
Illicit Arms Brokers: Aiding and Abetting Atrocities

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In February 2002, Russian-born Victor Bout was put on the international wanted list through Interpol channels by Belgian authorities for charges of money laundering.¹ Over the past several years, he has appeared in several NGO, UN, and U.S. State Department reports for trafficking arms to African conflict zones and to forces falling under international arms embargoes.² Since a multitude of domestic and international press stories have recently reported on Bout's role in supplying arms to the Taliban, in some circles he has become a poster boy for the illegal gun-runner.

Operating as an arms trafficker since at least the mid-1990s, Bout's spheres of operation have stretched from Belgium to the Congo, from Bulgaria to Angola, and from the United Arab Emirates to Afghanistan.³ Relying on his connection to former Warsaw Pact arms suppliers and a web of air transport companies, Bout has managed to operate unscathed for years, adapting to changing political climates and occasional falls from grace, sometimes simply by moving from place to place. The longevity of Bout's networks illustrates how well-honed arms trafficking associations are able to operate, indifferent to international opprobrium, and usually out of the reach of concerned governments and UN actions.

Sadly, it was the 11 September attacks and their aftermath that magnified the problematic but intimate connection between contraband arms pipelines, mass killing, and terrorism. Even with its current war on terrorism, however,

the United States does not appear ready to apprehend Bout for illegal arms brokering—even though several of Bout’s companies are reportedly based in both Florida and Texas and may have violated U.S. arms statutes.⁴

Historically, arms brokers—the singularly important middlemen in the arms trade—have been uniquely unregulated. Commonly nicknamed “merchants of death,” they include negotiators, financiers, exporters, importers, and transport agents and have been used to arrange every aspect of an arms deal between the supplier and an intended client.⁵ Their wares include big-ticket items such as tanks and helicopters, but they trade more heavily in small arms and light weapons including machine guns, rifles, pistols, grenades, landmines, and ammunition. These intermediaries seldom own or even possess the arms supplies outright, and typically reside neither in the country where the weapons are supplied nor the one in which they are received.

The increasing privatization of warfare at the end of the Cold War—coupled with the outbreak of internal wars—created new opportunities for these arms trading entrepreneurs. Today, warlords, child soldiers, criminal

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organizations, human rights abusers, and tyrannical regimes—because of their easy access to guns—are often the key players in internal wars that can spill over borders and pose a direct threat to international peace and human security. Roughly four million people have been killed with small arms in these conflicts since 1991.⁶

The majority of these victims have been civilians—a striking contrast to military casualties of an earlier era. The supporting cast of arms traffickers ensures that the perpetrators of violence in these humanitarian tragedies have sufficient firepower to pursue their deadly objectives.

The mounting role of globe-trotting arms traffickers in the carnage and horror during the 1990s—stretching from East Timor to Rwanda, from Kosovo to Afghanistan, from Colombia to Sri Lanka—has been well documented by NGOs and the media.⁷ As the public clamored for accountability, the UN embarked upon several landmark investigations to Rwanda (1996-1998), Angola (2000-2001), Sierra Leone (2000), and the Democratic Republic of Congo (2001). In the subsequent publications of the UN investigators’ reports, a comprehensive picture of arms brokers’ activities in post-Cold War conflicts has emerged. The arms middlemen have been singled out for their key responsibility in exacerbating violent conflict, promoting terrorism, advancing crime, and breaking UN arms embargoes. One UN team stated that arms traffickers:

... profit from conflicts, the trade in illicit arms and diamonds, and not least, on the transport of such illicit merchandise. These structures operate through impressive networks in many countries, often without respect for the law of the land. The people and the companies involved in these kinds of activities are instrumental in facilitating war and armed conflict ...⁸

While the groundbreaking UN reports urged the tightening of controls on arms traffickers, their recommendations have largely gone unheeded by the international community. To date, only twelve countries in the world have legislation against arms brokers, and these vary greatly in scope and range.⁹ The few governments which have such legislation rarely scrutinize or prosecute traffickers' activities under their own laws. To make matters worse, brokers usually circumvent the scant domestic controls that do exist by leaving their country of citizenship or residence to make the deal elsewhere. Without an international regime to address this loophole, brokers are largely free to ply their lethal trade with latitude and impunity.

