

Conventional Arms Transfers.
Illicit Arms Trade: An Overview and Implications for the Region

Vadim Kozyulin

Measures for Control of Conventional Arms Transfers - History of the Subject

- Since ancient time till the beginning of 20th century traffic in arms was not regulated at all. Only with emersion of toxic gases, biological weapons and to WMD the mankind began to realize necessity to introduce restrictions on the most dangerous kinds of weapons. The motive for the international discussions on this items was use of poisoning gases during the WWI. After the war is over several proposals to limit arms transfers were initiated. The resulted in the document: *Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, 17 June 1925.*
- During the period between 1 and 2 world wars there were efforts to develop an international convention on restriction of export of conventional arms. Several countries submitted several drafts of agreements for discussion but at that time it was impossible to reach success. An active preparation to the following war was under way. The world was divided on blocks which were aimed to arm the allies and satellites: Germany developed new types of armaments and planed with its assistance to arms coalition of allies and to implement ambitious plots. German arms were delivered to African partners of Germany. During the civil war in Spain in spite of the fact that Soviet Union cooperated with Germany, USSR and Germany carried out active deliveries of armaments to two opposing parties: the revolutionary forces of Spain and the Spanish dictator Francisco Franko.
- After termination the WWII it seemed, that mankind which witnessed so much burning should be ready to agree upon restriction of arms flows in order to secure itself against shocks in the future. However, the followed events buried those expectations. The world became divided into two irreconcilable camps, «cold war» began ruthless, and arms export played one of major tools in it.

It is important to remember, that the arms export is a profitable business. The giant amount of weapons remaining after the war had to find a consumer. The European countries started to sell the WWII arms to Latin America, Africa and Asia. The winner-countries marketed the weapons of victory to the third world countries.

Laws of cold war required huge deliveries of armaments in zones where the «cold war» of the two competing global systems passed in the hot form. So in 1975 within civil war in Angola Soviet Union and the NATO countries actively delivered weapons to opposing parties. The same script came true in Vietnam, Korea, Ethiopia and so forth.

- **Coordinating Committee for Multilateral Export Controls (CoCom) (1949)**

2.11.1949 United States and several NATO countries and Japan established the Coordinating Committee for Multilateral Export Controls which compiled lists of goods and technologies that were not subject to export to the USSR and other socialist countries. CoCom is an acronym for

Coordinating Committee for Multilateral Export Controls. CoCom was established during the Cold War. The Cold War (c. 1945-1990) was the open yet restricted rivalry that developed after World War II between groups of nations practicing different ideologies and political systems. On one side were the Union of Soviet Socialist Republics and its allies, often referred to as the Eastern bloc. On the other side were the United States and its allies, usually referred to as the Western bloc. The struggle was called the Cold War because it did not actually lead to fighting, or «hot» war, on a wide scale.

- At the end of 70th it became obvious that developing countries accumulated a large uncontrollable volumes of arms (especially – SALW), easily moving into zones of local conflicts. There was an international attempt to limit transfer of arms and technologies to the Third World. In 1977-79 leading arms manufacturers countries tries to divide zones of influence in arms trade. Without success.
- **The International Measures for Control of Conventional Arms Transfers** Gorbachev's coming in power in the USSR changed the situation in the international relations. Gorbachev brought into political lexicon for a wide use such a strange and unknown before definition as «priority of common human values». It was an unknown Soviet Union which could come to agreements. Certainly, it had to reflect on the sphere of arms export. Uncontrolled deliveries of weapons to hot spots of the planet became a topic for numerous international discussions at the end of 80th - the beginning of 90th.
- **The London principles of deliveries of armaments (1991)**

On 29 May 1991, President Bush proposed an arms control initiative in which he called on the five leading arms exporters - also the five permanent members (P5) of the United Nations Security Council (China, France, UK, US, and USSR/Russia) to refrain from destabilizing arms transfers to the region, conduct regular consultation, and establish a notification mechanism, with exchanges of annual reports on sales. What the proposal sought was to introduce effective global guidelines for conventional arms transfers. This set the agenda for the subsequent meetings of the P5.

In response to this initiative, and also to proposals from other countries, representatives of the Permanent-5 (P-5) held three rounds of senior-level meetings from 1991-1992, beginning in July 1991. In October 1991 at a P5 meeting in London the UN Security Council adopted Guiding Principles for Transfers of the Conventional Arms (London 1991) of its member states. These principles monitor the implications of arms sales: legitimate self-defense requirements of the buyer country, response to the threats it is faced with, risk of the worsening of conflicts, and so on.

This document established rules which allowed estimate legitimacy of concrete arms deliveries. The P5 members undertook to refrain from arms deliveries which could:

- aggravate existing armed conflict;
- increase tension in the region;
- introduce destabilizing military potential in the region;
- violate embargo or other international sanctions;
- be used in other purposes, than lawful self-defense;

- support international terrorism;
- seriously undermine economy of importers.

