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Comprehensive measures to reduce illicit small arms availability

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Comprehensive measures to reduce illicit small arms availability *

The problem

The enormous stock of small arms accumulated during the Cold War has turned into a dangerous time bomb which the international community appears incapable of controlling. Illicit small arms availability has become a global threat to the sovereignty of states at macro- and micro levels. The full impact of the unbound small arms arsenals will only be felt in the years to come because of the magnitude of the volumes circulating already beyond effective controls. Present levels of disturbances, violence and systematic violations of human rights are but the harbinger of the societal fragmentation enabled and reinforced by the pervasive availability of illicit small arms. However, illicit small arms availability is neither an independent variable in the social matrix nor the root cause of fragmentation. It is a dependent variable, though regularly mutating into an active virus in the context of certain levels of social fragmentation which brings about a widespread weakening of the state. The ensuing security vacuum, in turn, constitutes a dynamic pull factor of illicit small arms flows.

Formal and informal privatisation of security and criminalisation of economic transactions are indicators of a general trend towards violence and the threat thereof becoming a dominant factor in the regulation of social relations. As a result a dynamic process of internal rearmament takes root in an increasing number of states. Their economies are burdened with escalating transaction costs and their societies with intensifying levels of violence. A projection of present socio-economic trends in many regions suggests that widespread disruptive consequences of the pervasive availability of illicit arms are to be expected, if the international community fails to find a fast track to effectively decommission the surplus stocks. In addition, it is necessary to create a potent body tasked with vigorous intervention in black markets aiming at drying them up.

Presently various entities within the United Nations, intergovernmental bodies at the regional level and a myriad of non-governmental organisations have taken the initiative to combat illicit trade and availability of small arms. Unfortunately the widespread political attention and the number of institutions involved does not yet correlate with measurable positive changes in the field of controlling illicit small arms availability. This enduring and unrelenting situation can be attributed to at least three underlying factors. Firstly, the knowledge available in the public domain of how small arms are illegally circulating is still rudimentary, which excludes customised countermeasures, secondly most initiatives address the problem from the supply side only, possibly because the dynamics of the demand side are often politically sensitive and controversial and therefore inhibit co-ordinated countermeasures. Finally rather traditional measures like registers for example originating in the arms control debate in the extinct bi-polar world are extended to cover small arms which were largely disregarded as an issue during the Cold War. Instead innovative concepts are needed to respond to the largely intra-societal dynamics of the pervasive low-level destructive violence with its latent potential to escalate into civil war, the dominant form of current armed conflicts which are dominated by small arms.

* This research note takes up ideas presented already in an earlier paper by the author. "Illicit Small Arms Availability, Research note prepared for the 3rd International Berlin Workshop, July 1998 organised by SWP.

Towards a new paradigm of armed violence

Societal violence, crime, organised crime, armed conflicts, intra-state wars, and even international wars are no longer discrete events. A profound paradigmatic change of the concept of war is in the offing. The situation can be compared with the fundamental shift in development economics in the late fifties when Albert O. Hirschman opened a new area of thinking with his concept of “unbalanced growth”. Successful conflict resolution must be based on the new paradigm of armed conflicts. With the transformation of the character of wars their causes and the logic for their continuation are also changing.

After the Cold War armed conflicts are more directly constrained by the economic resources the fighting parties can mobilise locally. Therefore a proper understanding of the underlying economics in on-going wars is a precondition to design efficient sanctions and other interventions intended to end the fighting. In the context of current civil wars the roles of politician, war commander, monopoly trader and organised crime leader blend gradually. Radical ideologies manipulating often spurious identities serve as a cynical cover of the shrewd personal interests of such leaders. Yet the ideological grip they hold over the population on the basis of constructed identities endows them with negotiating power vis-à-vis the international community. Understanding this often complex power equation is indispensable for peace negotiators.

Presently non-requited transfers in support of fighting parties are rarely available, diaspora contributions being sometimes an exception. The required resources must be accumulated or collected locally, often by force and blackmail. Fighting parties turn into complex economic conglomerates, often commanded by wealthy traders turned warlords. In particular the non-state parties in conflict must generate foreign currency to pay for their military resupply on the black market. Four major sources have been identified in empirical studies of war economies: illegal export of raw materials and minerals; the drug trade; the appropriation and misuse of humanitarian aid; diaspora communities through voluntary contributions and blackmailing.