Since governments and lawful weapons manufacturers often depend on arms brokers to market and facilitate arms sales, there is a legitimate role for middlemen, and their enterprise does not call for a ban. However, more effective regulatory regimes are in order at both the national and international level to ensure that brokers engage in authorized sales that conform as well to international law. Until the appropriate frameworks, transparency measures, and enforcement tools are in place, it will remain difficult to distinguish illegal operators from their law-abiding counterparts. Thus, it will also continue to be difficult to appropriately punish illegal brokers for their crimes and misdeeds.

Enjoying the adventure and “macho” image of their business—as well as the prominence and grace conferred upon them by their high-powered clients—traffickers are not about to give up a lucrative (if illicit) trade on their own. Attracting clients with low prices and minimum red tape (or readily obtainable false documentation), the traffickers offer a competitive advantage over most manufacturing companies or state industries. More importantly, they seem to care little about the human rights background, criminal records, or ultimate use of the weapons that they peddle. Undaunted by fear of prosecution or retribution, nefarious brokers skilled in clandestine practices will continue to thrive. Whether operating on their own behalf or for official pay-masters, they will remain the mainstay of the illegal arms markets.

Why U.S. Law Is Not The Best Model

It is egregious that only 12 countries in the world have adopted laws that define and enunciate the legal requirements of arms brokers. Governments give various reasons for this: some countries argue that they lack the capacity to regulate a



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“Enjoying the adventure and ‘macho’ image of their business— as well as the prominence and grace conferred upon them by their high powered clients—traffickers are not about to give up a lucrative (if illicit) trade on their own.”

whole new set of actors in the arms trade, while others claim it is implausible for them to tackle a problem that often exceeds their jurisdictional reach. The paucity of national legislation is symptomatic of the outright avoidance of the problem and the low priority assigned by states to this cast of characters, even though some in the arms pipeline like Bout have earned international ill-repute.

Without global control immediately in sight, it is important that governments do not defer adoption of national laws that would compliment any international measure. Latecomers could start with the U.S. law on arms brokering, which is widely hailed as the best legislative model in terms of its comprehensive scope and extra-territorial jurisdiction.¹⁰ Passed by the U.S. Congress in 1996 as an amendment to the Arms Export Control Act (AECA), the arms brokering statute aimed to close the loophole on the kind of off shore arms trafficking exemplified by Bout. The law requires all U.S. nationals and all foreign nationals residing or conducting business in the United States to register and obtain licenses for all arms deals that they transact whether on or off American soil.¹¹ To safeguard national security, it provides an exemption for deals undertaken by or for the U.S. government.¹²

The passage of the 1996 law was an important first step in bringing a measure of accountability and control to a significant link in the chain of the

arms trade. Through its regulatory registration and licensing scheme, law enforcers gained a tool to clean out illegitimate operators hiding in the United States and a framework to break through the impunity benefiting the illegal traffickers.

Strutting this arms control measure at home and abroad, the U.S. government has repeatedly called for other governments to follow its lead and adopt similarly strict national legislation on arms brokers. In an address before the UN Security Council in July 2001, U.S. Ambassador James Cunningham argued that strong brokering laws are among the most effective means to prevent small arms and light weapons from getting into the wrong hands.¹³ Assistant Secretary of State for Political-Military Affairs Lincoln Bloomfield Jr., wrote in a letter to the editor of the *New York Times* that the United States had wished for stronger measures to control arms brokers during the July 2001 UN Conference on illicit arms trafficking.¹⁴

While seemingly putting its best foot forward, all of this political posturing by U.S. officials has so far been a farce. The United States has not taken a lead role in bringing about an international agreement on arms brokers. In addition, notwithstanding the incontrovertible usefulness of the U.S. brokering law, its application is seriously questionable. As of the beginning of May 2002, there has not yet been a single prosecution of an arms broker under this legislation, despite mounting evidence of offenses and cases presented to law enforcers, government prosecutors, and regulatory agencies. To set the best example, the United States will have to demonstrate a commitment to uphold its own laws and to cease protecting the most consistent law-breakers. Prosecuting a high-profile case, such as one against the illicit trafficker Sarkis Soghanalian and his accomplice Charles Acelor, would accomplish this.¹⁵ Setting the precedent for the enforcement of the U.S. arms brokering law would give the impetus needed for other governments to follow suit with comparable legislation, and hopefully, trials.

