minimum sentence is life imprisonment, while the maximum is death by hanging. They also face charges under the Arms Act and Explosive Substances Act.²⁶ The trial was still proceeding in June 1999. 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. Apart from the Indian authorities, 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 believed 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.²⁷ Furthermore, the CBI believe that fourteen others, including three Danes and a Bangladeshi military officer, were involved.

A significant breakthrough occurred on 17 January 1997 when Indian police arrested a man on arrival from Singapore at Sahar airport in connection with the Purulia case. The man was awaiting questioning, but believed to be Joel Proren and to have helped Nielsen with the funds to purchase the freighter in Latvia. Proren was said to be part of a gold smuggling syndicate with Nielsen and a number of Indians linked to the Purulia drop, especially “Randy” (thought to be Satyender Narain Singh) and “Deepak” (thought to be Daya Manikan Anand).²⁸ The police said Proren was German-born but a US citizen resident in Kansas. When travelling from Singapore, he used the name of “Schneider Martin Conrad”, but routinely used six other names – Ken Sando, Roy Dogen, Martin Olsen and Joel Proren. Asked what his real name was, he replied: “*Call me Hanuman.*”²⁹ Needless to say, this sorry saga could probably have been prevented in the first place if Denmark, the UK and India operated strict controls on arms brokers and transport agents.

II. Papua New Guinea and Uganda

On 28 March 1997 Australian air force jets intercepted a cargo plane in airspace between northern Australia and Papua New

* Liberation Tamil Tigers of Eelam (LTTE). (Ed.)

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Guinea. Sydney-based newspapers said the Antonov AN-124 aircraft that was grounded in Australia carried several attack helicopters, military vehicles, and an arsenal of weapons, including heat-seeking missiles, grenades, 500 cases of ammunition, explosives and rockets.³⁰

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. The South African company was represented in Papua New Guinea by the British-based private military company Sandline International. Sandline’s director, the former British colonel Tim Spicer, had to appear before a Commission of Inquiry that probed the terms of the contract between the government of PNG and Sandline.

Papua New Guinea had been requesting attack helicopters and other lethal equipment via its usual channels in the UK, Australia and the US, but given the human rights record of the PNG-armed forces, only transport helicopters could be supplied.

The Papua New Guinea cabinet then signed a contract with Sandline International in January 1997. The contract, worth US\$36 million, comprised the supply of four helicopters, two Mi-17 armed transport helicopters and two Mi-24 helicopter gunships. One of the companies in the chain of suppliers for the Eastern European-produced helicopters was the London based company Triton Sal. According to the minutes of the hearings of the Commission of Inquiry, the British director of Sandline, Col. Spicer, testified that the end-user certificates were signed on 27 January 1997. This was done by the chief of staff of the armed forces of Papua New Guinea 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. 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 Belorussia”*, Mr. Spicer also said, according to the Commission Hearing transcripts.³¹

Brigadier General Singirok of the Papua New Guinea armed forces was suspended after he organized a mutiny against the contract with Sandline International. He was also

called to witness before the Commission of Inquiry and confirmed Mr. Spicer's evidence on the end-user certificates and the purchasing of the helicopters.³² The suspended commander acknowledged that he had signed the certificates three days before the Cabinet of Papua New Guinea authorized the contract with Sandline International. He explained he had handed over five blank end-user certificates. According to copies provided to the Commission, these were dated 1 February 1997. It seems, from the evidence of both Mr. Singirok and Mr. Spicer, that one of these blank end-user certificates was eventually filled out by the Sandline representatives in London and addressed to its supplier company, Triton Sal.³³ The latter company was reported to be in the business of selling or brokering the sale of former Soviet surplus equipment purchased in Belorussia at very high prices to governments of developing nations.

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 in April 1997, from the Republic of Belorussia as well.³⁴ The four helicopters were to be supplied by a British based company called Consolidated Sales Corporation (CSC), registered in the Virgin Islands.