It might be interesting to know that Western countries made an attempt adopt principle of advance notification about the delivery 60 days prior the delivery. Russia agreed with the London principles, but rejected the pre-notifications.

As the London principles contained only a set of general provisions, arrangements did not work. For example, the parties agreed to consider general political situation in the importer country. But as far as Security Council members narrated the political situation differently, mutual reproaches begun: the USA criticized Russia for destabilizing deliveries of weapons to China, while Russia criticized the USA for destabilizing deliveries of arms to Turkey. I.e. The London principles remained paper.

Probably a key deficiency of «Guiding Principles for Transfers of the Conventional Arms» was the illegible criteria of conditions at which arms export had to be considered undesirable or inadmissible. For example it was not defined how to evaluate «severity» of undermining the economy of importing country or how to calculate destabilizing level of military potential, etc.

This deficiency is not liquidated until now.

- **Evolution of Principles for Transfers of the Conventional Arms**

The London principles were later developed by many international forums.

- **OSCE Principles Governing Conventional Arms Transfers (1993)**

In November 1993 in Vienna OSCE adopted Governing Principles for Conventional Arms Transfers.

Participating States agreed to avoid transfers which would be likely to:

- be used for the violation of human rights;
- threaten the national security of other States;
- contravene its international commitments;
- prolong or aggravate an existing armed conflict;
- endanger peace, introduce destabilizing military capabilities into a region;
- be diverted within the recipient country or re-exported for purposes contrary to the aims of this document;
- be used for the purpose of repression;
- support or encourage terrorism;
- be used other than for the legitimate defense and security needs.

Same as the London Principles the principles of OSCE more likely had a declarative nature and could be interpreted differently. They have never been used for forcing an exporter to stop arms transfers. But certain progress was achieved: participants have agreed to not deliver the most advanced weapons to Taiwan and China. Also deliveries to Iraq, Iran, Nepal and so forth were limited.

- **The European Union Code of Conduct on Arms Exports (1998)**

France and the United Kingdom tabled the joint initiative on a European Code of Conduct on arms exports. This Code, which was adopted by the Council of the European Union on 8 June 1998, represents for EU Member States, within the framework of the Common Foreign and Security Policy (CFSP), a key development in a highly sensitive area.

The Code of Conduct gives a detailed definition of the common criteria applicable to national arms export policies:

- Respect for the international commitments of Member States, in particular the sanctions decreed by the UN Security Council and those decreed by the Community, agreements on non-proliferation and other subjects, as well as other international obligations.
- Respect of human rights in the country of final destination.
- The internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts.
- Preservation of regional peace, security and stability.
- National security of the Member States, as well as that of friendly and allied countries.
- Behavior of the buyer country with regard to the international community, as regards in particular its attitude to terrorism, the nature of its alliances and respect for international law.
- Existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions.
- Compatibility of the arms exports with the technical and economic capacity of the recipient country, taking into account the desirability that states should achieve their legitimate needs of security and defense with the least diversion for armaments of human and economic resources.

To facilitate convergence in applying the criteria, the Code of Conduct introduced a bilateral consultation mechanism, following an export denial issued by a Member State. Under these criteria, these governments agree to exercise restraint in the arms trade and block weapons sales to, among others, human rights abusers, those who violate international humanitarian law (the laws of war), areas of violent conflict or regional instability, diverters of weapons, and terrorists. (E.U. Code of Conduct on Arms Exports, adopted June 8, 1998 (subsequently endorsed by E.U. associated countries and others).

- **US Code of Conduct on Arms Transfers (1997)**

In June 1997, the US Code was passed by voice vote in the House of Representatives as an amendment to a larger bill, and, although it was the first legislation curbing the proliferation of conventional weapons to pass the House in over 20 years, it ultimately fell victim to unrelated Congressional wrangling. The Code of Conduct on Arms Transfers legislation establishes four criteria that countries must meet before they can acquire United States weapons or military equipment. According to the Code, countries that abuse human rights, do not have democratically elected governments, commit acts of aggression against other nations, or do not participate in the UN Register of Conventional Arms, would not be eligible to receive U.S. weapons.

- **The UN Register of Conventional Arms (1992)**

The Register of Conventional Arms was established, with effect from 1 January 1992, and maintained at the Headquarters of the United Nations in New York. According to the Register Member States are requested to provide data on international arms transfers for the Register, addressed to the Secretary-General, on the number of items in the following categories of equipment imported into or exported from their territory:

- I. Battle tanks
- II. Armored combat vehicles
- III. Large caliber artillery systems
- IV. Combat aircraft
- V. Attack helicopters
- VI. Warships
- VII. Missiles or missile systems

It was significant progress as for the first time the control over arms transfers got concrete forms. However, it is easy to notice deficiencies of this system. Certain arms transfers did not get in the Register: SAWL, sales of licenses, military production engineering, services on modernization). Supply of the data in this register is voluntary, and many countries do not provide this information. At the same time Belarus which is supposed to be one of the most unscrupulous exporters of arms in the world provides the data to the UN register on a regular basis and one of the first.