Gun-Running to Terrorists and Enemies of the State

The Soghanalian and Acelor violations of the 1996 law can only be described as open and notorious. This fact notwithstanding, and a permanent resident of the United States for decades, Soghanalian resourcefully uses his close ties with intelligence agencies to evade prosecution for his illicit trafficking. Supplying such pariahs as Nicaragua's General Anastasio Somoza and Iraq's Saddam Hussein, Soghanalian has been described by the U.S. government as the biggest weapons dealer in the United States.¹⁶

Most recently, Soghanalian—along with Miami-based financier Charles Acelor—brokered an arms deal that delivered approximately 10,000 Kalashnikov rifles from Jordan to the Revolutionary Armed Forces of Colombia (FARC) in 1999.¹⁷ The guns were airdropped in crates over the FARC's jungle stronghold

to this rebel group that has been on the U.S. list of terrorist organizations since 1997. Soghanalian claims that he thought the intended client was Vladimiro Montesinos, then head of the Peruvian National Intelligence Service. Regardless of Soghanalian's claim that he was duped, or who became the actual recipients, both Soghanalian and Acelor violated the U.S. arms brokering law for negotiating, arranging the financing, and delivering the weapons without first obtaining the requisite registration and license. In fact, Soghanalian was specifically prohibited from carrying out *any* arms transactions because he was debarred under U.S. law for previous arms exports crimes.

Though thrice convicted of arms export violations and wire fraud, Soghanalian has been able to ingratiate himself with successive U.S. administrations by renting out planes to the CIA, helping to bust a Lebanese counterfeit operation of American dollars, and, most recently, turning over evidence against the jailed Montesinos. Yet his delivery of weapons to the FARC—considered an enemy of the United States—has not only endangered American national security interests and lives, but, in addition, has contributed to countless innocent lives lost in the Colombian conflagration.¹⁸

In interviews, law enforcement officials claim that Soghanalian and Acelor are just the “tip of the iceberg” of a wider arms brokering network operating out of Florida.¹⁹ With activities stretching from Belarus to Colombia, this locally-based ring has been used by government and private pay-masters at

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home and abroad to export weapons, traffic in drugs, launder money, and assist in the misappropriation of state funds. Through their shady financial arrangements, they have

corrupted the American banking system. Law enforcement officers on the heels of the smuggling ring have been hampered in investigating and pursuing prosecution under the U.S. arms brokering law by other government agencies. Some officials claim that this occurrence, ironically, mimics their experience of the Iran-Contra affair, which brought the last public call for regulation of arms traffickers to the fore.²⁰

Why Domestic Efforts Against Brokers Have Been Stymied

Having spent time in the field investigating arms pipelines and identifying violators of UN arms embargoes, it is clear why the United States and other governments are reluctant to prosecute even the most notorious middlemen:²¹ a

clampdown on the illicit activities of some traffickers would reduce the bevy of arms peddlers upon which governments have come to rely. This was most evident when the United States refused to cooperate with a UN team investigating American arms broker Fred Keller for his role in arms flows to the Great Lakes region of Africa.²² As it turned out, the United States did not want to expose this broker's arms trafficking violations because his networks also catered to U.S. allies such as the Sudanese People Liberation Army.²³