However, when a first 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 per the contract between the Ugandan government and the Consolidated Sales Corporation. Logbooks, showing the technical history of the used helicopters were also wrongly delivered.³⁵ According to British aviation authorities, the helicopters should have cost no more than US\$700,000 each, but the contract price of the helicopter gunships was US\$ 1.5 million per helicopter.³⁶

When the Consolidated Sales Corporation rejected the report of the official Ugandan investigation, this led to the appointment of a second, mutually agreed independent assessor, a helicopter company from South Africa, whose findings would bind both parties. After the independent assessor had found the helicopters were not airworthy, the Ugandan Defence Ministry issued a press release stating that the agreement with CSC was terminated.³⁷

Uganda had already paid half the price of the contract in the form of promissory cashed by the selling company. Each of the four helicopters had cost US\$1.5 million, but the

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aircraft were actually bought for US\$12,266,500, almost four times the price the gunships should have cost, given their condition. The purchasing price for this ineffective equipment raised a heated debate in Uganda's Parliament, requesting more transparency in the defence expenditure of the country.³⁸ 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 several senior officers had already confessed taking bribes in the US\$12 million deal. The Ugandan President directed a new probe into the helicopter purchase agreement.³⁹

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 contact with the military authorities of the Commonwealth of Independent States* industries that had the mandate to sell the helicopters. The proprietor of Consolidated Sales Corporation was, according to the report, an Emmenual Katto. Negotiations with the Ugandan army though had been carried out by a Mr. Chris Smith, a British public relations consultant referring to himself as director of CSC. The latter company reportedly bought the helicopters from or via Triton Sal.⁴⁰

These helicopters had been ostensibly ordered by and for Uganda alone. However, the country has often been cited in recent years as a trans-shipment point for weaponry, all officially licensed with Ugandan end-user certificates. After a Kampala-based newspaper published a story on Rwandan concerns about the high price of the helicopter sale, officials in the Rwandan government were forced to acknowledge that two of the four helicopters were actually destined for Rwanda. Because of the difficulty that Rwanda faced in acquiring military materiel openly on the international arms market, a spokesperson for the Rwandan military explained that "the country had to turn to its friends in neighboring countries."⁴¹

III. Confessions of the aircrew

Brokering and buying arms for illegitimate customers must usually, and can easily, be carried out in great secrecy. However, it is much more difficult to physically move cargo across international borders to highly controversial destinations in secrecy. Arms brokers know that without being able to pay for the expertise to do this, they cannot successfully complete a deal. Consequently, experienced

* CIS refers to most of the states previously belonging to the Soviet Empire. This association was established in 1991, with the dissolution of the USSR. (Ed.)

aviators and shippers who are willing to risk their lives and freedom for a substantial undercover payment are central to the arms fixing business. Their stories moving arms cargoes often reveal more than the false paper trails of the arms brokers themselves.

In late 1998, a British pilot, Christopher Barrett-Jolley, flew an old Boeing 707 freighter with 42 tonnes of arms and ammunition from Bratislava in the Slovak Republic to Khartoum.^{42*} The arms were for the Sudanese army, perpetrating systematic abuses against civilians as part of its campaign against southern insurgents. If the British and Slovak government authorities inquired, Barrett-Jolley and his crew would say they were delivering the arms – 100mm explosive shells – not to a country embargoed by the European Union, but to the government of Chad. In reality, documents and interviews with former crew obtained by a UK newspaper show that was just a cover story. *‘When we landed at Khartoum the Sudanese army was waiting for us on the tarmac,’* said a former member of crew 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.’*⁴³

This was not the first time Captain Barrett-Jolley had flown arms in the region. Between December 1998 and February 1999, he had reportedly been involved in at least five arms flights to Sudan and each delivery was said to be worth approximately US\$55,000, to be split between the crew and a Belgian broker, Mr Ronnie Rossignol. Another US\$50,000 per flight was apparently paid to Hermes, the former Slovak state-owned arms manufacturer in Bratislava. However, on 7 February 1999, the old Boeing crashed at Bratislava airport when an unlicensed crew failed to achieve sufficient speed and the plane ploughed into the mud at the end of the runway. Dr Haas, the Boeing’s owner, reportedly distanced himself from the illicit flights and said that Mr Rossignol had chartered the plane primarily to ship frozen fish from Tanzania to Austria.⁴⁴

In 1994, Captain Barrett-Jolley told a UK television company that he flew arms to Angola and the Yemen, then both subject to international arms embargoes and ravaged wars in which large numbers of innocent civilians were being deliberately killed and abused. As with the most recent deliveries, the flight documents were falsified and the routes were deliberately devious to get around any suspecting authorities.⁴⁵

Describing one episode in 1994, Barrett-Jolly said: *“We actually left the United Kingdom flying a charter flight carrying relief goods down*

*Whereas Sudan and Slovakia are not members of the Commonwealth, the UK is. (Ed.)