Regimes:

At the beginning of 90th the opposition capitalism - communism was over, the world found itself in a new situation where the leading countries were capable to agree not only on WMD, but also on conventional arms. On the one hand proliferation of arms and military technologies represented threat to peace. On the other hand it also washed out monopoly of the developed states on technological advantages. Six major states (including Italy) played a determining role in the market of arms. Assuming that they cannot avoid concurrence among themselves, they decided to take measures against uncontrolled spread and doubling of their most advanced weapons in the third world.

That is how the two regimes were adopted:

1. Missile Technology Control Regime (MTCR)
2. Wassenaar Arrangements.

- **Missile Technology Control Regime (MTCR) (1987)**

MTCR was established in 1987 by Canada, France, Germany, Italy, Japan, the United Kingdom and the United States. Since that time, the number of MTCR partners has increased to a total of thirty-four countries, all of which have equal standing within the Regime. The goals of the Regime are non-proliferation of unmanned delivery systems capable of delivering weapons of

mass destruction or in other words slowing down missile proliferation. Russia is member MTCR since 1995.

Greatest restraint is applied to complete rocket systems and unmanned air vehicle systems with capabilities exceeding a 300km/500kg range/payload threshold; production facilities for such systems; and major sub-systems including rocket stages, re-entry vehicles, rocket engines, guidance systems and warhead mechanisms.

(MTCR members can supply those systems only to each other. For example, Russia can sell missiles to Finland or Ukraine, but not to India).

The Regime's documents include the MTCR Guidelines and the Equipment, Software and Technology Annex. The Guidelines define the purpose of the MTCR and provide the overall structure and rules to guide the member countries and those adhering unilaterally to the Guidelines. The Equipment, Software and Technology Annex is designed to assist in implementing export controls on MTCR Annex items. The Annex is divided into «Category I» and «Category II» items. It includes a broad range of equipment and technology, both military and dual-use, that are relevant to missile development, production, and operation. Partner countries exercise restraint in the consideration of all transfers of items contained in the Annex. All such transfers are considered on a case by case basis.

The MTCR rests on adherence to common export policy guidelines (the MTCR Guidelines) applied to an integral common list of controlled items (the MTCR Equipment, Software and Technology Annex). All MTCR decisions are taken by consensus, and MTCR partners regularly exchange information about relevant national export licensing issues.

As the potential of missile production in the world grows (Pakistan, India, China, Taiwan, Israel do not enter MTCR though the majority of them accept the responsibility for non-proliferation) the club of the Regime members starts searching for new ways to restriction proliferation.

Code of Conduct for member countries - producers was developed: transparency and responsibility, declare number of launches, to not transfer technologies, the country which declined from missile development can receive assistance in an outer space exploration. Several countries - Brazil, Japan - agreed and explore space with assistance. But Syria, Libya, Iran do not recognize the code. Others demand guaranties of safety and an assurance of participation in space.

- **Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (1996)**

As you remember since 1949 there was an organization called CoCom (Coordinating Committee for Multilateral Export Controls). It was a Western regime for restriction of supply of arms, technologies and sensitive materials of Warsaw Pact countries, China, etc. In 1994 the West decided to engage Russia in the club for control over export of double-use technologies to the third world. The idea was to consolidate 33 countries in order to block the leak of sensitive technologies that might help to create advanced military systems.

Initial Elements became a basic document of the new Arrangement.

Purposes of the Wassenaar Arrangement was to contribute to regional and international security and stability, by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilizing accumulations. It had to reinforce, without duplication, the existing control regimes for weapons of mass destruction and

their delivery systems, to prevent the acquisition of conventional arms and dual-use goods and technologies by terrorist groups and organizations.

To this end, Participating States will exchange, on a voluntary basis, information that will enhance transparency, will lead to discussions among all Participating States on arms transfers.

Participating States agree to notify transfers and denials. These notifications will apply to all non-participating states.

In The Initial Elements the Participating States undertook to control all items set forth in the List of Dual-Use Goods and Technologies and in the Munitions List. The List of Dual-Use Goods and Technologies has two annexes of sensitive and a limited number of very sensitive items. Sensitive items (like special steels or probes) can be used in civil sphere. Very sensitive items are mainly used in military production. The lists are reviewed regularly to reflect technological developments and experience gained by Participating States.