The United States and European governments have a history of disguising their reliance on arms peddlers. On 2 May 1776, at the start of the American revolutionary war, the fledgling American leadership was offered the services of a French arms broker Pierre Augustin Caron de Beaumarchais by the French king Louis XVI. In order to conceal the French support which might otherwise risk war with Britain, the broker established a fictitious private concern, Roderique Hortalez et Compagnie, to clandestinely ship military supplies—much coming directly from the King's arsenals—to America.²⁴

Today, not surprisingly, the U.S. intelligence agencies safeguard their pool of traffickers to enable them to plausibly deny any official role in foreign arms transfers to embargoed parties, pariah governments, or non-state actors.²⁵ As U.S. government officials like to boast, it's hard to find U.S. weapons in some of the world's worst conflict zones, especially in Africa. Governments often furnish privateers with either money or shopping lists for foreign weapons to conceal the hand of officialdom behind arms to favored but unsavory allies. Arms brokers also enjoy government protection and sponsorship, as well, for their use as informants, sting operators, and errand boys.²⁶

Although arms brokers were the lynchpins of covert operations benefiting the superpowers during the Cold War, the damage inflicted by their illicit activities far exceeds their utilitarian value. Governments need to break this deadly dependence and resist using those agents who work “both sides of the street,” often in contravention of their own national security. In many instances, governments must bear the onus of mopping up illegal brokering enterprises that they themselves put in business, either by privatizing them after the completion of a covert mission or originally providing them with the logistical infrastructure.²⁷

Failure of the International Community Response: The Case of Rwanda

As is the case with national governments, the international community has a paltry record of stemming the actions of arms brokers, even when they contribute to widespread and systematic violations of human rights, laws of armed conflict, international refugee law, the genocide convention, and the will of the UN Security Council. Brokers repeatedly flout mandatory UN embargoes, play roles

in the militarization of refugee camps under UN humanitarian auspices, and directly aid mass killing without decisive action on the part of the member states of the UN. I observed this first hand in 1994 when I traveled to the Democratic Republic of the Congo (then Zaire) while the genocide in neighboring Rwanda was smoldering in the last remaining pockets of the countryside.

My mission on this trip was to track down the military architects of Rwanda's widespread slaughter and ascertain their military prowess and continued threat at the time. By then, the rump government, defeated army forces, and auxiliary militias had found sanctuary in the border towns of Goma and Bukavu and had hijacked the UN sponsored refugee camps for use as their rear bases. At a pitched military compound named Lac Vert on the outskirts of Goma, I found Colonel Theoneste Bagosora, General Augustin Bizimungu, and General Gratien Kabiligi, among other prime suspects. During a series of interviews with them and others of the military leadership in exile—as well as of persons directly involved in the arms trade—I uncovered details about the inventory of their arsenals, and most importantly, how and from whom they had procured their supply of arms.²⁸

Colonel Bagosora was not shy about his forthcoming military plans for Rwanda. He told me that he was intent “to wage a war that will be long and full of dead people until the minority Tutsi are finished and completely out of the country.”²⁹ Other soldiers bragged about their ongoing plans as well, but Bagosora—bedecked in gold jewelry, surrounded by body guards, and constantly interrupted by satellite phone calls—was the one who told me the most about where and how they got their guns to fulfill their genocidal agenda.

The UN arms embargo imposed against Rwanda on 17 May 1994 and the international opprobrium against the *genocidaires* made it difficult for the Rwandan Armed Forces (FAR) to openly obtain weapons on the legal market.³⁰ Instead, it became necessary for them to look for clandestine, black market conduits. Bagosora was shopping for arms in South Africa when South African officials introduced him to arms broker Wilhem “Ters” Ehlers in June 1994.³¹

Conveniently, Ehlers assisted Colonel Bagosora in his quest for arms. He facilitated travel for both of them to the Seychelles to view a stockpile of small arms and light weapons—including grenades and ammunition—being offered for sale by Seychelles officials. The history of the weapons is telling: they were originally confiscated by the Seychelles government from a ship called *The Malo*, intercepted by the navy on charges of illegal importation of arms.³² Initially intending to destroy the illicit stockpile, the government approached the United States for assistance in carrying out the destruction but was refused. Lacking the money or the expertise to raze the weapons, the Seychelles government instead turned to Ehlers to resell the weapons and make a profit while getting them off government's hands.³³



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Colonel Bagosora purchased these weapons ostensibly on behalf of the (then-Zairian) military but intended for them to go to the embargoed FAR.³⁴ Zaire provided the false end-user certificates as well as air transport on Air Zaire planes belonging to a Zairian state company.³⁵ Ehlers also arranged for the logistics and financial payments.³⁶ In late June, the weapons were flown to the border area between Rwanda and Zaire and delivered to the FAR with a Zairian military escort.