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to Kilimanjaro in East Africa...for the Rwanda crisis... While we were in Kilimanjaro we were given instructions to proceed to a place I'd never heard of before, Plodiv in Bulgaria. We weren't told what the nature of the operation was. It was just another charter. We flew from Kilimanjaro to Plodiv where we embarked on a series of arms flights...I do not know at 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. The euphemism for carrying weapons or explosives or bombs is 'green boxes'... Although there was no paperwork accompanying the boxes, it was quite clear that's what's in them...On this occasion, when we arrived at the destination the boxes were opened and inspected...it was a mixture, on various flights, of shells, tank shells, actual aircraft bombs.. basically all ammunition from rifle bullets to machine gun bullets and on one occasion it was even tin helmets...I think it was 28,000 tin helmets. The inspection was carried out by the South Yemen breakaway movement's receiving officers."

"The instructions to go to Plodiv [in Bulgaria] came from the Peak Aviation offices [in the UK]...There was a tremendous amount of ammunition and hardware just lying around on the airport apron... There were four fighter bombers operating off the same apron where we were landing...delivering the cargo to its final destination. After we'd delivered it to them, in other words, they were dropping them...we did see some other flights coming in Russian aircraft, Antonov 124s .. they were carrying 100 tonnes at a time."

"We refuelled in Cairo. At that point our destination was declared as being in [N'Djamena in Chad] central-west Africa. On arriving in Cairo, the flight plans were filed and a destination which changed [sic] to Muscat in Oman, and then on the way to Oman we were diverted to Makalla near Riyan in South Yemen..."

"Over and above the flights that Peak did to the Yemen, I am aware that they also operated flights connected with Goma [eastern Congo just near the border with Rwanda], the Rwandan civil war...there's a very limited number of companies that would actually touch any kind 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 plane is not British. It's registered on an African flag of convenience, and the crews are British. But the airline is completely and totally controlled from Burgess Hill [in the UK]."

The flooding of Yemen with arms has since 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 allegedly with 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 belonging 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 detained in Moldavia on suspicion of arms smuggling that month.⁴⁶

IV. Key problems in controlling international dealers

Where no international action has been taken to establish an arms embargo against recipients who are likely to commit serious human rights abuses in conflict prone areas, arms brokers and shippers can easily establish legal or quasi-legal supply routes. However, even where an arms embargo is in place, the existence of poor national controls on arms brokers by their home governments in most states means that brokers can evade the embargo through an array of techniques and international networking.

Arms traders supplying illegitimate customers usually exploit loopholes or weaknesses in national arms control systems. Poor licensing procedures, vague legal definitions and lack of information about end-users provide such opportunities. In addition, brokering agents working internationally use foreign sources of supply, shipping and financing, and they are ideally placed to know how to circumvent national controls.

For example, arms dealing companies are often granted generalised import permits, authorizing the import of a maximum allowable quantity of weaponry in several smaller parcels over a longer period. These licences are often prone to abuse. It is difficult for the controlling authorities to monitor and verify separate smaller cargos authorized under the generalized licence. Import licences are allegedly used for transactions between allies or like-minded countries, without the necessary end-user certificates. Based on easily obtainable import licences, the broker may divert the authorized cargo from the exporting country to a third country, before it ever reaches the country issuing the import licence. The use of false documents is of course a very common practice in the sanctions busting business, but real documents can also be abused, as became clear when a Belgian arms dealer had authority to export a large quantity of small arms to a company in Gibraltar. It seemed the Gibraltar company was a shell-company he had himself set up, and the weapons were never really exported to Gibraltar, but were sold instead on the Belgian illicit market.

It is therefore most common to find that experienced arms brokers who agree to supply recipients in crisis zones will try not to directly contravene national laws, at least where they know law enforcement agencies have the capacity to enforce those laws. The arms they trade will often never pass through domestic territory, and the money can be laundered through tax-haven accounts.