Another important Wassenaar document «Elements for Objective Analysis and Advice Concerning Potentially Destabilizing Accumulations of Conventional Weapons» defined factors and elements which had to be considered by Participants which taking decision on delivery or denial and while conducting information exchange with Wassenaar parties.

The elements of the paper, which are framed generally in the form of questions:

1. Assessment of Motivation of the State under Study
2. Regional Balance of Forces and the General Situation in the Region
3. Political/Economic Standing/Status of the State
4. Operational Capability
- Equipment
- Manpower
5. Acquisition of Military Technology
6. Other Factors

Information Exchange became an important part of Wassenaar Arrangement. The Parties agreed to exchange information on:

- transfers to non-participating countries,
- dual technologies,
- denials to transfer, and
- reports on situation in regions.

Participating States agreed to exchange general information on risks associated with transfers of conventional arms and dual-use goods and technologies in order to consider, where necessary, the scope for coordinating national control policies to combat these risks. They compiled a special list of possible elements of the general information exchange on non-participating states.

Participating States agreed to notify licenses denied to non-participants. They agreed to exchange information on arms will include any matters which individual Participating States wish to bring to the attention of others, such as emerging trends in weapons programs and the accumulation of particular weapons systems, where they are of concern, for achieving the

objectives of the arrangement. They agreed to exchange information every six months on deliveries to non-participating states of conventional arms.

They compiled lists of possible principal elements of the general information exchange on non-participating states:

1. Acquisition activities

- Companies/organizations
- Routes and methods of acquisition
- Acquisition networks inside/outside the country
- Use of foreign expertise
- Sensitive end-users
- Acquisition patterns
- Conclusions.

Projects of Concern

- Description of the project
- Level of technology
- Present status of development
- Future plans
- Missing technology (development and production)
- Companies/organizations involved, including end-user(s)
- Diversion activities
- Conclusions.

Specific Information Exchange on Arms

1. Battle Tanks
2. Armored Combat Vehicles
3. Large Caliber Artillery Systems
4. Military Aircraft/Unmanned Aerial Vehicles
5. Military and Attack Helicopters
6. Warships
7. Missiles or Missile Systems

(in addition to UN Register type and models should be indicated).

It's important to notice that Wassenaar became an effective forum for discussions and further actions in particular fields like SAWL and MANPADS.

- **MANPADS (2003)**

In 2003 at Plenary Session Wassenaar countries adopted Elements for Export Controls of Man-Portable Air Defense Systems (MANPADS) applying strict national controls on the export of MANPADS. According to the Elements:

- each transfer is subject to an individual licensing decision.
- Exporting governments will not make use of non-governmental brokers or brokering services when.
- Exporting governments in the Wassenaar Arrangement will report transfers of MANPADS as part of the Arrangement's Specific Information Exchange reporting requirements.
- Prior to authorizing MANPADS exports, the exporting government will assure itself of the recipient government's guarantees: not to re-export MANPADS; to prevent unauthorized access or compromise; to inform promptly the exporting government of any unauthorized use, loss, or theft of any MANPADS material.
- Exporting governments will share information regarding potential receiving governments that are proven to fail to meet the above export control guarantees and non-state entities that are or may be attempting to acquire MANPADS.

- **Small Arms and Light Weapons (SALW)**

There are over 600 million small arms and light weapons (SALW) in circulation worldwide. Of 49 major conflicts in the 1990s, 47 were waged with small arms as the weapons of choice. Small arms are responsible for over half a million deaths per year, including 300,000 in armed conflict and 200,000 more from homicides and suicides.

Until recently there were no restrictions on transfers of Small Arms and Light Weapons (SAWL). The WWII SAWL mainly got to Africa. Cold war also considerably contributed to the spread of SAWL over the world. Specialists detected cascade dwelling of SAWL around the globe which itself caused regional conflicts.

After collapse of the USSR some countries of East Europe were aimed to get rid of SAWL at a low price. Many regions became oversaturated with small arms. One million pieces of SAWL disappeared from warehouses in Albania during disorders. The population took it for self-defense. Meanwhile the small arms were regarded as a legal goods for sale and purchase by many manufacturers (USA, Italy, UK). There were no international regulations in SAWL marking - China did not mark small arms for export (only for Chinese army needs).

Multilateral cooperation in this area took a significant step forward when the United Nations Conference on the Illicit Traffic in Small Arms and Light Weapons in All Its Aspects was held from 9-20 July 2001 at UN Headquarters in New York. The participating states agreed to adopt a Program of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons, in All Its Aspects. This Program of Action (PoA) includes a number of measures at the national, regional and global levels, in the areas of legislation, destruction of weapons that were confiscated, seized, or collected, as well as international cooperation and assistance to strengthen the ability of States in identifying and tracing illicit arms and light weapons. The General Assembly, in its Resolution 56/24V, welcomed the adoption of the PoA and reiterated Member States' support for action to curb the illicit flow of small arms and light weapons.