Subsequently indicted and arrested by the International Criminal Tribunal for Rwanda (ICTR) for genocide and crimes against humanity, Bagosora is currently being prosecuted in Arusha, Tanzania, as a co-defendant in the trial of the key military officials. One of the significant activities constituting commission of Bagosora’s crimes is the distribution of arms to the perpetrators of the genocide.³⁷ Not surprisingly given the lack of international interest in arms brokers, Ehlers—the person who aided and abetted Bagosora and his co-conspirators in their weapons acquisitions—currently remains free of any charges.

As the case of Bagosora illustrates, the guns did not arrive automatically into the hands of the perpetrators. Considerable action through fraudulent means was taken by a number of persons in the pipeline to ensure the procurement and delivery of weapons.³⁸ As the primary arms broker in the Seychelles case,

Ehlers is complicit in violating the international arms embargo against Rwanda and is culpable for their use in commission of the genocide. (It should be noted that in separate documented instances, free-lance arms brokers and a U.K.-based company Mil-Tec Corporation Ltd covertly provided arms to the perpetrators after the commencement of the genocide and in violation of the arms embargo, as well.)³⁹

Establishing the criminal intent of Ehlers in this case should not prove difficult. Being an expert professional in arms transactions and having previously come under scrutiny for possible unlawful activities, he had knowledge of legal arms brokering requirements and understood the need to familiarize himself with all of the details of the transactions in order not to be involved in a foul deal—especially a violation of an international arms embargo. Both the international arms embargo and the Rwandan genocide were widely reported in the South African and international press. Moreover, it can be illustrated that Ehlers knew his clients—already accused of the gravest of crimes—and their motives, yet assisted them with the purposeful attempt to cover up an illicit operation that was meant to help conclude the genocide. Ehler’s physical presence when the genocide was being committed is not required to prove his substantive contribution to this crime. As Piotrowicz and Kaye conclude: “Thus, for instance, in the context of the gas chambers in Nazi death camps, the supply of the poison gas used to kill prisoners was a deliberate, direct, and substantial contribution to the crime which made the supplier guilty of a war crime.”⁴⁰

Despite collected evidence, neither the International Criminal Tribunal of Yugoslavia (1993) nor the ICTR (1994) have yet indicted such traffickers as Ehlers for aiding and abetting genocide, other crimes against humanity, or war crimes. The international community needs to expend the political will to try illicit gun-runners for their complicity and liability in the commission of these crimes. The lack of accountability means the absence of an effective deterrent—without a prosecuted case, arms traffickers cannot effectively be put on notice. A precedent of this nature would also serve the future work of the International Criminal Court and empower it with the case law to try arms traffickers for their individual responsibility in the collusion of egregious violations of international law.

The Last Stand: A Need for A Global Regime

If the UN will not enforce its own arms embargoes and see to the prosecution of arms traffickers, and as long as comprehensive national controls on brokering remain elusive, a binding international regime is necessary to bring wide-roaming illicit brokers to justice. As previously illustrated, arms brokering is a global phenomenon that will require global measures to shut illegitimate merchants

down. The traffickers operate through a chain of associates and from a number of different launching pads:

In some cases the arms will be delivered by a shipping firm based in one country, with its aeroplane [sic] registered in a second, which flies out from a third, will pick up arms in a fourth country, re-fuel [sic] in a fifth, be scheduled to land in a sixth, but actually will deliver its lethal consignment in a seventh country.⁴¹