Ports and flags of convenience

Arms cargo carriers often use “flags of convenience” and select ports with lax customs procedures, as is illustrated by the cases reviewed above. The international movement of cargo by air and sea is supposed to be regulated by official documents. Arms brokering and transport agents develop expertise in such documents and identify the weak links in the official regulatory systems. Such documents describe the nature and contracting parties of the cargo, the route schedule of a particular plane or ship, the airworthiness or seaworthiness certificates of the plane or ship, the professionalism of the crew, and specific licences and loading bills authorising the international export and transport of the cargo. The regulating bodies are national aviation and shipping authorities, airport and seaport authorities and customs authorities. Although these authorities usually attempt to apply the relevant international agreements and can communicate with colleagues in other countries, it is usually impossible to monitor the movement of every plane and cargo throughout its entire route because of the lack of personnel and equipment.

The complex nature of the international transport business and the limited regulating and monitoring capacity of national aviation authorities make it easy for weapons trafficking networks to operate. Cargo aircraft can usually be recognized by their registration number and the name of the airline leasing or operating the plane. The operator of the plane obtains a registration number for the aircraft from the aviation authorities in the country where it is registered. A government that licences an aircraft to fly under its flag is also responsible to ensure the airworthiness and safety of the aircraft, the registering airline and the air crew. But, increasingly, cargo aircraft are registered in one country, but chartered by companies registered in another, while the crews to fly such a plane can be hired in yet another country. Moreover, the plane can be serviced and based for practical purposes somewhere else, and the main operating offices of the airline or the handling agency may be based in yet another country or countries. *The more complex the arrangements, the more plausible the deniability if the carriers are accused of illicit arms trafficking.*

Sub-Saharan Africa is particularly affected since the continent has no air surveillance or radar capacity to monitor the vast air space between the southern border of Egypt and the northern borders of South Africa. Aerial surveillance is highly dependent on the intelligence capacity of the former colonial powers and their satellite potential, or on the alertness of individual airport inspectors and customs agents.⁴⁷ The co-operation of the Angolan government with the UN-monitoring force, and the use of South African pilots, as well as the acquisition of more sophisticated radar systems, have enabled easier interception of UNITA's suppliers and the arrest of a number of smugglers. But overall, the constantly moving networks of outside supporters of UNITA remain largely intact.⁴⁸

From conversations with pilots and aviation inspectors, several tricks of the transporting industry are worth noting. One particular plane, connected to a South African private military company, was named as flying in at a cargo airport with one registration number and flying out with another. Another airline was said to have changed its corporate structure and name overnight, when its name got connected to a number of illicit activities. Aircraft owners may abuse a legal registration licence in several ways. One Russian operator used an old licence that had been canceled by the Swazi Aviation authorities to fly a number of "ghost planes" to hot spots in Africa. Another operator allegedly used an official registration for a limited number of Boeings to operate other, non-licensed aircraft, for non-specified cargo flights into UNITA-held areas of Angola. In this case, the logo and colours of the licenced company were allegedly used to fly the non-licensed planes. The company spokesman denied any wrongdoing and claimed the non-licensed planes had already been painted in the colours and logo's, pending a request to licence them. Yet another abusive practice was allegedly used when a plane, using a certain flight schedule, arrived very late at its stated destination. The plane had made an illegal landing on the way to its destination, unloading illicit cargo without reporting it. More often used are non-scheduled landings to load illicit cargo and ship it, with documents for a legal cargo, to a recipient country. The transcript of the digital diary of one Belgian broker operating in South Africa shows the name and telephone number of a pilot specialising in cargo helicopter deliveries on the open sea.

A number of cases are also known of ship owners or crews changing the name of the vessel on the open sea. In 1993, an international warrant was issued on a weapons cargo aboard a vessel registered in Greece. While searching for a ship called the 'Maria', its name had been illegally changed into 'Malo'. The 'Malo' was finally held in the Indian

Ocean by Seychelles authorities. Another vessel, shipping 38,000 81mm high explosive mortar grenades to South Africa in 1985, was sold on the open sea to a new owner. It seemed the new ship owner was in fact an agent of the former one, but the original owner could no longer be held accountable for the illegal cargo. In this case, the ship's name – Otter – had been changed into 'Reef Moon' when it arrived in the port of Durban. The end-user certificate had been signed by an Indonesian military officer and had been sent to the licencing 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, running a marketing company at the address in Frankfurt, had disappeared and were never traced.