The United Nations decided to develop rules for SAWL trade. In July 2001 in New York the UN General Assembly developed a Small Arms Program of Action. The PoA indicated the need for the following measures:

1. Increasing control
 - Regulating civilian access
 - Regulating state access
2. Reducing demand
 - Development
 - Culture of peace
 - Peaceful resolution of conflict
 - Reform of the security sector
3. Improving compliance/implementation
 - National/regional/global focal points
 - Regional harmonization of laws/moratoria
 - Brokering
 - Marking, tracing, record-keeping
4. Assistance and follow-up
 - Financial and technical assistance
 - Follow-up/Review meetings

In other words the Parties assumed the necessity to improve export control, to impose licensing procedures, to destroy surplus small arms, to block leakage of SALW to criminals and terrorists, to impose marking standards. In case a party could not comply with these arrangements it could apply to the international community.

The participants agreed not to delivery SAWL:

- to states in disputed
- to human rights abusers
- to countries without reliable export control system or a weak governments
- to terrorists.

Developing countries tabled an initiative to sell SAWL only to state structures and state companies. The Russian Federation supported this idea while the USA objected it: citizens should have the right to buy SAWL.

It was decided to set up centers for SAWL destruction and arrange campaigns for collection of SAWL from population.

- **International Embargoes**

In international commerce and politics, an embargo is the prohibition of commerce and trade with a certain country. It is usually declared by a group of nations against another one, in order

to isolate it and to put its government into a difficult internal situation, given that the effects of the embargo are often able to make its economy suffer from the initiative. The embargo is usually used as a political punishment for some previous disagreed policies or acts, but its economical nature frequently leaves space enough for doubts about the real interests that the prohibition gives advantage to.

The non-military sanctions currently available to EU fall under three partly overlapping categories:

- political and diplomatic sanctions;
- restrictions imposed on cultural contacts and transport;
- commercial, economic and financial sanctions.

Arms embargoes could be considered a fourth category, although they are not usually punitive by nature. Motivation for arms embargoes is often more humanitarian than punitive, and often they are associated with explicitly coercive measures, such as economic sanctions.

The latest really new embargo was the EU embargo against Zimbabwe in 2002, which resulted from EU criticism on the way Zimbabwe's government under President Robert Mugabe harassed opposition and international observers during the election campaign in early 2002.

Mandatory UN embargoes		
Taliban, Al-Qaida, Usama Bin Laden	16 Jan. 2002	UNSCR 1390
Angola (UNITA)	15 Sep. 1993	UNSCR 864
Iraq	6 Aug. 1990	UNSCR 661
Liberia	7 Mar. 2001	UNSCR 1343
Rwanda (rebels)	16 Aug. 1995	UNSCR 1011
Sierra Leone (rebels)	5 June 1998	UNSCR 1171
Somalia	23 Jan. 1992	UNSCR 733

EU Embargoes (mandatory only for EU members)	
Bosnia and Herzegovina	5 July 1991
China	27 June 1989
DRC	7 Apr. 1993
Libya	27 Jan. 1986
Myanmar (Burma)	29 July 1991
Sierra Leone (rebels)	5 June 1998
Sudan	15 Mar. 1994
Zimbabwe	18 Feb. 2002

The other side of embargo - it generates the black market. As a former minister in the government of Macedonia Mr. Guner Ismail, who is known for fighting corruption, put it: "When the United Nations imposed sanctions against Serbia, or when Greece created diplomatic obstacles to Macedonia in 1993, it simply had no other way. It criminalized in order to survive». It is always important to remember that once we impose sanctions against a country we should be ready to face a growing black market.

- Anti-personnel mines (1997)

Convention on the prohibition of the use, stockpiling, production and transfer of anti-personnel mines and on their destruction (Ottawa Convention), 18 September 1997

National Measures for Control of Conventional Arms Transfers

- **National Systems of Export Control**

As a rule national EC systems in each state include two big and intersecting areas: sphere of conventional arms export control (in Russia we call it the system of military - technical cooperation) and actually sphere EC (controlling export of the sensitive goods and technologies of double application which not obviously refers to arms and weapons). We'll not observe the second sphere today for the area of our present interest is conventional arms.

- **Procedures of the coordination**

Export of arms is a very much regulated field of activity in any country as far as a single arms export operation can become infringement of national or international legislation, can cause damage to both the importer and exporter country.

Due to this the exporter operates under control of not only special structure, but the exporter himself, quite often, is obliged to supervise itself with the help of own control branches.

Each transaction has to be agreed with authorized bodies like Ministry of Foreign Affairs, Ministry of Defense, security service of the state, sometimes: President Administration or cabinet of ministers, Parliament, responsible ministry or agency.