Illegal transactions are a common denominator of “war economies”. Globally criminal economic activities appear to benefit from higher growth rates than the regular economy. Experts have estimated that the global GCP (=gross criminal product) has reached 1000 billion US \$, of which 400 billion US \$ accrue to the drug sector alone. Global networking of criminal traders facilitates easy access to illegal markets. These “markets”, however, are characterised by high risk premiums and violence. They serve as a force multiplier for warring parties and create a class of war profiteers, both inside and outside the conflict zone.

However, the underlying logic of every illegal economic activity aims at legalising the proceeds which requires safe entry points into the legal economic circulation. This indispensable exchange between illegal black market activities and the regular commodity and monetary circulation makes “war economies” vulnerable to well-targeted interventions by the international community. In other words the lack of efficient controls of criminal economic activities and the frequent collusion of sovereign states (not only of tax havens) are the fertile ground where “war economies” take easy roots. Exports of UNITA’s diamonds and the Kmer Rouge’s tropical wood and gems are just two conspicuous examples of illegal trade tolerated by the international community.

Without real resolve to combat the criminal economic circulation little progress is to be expected in constraining parties involved in armed conflicts and in luring them to consider a non-violent conflict resolution. In particular, it should at last be taken into account that most traditional international embargoes have reinforced the income concentration and the criminal control of the embargoed economies in the hands of the incumbent rulers who were the target of the embargo. An ill-conceived embargo has the potential to initiate a self-reproducing pattern where the power of a criminalised elite depends on the continuation of the fighting as well as the embargo. Milosevic and the nomenklatura of his regime exemplify such a pattern.

While the killings and human suffering in on-going wars appear to be absolutely irrational from an outside perspective - therefore the outside-world presses for an end of the "irrational" fighting-, it is important to recognise that conceivable post-conflict scenarios are likely to have many losers to whom an end of the fighting appears undesirable. Once ended without comprehensive proactive outside support fighting is likely to resume or else criminal elements maintain a tight grip on the economy and stifle any dynamic market-oriented development. The present post-conflict situation in El Salvador highlights this danger. More people are being killed annually with firearms than during the civil war. Many economic transactions are not regulated by the market, instead they are regulated by violence or the threat thereof.

Intergenerational apartheid

During the nineties one destabilising structural variable has emerged almost universally. The incapacity of most economies to integrate the younger generations into the regular labour market, as they reach the age of normal entry, provides a teeming yeast to the illegal and criminal economic circuits and an unlimited reserve army for intra-state armed conflicts. Unemployment rates of 50 % and even up to 70 % are reported for many countries in the age group 15 – 24 years. The radical modernisation of most Third World and transition economies in the course of the current globalisation has yet to find the means and strategies to overcome the tense and expanding intergenerational economic divide, lest societal violence will prevail. The latter is likely to take on an ideological guise and eventually escalate into often amorphous armed conflict. In this process the state slowly disappears as a legitimate actor and war fighting becomes a surrogate mode of production for many actors which explains why the civilian population is the most endangered species in current wars.

Illicit small arms availability empowers the malignant forces of societal polarisation and confrontation. In the absence of other chances to develop self-respect, the ownership of an illegal firearm provides idle young males with a surrogate for an accepted role in society. Thus, the combination of the independent variable (large numbers of idle young males) and the dependent variable (copious availability of illicit small arms) make up a terrifying time bomb the international community appears unable or rather unwilling to diffuse for the time being.

Unilateral and asymmetrical strategies

National "gun" cultures and the presently prevailing conditions among nation-states are so diverse that an efficient universal set of regulations to control small arms is unlikely to emerge rapidly. Measures taken without further delay at local, national and regional levels

must serve as precursors for an eventual set of international conventions. It therefore remains important to encourage national governments to take unilateral steps to control the illicit availability of small arms. Any delay of national measures while waiting for international harmonisation will cause additional harm impossible to repair at later stages. Unilateral initiatives also serve as important role models, which will help to draw hesitant governments into a world-wide coalition focusing on the elimination of illicit small arms availability. It is important that presently safe countries do not take their status for granted, because in times of globalisation no economy is immune against producing social fragmentation, “inner cities”, “bidonvilles”, “no go areas for the police” and other pull factors.