Tax havens and front companies

Many tax havens are members of the Commonwealth and claim that their financial success depends on procedures to stamp out illegal money laundering. A UK Government Home Office report by Andrew Edwards⁴⁹ found that an estimated 90,000 companies were incorporated in the UK offshore tax havens, most of them by non-residents. They are generally allowed to conduct business in relative secrecy without filing public accounts, annual reports or publicly revealing the names of their beneficial owners. A particular problem has been the use of "nominee directors", especially on the Island of Sark, who know little or nothing about the companies they nominally direct. Non-resident companies are formed in the Isle of Man with directors in Sark in order to evade tax. This system was used in the arms brokering arrangements with the perpetrators of the Rwandan genocide in 1994. The report estimates that such island companies hold around 5% of the global offshore tax-haven funds of US\$6 trillion – just under half UK Gross National Product. However, UK customers in Jersey are only 19% of the total. The corresponding figures are 15% for Guernsey and 27% for the Isle of Man.

Other off-shore tax havens include Anguilla, Bahamas, Bermuda, the Cayman Islands, the Cook Islands, Dominica, Gibraltar, British Virgin Islands, Hong Kong and Singapore. Arms brokering and shipping agents have used such places for controversial deals. 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, Costa Rica, Cyprus, Ireland, Grenada, Liberia, Liechtenstein, Luxembourg, Malta, Monaco,

Panama, Switzerland and the Turks and Caicos Islands also compete for high levels of non-resident business and may be exposed to brokers and traffickers of arms.

Edwards reported that the UK offshore tax havens were improving their regulations to combat money laundering and related trafficking crime, but he stated: “*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.*”⁵⁰ The main problem in preventing off shore tax havens being used as staging posts in laundering chains, Edwards argues, is gaps in legislative powers and a lack of law enforcement capacity hindering international cooperation.

V. Commonwealth laws and the current United Kingdom review

In general, arms control laws in those Commonwealth countries that export arms and have traditionally been a place of business for arms brokers, lack specific measures to regulate third country brokering. This is true of Australia⁵¹ and Canada,⁵² although one provision in Canadian law may allow some control.⁵³ In contrast, in January 1999, the South African government agreed to adopt specific measures to regulate the brokering of small arms and light weapons through third countries.⁵⁴ This only happened after much international and domestic criticism for allowing arms brokers based in South Africa to arm perpetrators of human rights violations in Central Africa.

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 where the goods are provided exclusively through third countries, should be prevented in a

There is much work to do to ensure that the EU Code of Conduct, the EU Joint Action on Small Arms, and the EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms are all interpreted consistently with respect to international law and to make their provisions truly effective. Specific measures to tackle arms brokering and shipping are a glaring omission.

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wider range of circumstances. These would be not only where there exists a mandatory UN arms embargo, but also where there exist non-binding embargoes decided upon by the UN, the EU, the OSCE or by the UK Government itself.

However, the official UK review proposals state that “...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 straightforward 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.”⁵⁵

As the previous cases show, it is wrong to view control of arms brokers as a less “critical area”. Moreover, the UK government’s argument that brokering and trafficking agents will also be required to comply with the export control laws of the exporting country is not convincing. Often brokering and trafficking agents target countries with poor export and import controls, or countries where a level of corruption exists which allows such controls to be easily circumvented. Furthermore, considering the gravity of the problem, the UK Government should be willing to allocate new resources in order to facilitate enforcement of legislation in this important area. While detection and enforcement will often be more difficult than in the case of actual arms exports from the UK, proper controls and law enforcement capacity should be in place, so that action can be taken when cases come to light.

If there is no established licensing procedure requiring consideration by senior officials in different departments, the danger of the arms being delivered to an unlawful destination or to illegitimate end users is greatly increased. The arms broker may claim that there was no intention to break national law in the home country or the sending country. This is what happened when the UK company, Sandline International, brokered arms deliveries from Bulgaria to armed forces in Sierra Leone. Nothing is known of what action was taken by the Bulgarian authorities to enforce the UN mandatory embargo on Sierra Leone. In the spring of 1999, the Bulgarian Parliament was in the process of passing a number of draft amendments to the existing arms trade control laws. One of those amendments would control arms brokering more closely by requiring each arms trading

company seeking a permit for arms export to identify the names of intermediaries authorised to represent the parties involved in the proposed transaction.⁵⁶

In the UK, national law does not require arms brokers or their shippers to seek authorisation for arms transfers where the arms do not pass through UK territory. In preparation for their deliveries to Kabbah's regime in Sierra Leone in 1997, Sandline officials simply consulted UK Government officials and thought the deal would not contravene UK law. However, in this case, there was a mandatory UN arms embargo imposed on Sierra Leone following the military coup, an embargo incorporated into UK domestic law. The subsequent Legg Inquiry into the affair found that Sandline's lawyers and UK officials had interpreted this arms embargo as being only applicable to the illegitimate military junta, a claim subsequently contested by other UK officials and parliamentarians.