There are several limitations on arms export within national regulations:

- *Limitations concerning arms trade actors* (brokering license)

Exporting countries usually adopt an order for licensing the arms trade. Sometimes arms manufacturer has not right for independent sale of own military products on a foreign market. Frequently he is obliged to address a specialized arms export company (mainly a state entity).

As a rule, every country imposes a rigid procedure for obtaining brokering license in the arms trade sphere. For example in Bulgaria the brokering company has to form a department for operations with classified documentation. In Israel a person without criminal records might apply for brokering license (there about 2000 weapon intermediaries in this small country). Brokering activity for Russian citizens is forbidden by law of the Russian Federation. Arms brokering in Germany without license is unlawful (Arthur Andersen's history in Germany). In France the license needs to be received separately for beginning negotiations about arms sale and separately - for signing the contract by results of the negotiations. I.e. French law controls not only the activity but each step of this activity.

- *Limitations concerning arms nomenclature*

Certain arms and weapons are not subject for export operations. It mainly concerns the most modern arms. In Russia the President approves the list of arms allowed to sale. Items not included in the list can be exported only by a special Presidential act. It allows provide technological and military advantage of own armed forces of the exporter state.

- *Limitations concerning importer states*

Each country has a list of state forbidden for arms export. Of course this list includes countries under UN embargo (or EU embargo) for arms delivery. The US State Department annually disseminates over the world Foreign Ministries the list of countries which, according to the US view support international terrorism. Majority of the world state refrain from arms deliveries to these countries.

There is an opinion that arms embargo is effective. Imagine that UN imposed embargo on Israel. According to this point of view the 2000 Israeli brokers would become arms smuggler. Embargo in Liberia, Bosnia, Angola did not stop combat actions. Embargo against South Africa provoked development of defense industry in this country. That is what happens today in Iran and Sudan. Embargo causes a rise in prices on arms which attracts arms brokers. I.e. embargo contributes to black market.

- *Limitations concerning marketing operations*

As we already mentioned there might be limitations on carrying out negotiations with customers who are not welcome or on certain subjects that are not for discussion. There are classified military products which cannot be advertised. As a rule, it concerns the most advanced weapons.

- *Obligations of the importer. End User Certificate (EUC). Restrictions on re-export*

- *End User Certificate – Importer's* guaranty that the products will be used only for purposes of End User's country and won't be re-exported or moved to the third country without permission of the Exporter;
- *End User Acknowledgment* of Receiving the Goods in due quantity.

Importing country establishes procedures for import of arms. It defines institute authorized to purchase arms (Ministry of Defense, the Ministry of Internal Affairs, boarder guards etc). For each purchase the authorized body should issue Import Certificate of End User. The wording of the Certificate is arbitrary, but generally it should contain the following:

- full name and address of Importer (in the case when importer is an intermediary);
- full name and address of End User;
- country of End User;
- name, quantity of goods;
- guaranty that the products will be used only for purposes of End User's country and won't be re-exported or moved to the third country without permission of the Exporter;
- full name of the official who signed the End User certificate, his signature, position and the seal of the Importer's country body in charge;
- date of issue of Import End User certificate.

Unfortunately a single form of the EUC is not adopted yet in the world (in Russia legislation there is no such definition - EUC) therefore it leaves much space for smugglers and corrupted officials.

In order to check of EUC exporter can demand acknowledgement of the importer's authorities from the importer's country embassy.

Also the parties usually agree, that after receiving the goods the importer should direct to the exporter an official document confirming that the goods have been received in due quantity. The purpose of this procedure is to check that the weapon has not got to terrorists or potential enemies.

For a better delivery control some countries (Russia in particular) do not allow importer or a broker company to arrange delivery of the goods. Russian exporters deliver the export goods directly to the customer by their facilities. However certain countries allow intermediaries to organize transportation of exported arms which creates an opportunity for smuggling.

- *Means of monitoring illegal arms transfers:*

1. Verification of the importer (intermediary broker)
2. Analysis of importer country needs (Sierra Leone used to be one of the biggest arms importers in the world)
3. Transport monitoring
4. Monitoring of arms in the importer country
5. International data bank on smugglers and their practices
6. Monitoring by special services

- *Customs control and customs procedures*

To be really effective against arms trafficking customs should fostering enhanced cooperation and coordination with foreign customs and other law enforcement agencies, both at the national and international level, in order to ensure adequate customs checks, as well as prompt investigation and effective prosecution in cases of illicit trafficking of arms; improving the exchange of information and data on illicit trafficking of arms, e.g. through the use of international data bases and risk analyses.

- *The Exporter's right to inspect delivered arms*

According to Wassenaar Arrangement a new trend in compiling contract terms take place. While arranging a deal for supply of sensitive arms Exporter companies might insist that a special clause allowing Export to check the use of goods in the future should be included in the contract. This clause is especially important in case of MANPADS delivery.