Without standardized legal requirements by all countries, an arms broker can simply move operations to where there is an opportunistic legislative vacuum. Clearly, law enforcement needs to globalize at the same pace as the criminals (underscoring the need for an international agreement that would ensure uniformity of a regulatory regime), require countries to prioritize arms control measures, and pave the way for cooperation in intelligence sharing, investigation, arrest, and prosecution that may exceed ordinary national jurisdictions.⁴²


In the interest of timely action, The Fund for Peace—along with the international legal team from Clifford Chance LLP—drafted a model convention and presented this at the first global consultation of the issue at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects in July 2001 (July 2001 Conference).⁴³ The model has been proposed to initiate constructive action towards a legally binding international instrument and contains provisions for registration and licensing, criminal penalties, mechanisms for implementation, and improving cooperation among governments and the private sector.⁴⁴

Following in the model's wake, on 15 November 2001, the European Parliament passed a resolution calling for an international treaty regulating the activities of arms brokers, financiers, and transportation agents. The resolution also urged states to start negotiations on a legally binding instrument establishing norms and procedures for the international transfer of armaments, based on existing responsibilities under international law.⁴⁵ Additionally, the European parliamentarians asked the Union's presidency to appoint a Contact Group of states with the task of "paving the way for negotiations on a legally binding international instrument regulating the activities of arms brokering." The document urged the completion of such negotiations prior to the review conference of the UN global consultations on small arms in 2006.⁴⁶

At present, there is a substantial group of states and an international coalition of NGOs favorable to the convention approach. Building upon the momentum of the EU's lead, like-minded states and NGOs are currently looking towards a campaign driven process to ultimately deliver an internationally binding agreement that will permit law-abiding brokers to operate without jeopardy while subjecting those who operate illegally to prosecution.

In a world now fraught with internal wars, the fear of terrorism, and

free-roving criminal syndicates, regulating and controlling the activities of illegal arms merchants should be a top priority for the international community. The threat of arms traffickers to international peace and security has been ignored for too long. During the time it may take for certain governments and their citizens to take notice of the role that arms brokers play in fanning the flames of violent conflict, propping up abusive forces, violating mandatory UN arms sanctions, and plunging many communities into humanitarian catastrophes, new entrepreneurs will be emboldened to join ranks with established traffickers for a share in ill-gotten gains and blood on their hands.

The time has come to break the impunity by globalizing the hunt for illicit operators and bringing indictments and prosecutions forward. A good start would be with a prosecution of Victor Bout in Belgium, Sarkis Soghanalian and Charles Acelor in the United States, and Wilhelm Ehlers at the International Criminal Tribunal for Rwanda. 

Notes

1. "United Nations Expert Discusses Sudden Interest In Arms Dealer Viktor Bout," CEP20020305000328 Moscow Vremya MN in Russian 5 March 2002, available on <http://groups.yahoo.com/group/armstrade>.

2. UN Security Council, *Letter Dated 10 March 2000*, para. 26; and Brian Wood and Johan Peleman, *The Arms Fixers: Controlling Brokers and Shipping Agents* (Oslo: BASIC, NISAT and PRIO, 1999):32-34. See also, Bureau of Intelligence and Research, U.S. Department of State, *Arms Flows to Central Africa/Great Lakes, Fact Sheet*, November 1999," available on http://www.state.gov/www/global/arms/bureau_pm/fs_9911_armsflows.html.

3. "United Nations Expert Discusses Sudden Interest In Arms Dealer Viktor Bout," UN Security Council, *Letter Dated 10 March 2000*, para. 26; Wood and Peleman: 32-34. See also, Bureau of Intelligence and Research, U.S. Department of State, *Arms Flows to Central Africa/Great Lakes, Fact Sheet*, November 1999," available on http://www.state.gov/www/global/arms/bureau_pm/fs_9911_armsflows.html.

4. The Fund for Peace, *News Release*, "Arms Broker Arrested, Ringleader Remains at Large," February 2002; and FfP conversations with U.S. officials over the course of March 2002. A fuller treatment of the U.S. law appears later in the article.