The Sandline affair shows that where the terms of an arms embargo are not clearly set out in domestic law, an experienced arms broker based in the EU can find ways to complete the deal. This is made much easier because there is no legal procedure to require arms brokers domiciled or registered in the UK to seek and obtain licensed approval for each foreign transaction. 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 to notify the UK government in advance of delivery of written foreign authorizations and end-use certificates where the arms never pass through UK territory.

VI. The USA and Sweden: examples of effective brokering control

Commonwealth governments should look closely at the US Government's new regulations to control international arms brokering. Any US citizen, wherever located, and any foreign person located in the US or subject to US jurisdiction, who engages in such brokering activities involving 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.⁵⁷ The framing of this new regulation would appear to be a big advance on what exists in other states.

In Sweden, arms brokers are required to register with the government.⁵⁸ There is a restrictive attitude towards issuing brokerage permits since the Swedish rationale for

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international arms activities (regardless of what form it takes) is that they should directly contribute to securing the needs of their own armed forces. In the view of the Swedish government, brokering can rarely be said to contribute to that objective.

A licence is required for each transaction, issued by the Swedish Government. Once a brokerage permit is 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 has been used for taxation purposes. The scope of goods that are controlled for the purposes of arms brokering are the same as those which are controlled for export i.e. "military equipment".

Governments in the EU have already initiated a process of refining and harmonising their conventional arms export policies in a common set of principles and operative procedures. There is much work to do to ensure that the EU Code of Conduct, the EU Joint Action on Small Arms, and the EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms are all interpreted consistently with respect to international law and to make their provisions truly effective. *Specific measures to tackle arms brokering and shipping are a glaring omission.* If this issue were addressed within the EU, there would be a great deal that the EU, as well as the Canadian and US governments, could do to help other arms exporting states. The size and influence in international affairs of the EU and the US could be used to promote such measures in the OSCE and in the Wassenaar Arrangement whose members constitute by far the largest two groupings of arms producers and traders in the world outside the UN itself.

“*Any US citizen, wherever located, and any foreign person located in the US or subject to US jurisdiction, who engages in such brokering activities involving military goods or services, must first register with the US Department of State.*”

In late 1998, a British pilot, Christopher Barrett-Jolley, flew an old Boeing 707 freighter with 42 tonnes of arms and ammunition from Bratislava in the Slovak Republic to Khartoum. The arms were for the Sudanese army, perpetrating systematic abuses against civilians as part of its campaign against southern insurgents.

“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.”

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¹Controlling the Gun Runners”, (London: British American Security Information Centre, Norwegian Initiative on Small Arms Transfers and Saferworld, April 1999). Key policy statements underlying the arms control policies of most states have been set out in the UN Guidelines on Conventional Arms Exports, 1993 OSCE Principles Governing Conventional Arms Transfers and in the EU 1991-2 Criteria, now elaborated in the 1998 Code of Conduct on Arms Exports.

² 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.” For the purposes of this paper, brokering and shipping agents are those companies or individuals who engage in any of the following activities: buying and selling arms; mediation in, or facilitation of, arms transfers; promotion or marketing of arms; transportation of arms. “Arms” should include all military, security and police equipment and services.

³ Where some details of this account vary, an attempt has been made to point to a particular source amongst the following used: Pranay Sharma, “RAW had warned about the covert An-26 mission”, *The Telegraph*, New Delhi, 25 December 1995; Harinder Baweja, “Straining Credibility”, *India Today*, 11 March 1996; Chandan Nandy, “Indian mole may have fled to Colombo”, *The Telegraph*, Calcutta, 30 December 1996; Special Correspondent, “Vital Clues Unearthed in Purulia case”, *The Hindu*, New Delhi 24 January 1997; Peter Bleach “The Copenhagen Connection”, *Sunday* (reprinted from *Politiken*, Denmark), 11-17 May 1997; Richard Norton Taylor, “Gun Running Briton faces Indian death sentence”, *The Guardian*, London, 21 August 1997; Stephen Gray, “Ex-soldier ‘abandoned after tipping off police’”, *The Sunday Times*, London 28 September 1997; Peter Popham, “I was betrayed by MoD, says Briton facing execution”, *The Independent*, London 9 July 1998; Raymond Bonner, “Legal Loopholes make arms shipments easy”, *The Globe and Mail*, 15 July 1998; Oxfam UK, “Out of Control”, 1999.