- *Identification of conventional arms*

As the military technology develops it becomes uneasy to define military goods from similar civil ones. Anti-GPS devices might look like telephone stations. It is very important to compile a catalog of military items and keep updating it.

- *Intrafirm systems of export control*

In 1970th after great scandal with corruption Lockheed Martin set up the a strict intrafirm system of export control. Today this company has a very detailed internal Code of Conduct which regulates their relations with customer and brokers. According to the company internal rules Lockheed Martin interviews all 250 mediators every 2 years.

These are regulations which were taken by this company voluntarily.

National legislations might impose such obligations on arms manufacturers (as it's done in Russia). Those intrafirm bodies should control fulfillment of the national legislation by the manufacturer and facilitate the duties of the National Export Control system. Responsible Intrafirm systems might be granted with easy export procedures for their good practice.

- **Illicit arms trade**

How to recognize arms smuggler?

Experts estimate world arms smuggling 2-10 billion USD per year.

British experts estimate «black» and «grey» arms markets to five billion dollars provided that there are no big wars in the world. In case there are large-scale combat operations the volumes of illicit market increases up to 10 billion dollars. Expert suppose that only illegal SAWL deals amount to 1 billion dollar annually (note that SAWL are easy to define i.e. they cannot be confused with civil products). Arms black markets functions not due to malfunctioning of control institutions but due to a well organized smuggling structures.

According to SIPRI illicit transfers of only US arms make 2,5-3 billion dollars yearly. Those transfers are due to direct deliveries and re-export operations.

Specialists evaluate effectiveness of export control to about 20 % which means that only one of each five smuggling case becomes known (though not always prevented).

- **Channels of illicit arms trade**

- *Forged End User Certificate*
- *Grey zones*
- *Ethnic channels for arms smuggling*
- *Old Cold War ties*
- *The weave of traffic in arms with prostitution, smuggling of drugs and tobacco*
- *New kinds of weapons*
- *Forged End User Certificate*

Paraguay was a great place to get EUCs. They cost between \$100,000 and \$150,000. And these were being shopped around by arms dealers all over Europe and all over South America. You could also get them from Panama during the mid-1980s. Turkey was quite a source, at that same time in the mid-1980s. Now I think it's moved more to the Far East. You have Thailand, Singapore, places like that are serving as fake destinations.

Forged EUC became a profitable business for unscrupulous governors.

- *Grey zones (если возможно, здесь хорошо бы взять карту и высветить на ней такие страны: Afghanistan, Abkhazia, Transdnestria, Kosovo, Albania, Burundi, Bangladesh, Chad, Yemen, Pakistan, Birma, Cambodia)*

Sometimes transition economies or collapsing countries cannot control certain region or parts of the country. They might be run by local commanders or impostors who implement their own governing rules, have their own armies and currency. Usually their power is based on money earned from narcotics, bloody diamonds and arms smuggling. Such leaders are very much interested in small arms. Those spots like Afghanistan, Abkhazia, Transdnestria, Kosovo, Albania, Burundi, Chad, Yemen, Pakistan, Birma, Cambodia attract arms smugglers like black holes and provide them shelter, money and facilities.

Iraq has all making of becoming such a grey zone where central power does not control several cities or regions.

- *Old Cold War ties*

During the Cold War period some countries of the Eastern Europe specialized in covered arms deliveries the USSR allies in the Middle East or Africa. Bulgaria, Poland, Czech Republic, former Yugoslavia gained a large experience and regional connections which can successfully work today after a small repair. It is difficult to change sphere of activity for people who devoted their lives to it.

US, British and other secret service officers also often continue to utilize their contacts and experience in arms supply after retirement.

- *New kinds of weapons*

New discoveries in high technologies give a chance for small companies being at the edge of progress to develop unknown means of combat in counter-electronic warfare, computer or communication systems.

The US missiles in Iraq were said to be countermeasure by Anti-GPS devices supplied (according to press) by a Russian company. Electronic devices are easy to ship and deploy. Detection of them sometimes is almost impossible.

- *The weave of traffic in arms with prostitution, smuggling of drugs and tobacco*

As we've notice arms smuggling is frequently performed hand in glove with other criminal activities which allow arms smugglers to use various contacts and channels.

According to the British police statistics Northern Ireland gangsters conduct the following criminal businesses:

400 Northern Ireland gangsters	
65%	trade with narcotics
55 %	money forgery
50 %	money-laundering
About 50%	stealing of cars
23 %	arms smuggling
17 %	blackmailing

Very close relations are notice between smuggling of arms and diamonds.