No single measure will provide an encompassing solution, but an array of improved controls and proactive measures will eventually curb the pervasive armed violence which puts the very existence of many states in danger. Against this background selective measures designed to reduce the illicit availability of small arms and their malignant role in fostering societal fragmentation will be discussed in the second section. It does not enumerate the various proposals presently discussed in the major small arms fora, such as tightening export controls etc., this presentation seeks instead to complement this discussion with partially innovative measures.

II. Proposals

Black market networks appear to be able to deliver small arms, if necessary in large quantity, whenever and where ever effective demand articulates itself. Proactive intervention to halt illegal flows across borders by custom services and police forces is presently not feasible because too little is known about these networks, their warehouses, the operation of their financial settlements and, not least, their collaborators within governmental agencies around the world. While the intelligence agencies of certain states ought to have a fair understanding of the black market, because some of these actors were used as proxies during the Cold War to perform deniable supplies, this information is not shared internationally with control agencies nor is it available in the public domain. Thus, improving the control of small arms trade requires reliable information on the basis of world-wide field observation and data collection.

Surprisingly up to now no institution collects continuously data on the illicit proliferation of small arms. There is urgent need to create an independent source of information in this field. SIPRI (Stockholm International Peace Research Institute) and OGD (Observatoire géopolitique des drogues, Paris) are excellent role models for an efficient institutional form to collect reliable information on the illicit proliferation and societal diffusion of small arms. SIPRI in the field of major arms transfers and OGD in the case of drug trade have proven that a modest, but targeted research effort unfettered by political intervention can highlight sensitive transactions, the actors themselves are not disclosing, by screening open sources only. It is to be hoped that a smaller country like the Netherlands or Switzerland will fill the this obvious gap in the landscape of peace research in the near future and support an independent research facility serving as a **global small arms observatory**.

An important element to improve our knowledge about the illegal flows of small arms is comprehensive and reliable information from the places where they are being used in armed conflict and crime. From journalists to humanitarian aid workers there are many yet untapped, potential sources of much improved information, provided these observers are

qualified to report in correct detail what weapons they observe during conflicts. One way of qualifying them would be the wide-spread availability of a concise small arms identification booklet which would allow them among others to tell the difference from an Uzi, Galil, Kalashnikov, G-3 or FN without looking for a label.

Since humanitarian organisations are severely obstructed in their work as a result of the almost effortless availability of small arms in many conflict zones, it should be in their interest to improve the information on the black market networks which supply regions of conflict with arms and ammunition. Anticipating the creation of a global small arms observatory humanitarian organisations should sponsor the production and global distribution of a simple **small arms identification booklet**. It would certainly improve the quality of reporting on armed conflicts and societal violence and cumulatively provide information which would allow the reconstruction of illicit flows of small arms as a precondition to targeted intervention.

Supply side

Improved policing of illicit transactions is the most obvious step to take, in order to curb the black market. All present international, mostly regional initiatives pledge to improve the standards of controls. But this may not prove to be sufficient to curb the illicit transfers. In some cases governments do not have the infrastructure necessary to effectively control the transactions originating on their territory. An efficient and internationally co-ordinated plan of action must include a broad range of measures, some of which are geared towards structural improvements producing substantial results only in medium and long term. Some steps could be taken instantly to discourage fraudulent exports.

The case for a **transaction deposit**: An important source of illegal flows is the falsification of export licenses or export consignments never reaching their documented destination. Some traditional exporters of small arms like the Czech Republic simply do not have the diplomatic network which is indispensable to corroborate suspicious export applications. In order to facilitate an adequate control of licensed exports without burdening the tax payer with the costs which might outweigh the economic value of the transaction, the introduction of a transaction deposit might considerably improve the effectiveness of governmental controls. In order to avoid the creation of competitive disadvantages for smaller producing countries less capable of certifying the correct execution of export transactions, all arms exporting countries should agree to charge an export deposit for licensed small arms exports.