5. No universal definition of brokering exists. For examples, see Loretta Bondi, *Expanding the Net: A Model Convention on Arms Brokering* (Washington, D.C.: The Fund for Peace, 29 June 2001): 10; Loretta Bondi and Elise Keppler, *Casting the Net? Implications of the U.S. Law on Arms Brokering* (Washington, D.C.: The Fund for Peace, 2001): 18-19, 22; and Wood and Peleman: 4-5.

6. UN Brochure, "Small Arms. United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects," United Nations Department of Public Information, DPI/2183, March 2001, 30M.

7. For examples, see Kathi Austin, *Arms Trafficking: Closing the Net. A Test Case for Prosecution under the U.S. Law on Arms Brokering* (Washington, D.C.: The Fund for Peace, June 2001); Bondi and Keppler; Human Rights Watch, "Fueling Afghanistan's War," HRW Press Backgrounder, 15 December 2000; Wood and Peleman; and Human Rights Watch, *Stoking the Fires: Military Assistance and Arms Trafficking in Burundi* (New York: Human Rights Watch, 1997).

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8. UN Security Council, *Letter dated 21 December 2000 from the Chairman of the Security Council Committee established pursuant to resolution 864 (1993) concerning the situation in Angola addressed to the President of the Security Council*, S/2000/1225, 21 December 2000, para. 23.

9. Bondi and Keppler: 45-46 and Appendix. This report lists the countries as Canada, France, Germany, the Netherlands, Norway, South Africa, Sweden, Switzerland, the United Kingdom, and the United States. Additionally, Poland has controls on brokering.

10. For a full examination of the value and application of the law, see Bondi and Keppler.

11. *An Act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes*. Public Law 164, 104th Cong., 2nd Sess. (21 July 1996), sec. 151; Arms Export Control Act, U.S. Code (U.S.C.) vol. 22, sec. 2778(b) (1976).

12. Ibid.

13. U.S. Department of State, *Washington File*, "Text: Cunningham's U.N. Security Council Remarks on Small Arms," at <http://usinfo.state.gov/topical/pol/arms/stories/01080201.htm>.

14. Letter to the Editor, *New York Times*, 3 August 2001.

15. The case has been set forth by The Fund for Peace and already presented to the U.S. attorney's office, the State and Justice Departments, the FBI, and U.S. customs. According to law enforcement officials, the evidence presented is sufficient to serve as probable cause for their arrest. See Austin, *Arms Trafficking: Closing the Net. A Test Case for Prosecution under the U.S. Law on Arms Brokering*.

16. Austin, *Arms Trafficking: Closing the Net. A Test Case for Prosecution under the U.S. Law on Arms Brokering*: 9; and Kathi Austin and Jason Felch, "A Colombia Arms Deal and the Perils of Blowback," *Washington Post*, 3 March 2002.

17. The original deal was for approximately 50,000 but the remainder of weapons went undelivered following the public exposure of the deal. See Austin and Felch.

18. H.R. 358, 107th Cong., 2d sess., (6 March 2002): <http://thomas.loc.gov/cgi-bin/query/D?c107:1:/temp/~c107GhucuS::>

19. Austin, *Arms Trafficking: Closing the Net. A Test Case for Prosecution under the U.S. Law on Arms Brokering*: 31.

20. Telephone interview, U.S. Justice Department officials, 7-9 March 2001.

21. Kathi Austin, "Hearts of Darkness," *The Bulletin of Atomic Scientists*, January/February 1999; and Kathi Austin, "The Illicit Gun Trade, Fanning Flames of Conflict," *Washington Post*, 24 January 1999.

22. Kathi Austin, "Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide:" 11. In this report, he was referred to as Fred Zeller.