- *Ethnic channels for arms smuggling*
Sri Lankan Tamil Tigers, Turkish Kurds, Chechen, Kashmir

- **Deficiencies of the arms transfers control system**

1. International legislation and arms trade control procedures are incomplete
2. Lack of international cooperation
3. Lack of knowledge, equipment and experience in customs
4. Corruption

The sphere of arms transfer monitoring and control systems is a relatively new in the world. The international community actually got the first chance to adopt arrangements in this field (*Wassenaar Arrangement, UN Register etc.) which is not perfect and has many loopholes. Arms brokers today fill find ways to avoid laws and even find a shelter when they are being prosecuted.

The UN register of the United Nations is inefficient. Only half of UN members provide information to the Register. Definitely many countries perform covered deliveries which are not declared.

Probably it is necessary to adopt an order for registering all deals over 100 thousand dollars.

Customs needs more training and more international cooperation.

No measure would help and none control system would work in it is poisoned by corruption.

- **Trends and prospects of illicit transfers**

- *Internationalization of the black traffic in arms*
- *Increase of conspiracy*

- *More impact on corruption in exporter country*
- **Trends and prospects of the export control**
- *After September 11 thorough monitoring of arms transfers is being done. US customs agents visited 3000 firms collecting information on arms smuggling.*
- *Control of intangible transfers of technologies and know-how*
- *Reinforcement of intrafirm control systems*
- *Seminars and conferences for international exchange of experience*
- *Automation of export control procedures. Electronic signature and electronic document circulation*
- *Education in the export control sphere*
- *Engagement of Parliaments and Mass Media for better transparency*
- *International data bases on illicit transfers*
- *Financial control of arms smugglers*
- **Implications for the region**
- *Huge amount of arms in the region*
- *Large experience in smuggling*
- *Corruption + poor state of defense industry*
- *Bad Criminal situation*
- *Lack of assistance from the West*

The Balkans has been the basic transfer point for illegal immigrants. Burdens of wars, the international sanctions, economic ruin have transformed Southeast Europe into the supplier of refugees, prostitutes, illicit cigarettes, drugs and guns. All that endangers the world's largest market of the European Union. The Balkan mafia literally controls all spheres of life of former Yugoslavia. The region is flooded with small arms from millions rifles to armored personnel carriers. The Balkans became a transfer point for prostitutes from the countries of former Soviet Union, and for illegal immigrants from Asia.

In September 2002 NATO peacekeepers uncovered evidence that a state-owned Yugoslav company was party to an illegal deal to sell weapons components and repair services to Iraq and also sought to cover up the deal. The work was carried out by a company from Republika Srpska, the Serb entity in Bosnia-Hercegovina. In response, the Yugoslav government dismissed several officials, including a deputy defense minister and the head of the state-owned company, and announced it was opening an investigation. Several Republika Srpska officials were forced to resign.

In October reports surfaced that the U.S. suspected Yugoslavia of selling missile technology to Libya, likely for Iraq. Yugoslav academics acknowledged having traveled to Iraq, but denied U.S. assertions that they provided missile technology.

Also in October, a Tonga-registered ship intercepted off Croatia's coast was found to contain more than 200 tons of suspicious cargo, identified by the Croatian authorities as an explosive material used in the production of rockets and other munitions. Croatian police sources indicated they believed the cargo was destined for Iraq. The ship had departed from a Yugoslav port.

That same month a U.N. investigation revealed that more than 200 tons of weapons, most of them from Yugoslav army stocks, were sold by a private Belgrade-based dealer to Liberia, in violation of a mandatory U.N. embargo. The deals were arranged using documents falsely claiming the weapons were to go to Nigeria. The U.N. documented that six different illicit arms deliveries took place between June and August 2002.

In November, authorities in Bulgaria announced that they had detected a scheme to illegally export spare parts for armored personnel carriers, but not before a consignment falsely labeled as "farm machinery" was exported to Syria. Syria has often been identified as a suspected transshipment point for weapons destined to Iraq. A U.S. firm based in Washington was implicated in the Bulgaria deal.

Another situation involving Iraq remains unclear, and Human Rights Watch was unable to confirm the facts, but it was reported that Iraq was able to obtain weapons from the Czech Republic earlier this year. According to Iraqi defectors interviewed by the British newspaper *The Guardian*, sales of anti-aircraft rockets, missiles, and guidance systems for long-range missiles to Iraq, including a shipment delivered in February, had been licensed for export by the Czech Republic to Syria and Yemen, with one defector claiming he oversaw the transfer of the cargo from Syria to Iraq.¹⁰ The allegation was hotly denied by Iraqi and Syrian officials. The Czech government, for its part, stated that it had not approved exports of such equipment to Syria or Yemen in 2001 or 2002, nor authorized any re-sale of equipment sold to Syria or Yemen. A senior Czech official, however, told the *Boston Globe* that a large arms shipment to Yemen in early 2002 roughly matched the description given by Iraqi defectors of the arms cargo headed to Iraq.