Export control bureaucracies and custom services are regularly confronted with fraudulent documentation which are not easy to detect. It is not known how often licensed arms exports are converted into an illicit commodity during the transaction and end up in wrong hands. The increasing number of cases of attempted fraud may reflect improved scrutiny of the controlling institutions, but it is also possible that fraud is generally on the increase.

While major weapon systems have a certain visibility which makes an eventual detection of a fraudulent transaction likely. This condition does not pertain to small arms, ammunition and spare parts, the case of smaller arms is different. For a variety of reasons SIPRI never attempted to cover small arms, firstly data were difficult to come by, secondly in the context of the military confrontation between West and East the issue was not of high priority, and thirdly, it was argued that small arms would constitute a certain proportion of the trade in major arms and could thus be assessed *ceteris paribus*. While the latter has certainly not been the case given the fact that most internal wars are predominantly fought with small

arms and generate demand for a specific range of infantry weapons, it remains a sad reality that even today very little is known about the trade in small arms.

Additionally since the mid-eighties the enduring economic and financial crisis throughout large parts of the Third World has weakened governmental bureaucracies in a significant number of smaller countries to such an extent that it has apparently become easy to corrupt them and obtain forged documents which facilitate illegal consignments of small arms. Black market traders are thus able to generate perfectly looking documents even without exploiting the sophistication of modern computers and copy machines. In short, false destinations seem to be internationally on sale, moreover the number of ports where customs offices are inexpensive to bribe are apparently numerous facilitating convenient re-routing of shipments to their illegal destination.

But a similar observation points to some of the smaller transition countries where the capacities of the export control administration are limited. The administration does neither have the personnel nor the logistical means to thoroughly check the applications for export licenses and to supervise the correct execution of the respective shipments. The smaller transition countries in Central and Eastern Europe have typically considerable manufacturing capacities in the field of small arms, which makes them an attractive target for black market actors.

The known cases of fraud using a third country as an entrepôt suggest that a certain class of countries is emerging where the agreed rules of international relations do not apply any longer. Several fraudulent transactions were reported in the literature where Paraguay has been implicated. This must have serious implications for the procedures of surveying arms transfers at the international level. These countries must be identified by consultative procedures among exporting countries. At the same time all suppliers have to institute measures which make sure that the controlling body in the exporting country maintains an efficient leverage of intervention throughout the entire transaction. Presently hardly any sanctions are at hand to effectively sanction the fraudulent re-routing of an export consignment if the mishandling occurs beyond the territorial borders of the exporting country and the exporter can not be directly implicated. Virtually no leverage exists to undo the illegal delivery.

Given the continued pressure from the demand side and the plentiful existence of traders who dispose of the criminal energy to enact fraudulent transfers, governmental controls must be considerably intensified lest illicit transactions will spread further. However, some supplier countries do not have the resources required to effectively tighten controls. More generally, it is difficult to justify that the taxpayer should shoulder the considerable costs which accrue from the indispensable control procedures. The trade of this commodity reflects above all the legitimate entrepreneurial interest of the arms manufacturer or trading company to make a profit. The transaction costs should be fully part of the entrepreneurial cost calculation and be reimbursed to the government. However, the black sheep among the exporters are responsible for the escalation of the costs of the control system. Charging exporters with a standard fee would punish the law-abiding exporters. Making a transaction deposit compulsory for every licensed transaction instead would allow for an automatic punishment if the transaction is not carried out as stipulated in the license. In addition, the interest earned during the deposit period would help to cover the costs of controlling arms exports.

Making a substantive transaction deposit compulsory for every licensed transaction would give the government a financial leverage to enforce a correct execution. A transaction deposit of 25 or 50 % of the value of the respective contract would serve as a powerful economic disincentive to all contracting parties to engage in fraudulent transactions. Because the deposit will only be returned after an independent source certifies the full and correct execution of the licensed export, a careful scrutiny of potential customers lies in the self-interest of the exporting company. Even under the worst-case assumption that a ruthless exporter counts on losing the deposit in his calculation, the weapons would arrive at the black market at least 50 % more expensive than the going market rate, leaving the government with additional resources to further improve controls.