23. Human Rights Watch, *Stoking the Fires: Military Assistance and Arms Trafficking in Burundi*: 32-33.

24. Thomas A. Bailey, *A Diplomatic History of the American People* (Appleton-Century-Crofts Inc. 1958): 29-30.

25. For examples, see John Pomfret, "How Bosnia's Muslims Dodged Arms Embargo; Relief Agency Brokered Aid From Nations Radical Groups," *Washington Post*, 26 September 1996; and James Coflin, *Small Arms Brokering: Impact, Options for Controls and Regulation*, International Security Research and Outreach Programme, International Security Bureau, Department of Foreign Affairs and International Trade, Ottawa, May 2000: 15-16.

26. "Curbing Arms Brokers," *New York Times*, 1 July 2001.

27. Austin, "Hearts of Darkness;" and Austin, "The Illicit Gun Trade, Fanning Flames of Conflict."

28. Austin, "Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide."

29. Interview with Bagosora, former Chief Cabinet Secretary of the Minister of Defence of Rwanda, Goma, 30 November 1994.

30. (S/RES/918 (1994), 17 May 1994.
31. Interview with Bagosora, former Chief Cabinet Secretary of the Minister of Defence of Rwanda, Goma, 30 November 1994.
32. "The Seychelles: Merchants of Death," *Indian Ocean Newsletter*, 2 July 1994; and Austin, "Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide:" 10.
33. Telephone interview with Minister of Defense for Seychelles, James Michael, 26 January 26 1995; and Austin, "Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide:" 10.
34. Commonly referred to as the "ex-FAR" in the period after July 1994.
35. Austin, "Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide:" 10.
36. "Addendum to the Third Report of the International Commission of Inquiry (Rwanda)," in *Letter Dated 22 January 1998 from the Secretary-General Addressed to the President of the Security Council*, S/1998/63, 26 January 1998.
37. International Criminal Tribunal of Rwanda, ICTR-96-7-I, The Prosecutor Against Theoneste Bagosora, Amended Indictment, "Concise Statement of the Facts: Distribution of Weapons," 5.26-5.35 available at <http://www.ictr.org>.
38. Further details are provided in reports by the UN Commission of Inquiry on arms flows to the perpetrators of the Rwandan genocide (known as UNICOI). See UN Security Council, *Letter Dated 26 January 1996 from the Secretary-General Addressed to the President of the Security Council*, 96-01127 (E) 300196/9601127 Annex; *Letter Dated 13 March 1996 from the Secretary General Addressed to the President of the Security Council*, S/1996/95, 14 March 1996; *Letter Dated 1 November 1996 from the Secretary-General Addressed to the President of the Security Council*, S/1997/1010, 24 December 1997; and "Addendum to the Third report of the International Commission of Inquiry (Rwanda)," in UN Security Council, *Letter dated 22 January 1998*, paras. 21-26.
39. Wood and Peleman: 37-42; and Austin, "Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide:" 7.
40. Human Rights in International and Australian Law, R. Piotrowicz and S. Kaye, Butterworth: Australia 2000: 179.
41. OXFAM, *Out of Control: The Loopholes in UK Controls on the Arms Trade* (Oxford: Oxfam, 1998), Sec.2.
42. While the most advanced international measure to date on arms brokers is the Firearms Protocol adopted by the UN General Assembly on 31 May 2001, it only call on states to "consider establishing a system for regulating the activities of those engaged in brokering." UN Press Release, Fifty Fifth General Assembly Plenary, 101 Meeting, "General Assembly Adopts Third Additional Protocol—on Firearms—to Convention Against Transnational Organized Crime," GA/9866, 31 May 2001.
43. The Fund for Peace, News Release, "Convention on Gun-Runners Launched at Conference," 16 July 2001.
44. Loretta Bondi, *Expanding the Net: A Model Convention on Arms Brokering*; and The Fund for Peace, *Model Convention On The Registration Of Arms Brokers And The Suppression of Unlicensed Arms Brokering*, (New York: The Fund for Peace, 19-20 July 2001).
45. "EP's resolution on Brokering: adopted 15/11/2001," at <http://groups.yahoo.com/group/ENAAT>.
46. The Fund for Peace, News Release, "FfP [Fund for Peace] Welcomes Action on Arms Trafficking and Terrorism," 19 November 2001.