⁴ Peter Bleach, op cit.

⁵ Ibid.

⁶ Raymond Bonner, op cit.

⁷ Peter Bleach, op cit.

⁸ *The Hindu*, op cit.

⁹ Peter Bleach op cit.

¹⁰ Ibid; Peter Popham, op cit .

¹¹ Stephen Gray, op cit.

¹² Peter Bleach op cit.

¹³ Special Correspondent, op cit.

¹⁴ Raymond Bonner, op cit.

¹⁵ Ibid.

¹⁶ Stephen Gray, op cit.

¹⁷ Pranay Sharma, op cit.

¹⁸ Peter Popham, op cit.

¹⁹ Harinder Baweja, op cit.

²⁰ Pranay Sharma, op cit; Ashis A Biswas, “Still in a Maze”, *Outlook*, India, 26 February 1997

²¹ Harinder Baweja, op cit.

²² Ibid.

²³ For this account, see Stephen Gray, op cit; Chandan Nandy, op cit; Raymond Bonner, op cit.

²⁴ Pranay Sharma, “Pakistan suspected in arms drop”, *The Telegraph*, 22 December 1995.

²⁵ Murali Krishnan and Sinjoy Chowdhury “LITTE theory gaining ground”, *The Telegraph*, 30 December 1995; AFP “India to buy arms from Romania”, 16 January 1996.

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²⁷ Staff Reporter, “Armsdrop Trial Begins Today”, *The Telegraph*, 1 August 1997.

²⁸ Chandan Nandy and Meher Murshed, “RWA tip-off to arrest arms drop suspect”, *The Telegraph*, Calcutta 22 January 1997; Special Correspondent, op cit.

²⁹ Special Correspondent, *The Hindu*, op cit.

³⁰ “Australian jets intercept plane carrying mercenaries’ weapons”, *Associated Press*, 28 March, 1997. Another report by Mary-Louise Callaghan says that “two Russian built aircraft, flying under the Bulgarian flag of Air Sofia, had indeed arrived in Port Moresby under cover of darkness. One of the aircraft and its Russian crew had been carrying foreign operatives and sophisticated military equipment to the provincial town of Wewak, where the mercenaries were thought to be training. *The Weekend Australian*, 22 February, 1997. A report in the *Canberra Times* said that the activities of the Antonov planes between Port Moresby’s Jackson Airport and Wewak had been confirmed. *Canberra Times*, 24 February, 1997.

³¹ 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.

³² Commission of Inquiry Into The Engagement of SANDLINE INTERNATIONAL, The Honourable Justice Andrew, Commissioner at Waigani, Tuesday 8 APRIL 1997, Transcript of Proceedings, National Judicial Staff Services, Supreme Court, Boroko, Papua New Guinea.

³³ 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.

³⁴ “Gunships came after Defence said ‘No’”. Kampala,

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³⁶ "Museveni Takes Over Copter Probe." *The East African*, March 19-March 25, 1999.

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⁴⁵ Carlton Television, *The Big Story*, 17 November 1977. We are grateful to Brian Johnson Thomas and Carlton for permission to cite this interview material.

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⁴⁷ Interviews with customs agents, pilots, airline owners and government officials in Belgium, an aviation inspectors in South Africa, former intelligence officer in Zambia, March-April and May, 1999.

⁴⁸ J. GOBBLER, "Unita's SA supply routes blocked."

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⁴⁹ Andrew Edwards, *Review of Financial Regulation in the Crown Dependencies: A Report*, Part 1, 24 October 1998.

⁵⁰ Ibid., page xxviii.

⁵¹ The Weapons Acts in each state of Australia vary and exclude reference to third country brokering.

⁵² The Firearms Act and the Export and Imports Permit Act of Canada.

⁵³ See Section 15 of the Export and Imports Permit Act.

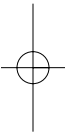
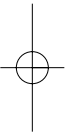
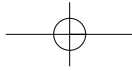
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Guerrillas of Hizbul Mujahedin - Photo: Martin Adler (Panos)