The introduction of a **transaction deposit** allows governments to act unilaterally and shift the burden of proof to the exporting party. It is conceivable to consider deposit rates which decrease with the visibility of the respective weaponry, dispensing major weapon systems from any deposit. The lower the visibility the more important substantial deposits would be, because it is this end of the illicit arms trade which relates to on-going wars, societal violence and fragmentation of states.

Avoiding the misuse of legal small arms

Virtually all mass-produced small arms are manufactured and traded in abundance by existing laws. However, at some point of their respective, long life-cycles large quantities of small arms pass into the sphere of illegal circulation and misuse. Present levels of illicit small arms availability is the cumulative result of a large variety of schemes which permanently re-supply the illegal circulation of small arms and ammunition. The various critical points during the life-cycle of a weapon must be addressed with specific control mechanisms and measures of general prevention. A generally underestimated source of illegal circulation is the legal private ownership of firearms in countries with little restrictions attached private gun ownership. Regulative schemes used in other fields provide an orientation how firearms and ammunition can be safeguarded from entering illicit circulation and misuse.

The case for an **obligatory third party liability insurance**: The transformation of legally possessed firearms (manufacturers, traders, armed forces, law enforcement bodies, and private licensees) into instruments of crime, violence and internal warfare takes many routes. It is an obvious truth that the criminal energy in this process is not restricted to the demand side. Greed, extra profit and passive corruption, covert support and interference (mainly by governments), fraud and negligence are among the facilitating factors at the supply end, while criminal energy and corruption are the main tools at the demand side. By no means all facilitating factors are punishable, nor are the sentences always commensurate with respect to the often appalling consequences of the ensuing criminal offences and violations of humanitarian rights. Generally the original owners are never held liable on the basis of their negligence or active participation for the damages the respective firearms provoke during the illicit phase of their life cycle. With respect to the actual perpetrators claims of victims are often of no avail because only in rare occasions sufficient assets can be forfeited.

Therefore the liability of legitimate owners of small arms, in case their weapons enter for whatever reasons into illicit circulation and are eventually identified to be implicated in damages of various kind urgently requires greater attention. As a first step it is proposed to introduce a compulsory third party liability insurance for every small arms item produced or

traded irrespective of the status of the ultimate legitimate owner. The logic of this proposal draws among others upon the regulation of car ownership in many countries as well as on already existing international conventions regulating and securing the liability in the case of transborder risks like transport of oil and fissile materials at sea. In the latter cases the international community perceived the need to react to emerging large-scale dangers and established an obligatory third party liability coverage.

Given the recognition that the indiscriminate diffusion of small arms puts the existence of entire states into danger and causes human suffering and enormous economic damages almost everywhere, the situation is ripe, for the international community to agree on joint measures to reverse present trends. It would lend support to countries presently most affected by the scourge of illicit arms availability. A convention on small arms liability would be one such measure.

Cars and a guns are both commodities which are at risk to cause major damages to third parties, particularly when misused. The damaging act itself may be perpetrated by a third person following a theft or just by accident. A car owner is obligated to take out a third party liability insurance, because the state rightly wants to protect the victimised third parties. Damages are covered irrespective of the financial capability of either the owner or the actual perpetrator. The regulation gives priority to the victim. It also protects the tax payer from being shouldered with the bill as a debtor of last resort.

It is striking that in the case of firearms third parties are not protected in a similar manner against accidentally or intentionally caused damages when misused. Absolutely no liability protecting third parties takes effect in case a firearm is stolen. This is a serious lacuna which should be corrected, particularly since the general taxpayer is usually charged with the costs provoked by the misuse of firearms, alternatively victims are left without compensation. The changes required can be initiated unilaterally at the national level. They should, however, rapidly expand into an international convention, because illicit circulation of firearms is transnational. And more importantly, the international community has to find ways of coping with the heritage of millions of small arms already circulating illicitly and not covered by any insurance.

When discussing third party liability it is important to take into account that no institution or person entitled to possess firearms is aloof from the risk of theft and eventual misuse of its inventory. This applies to the armed forces as well as to the police, where the custody of firearms is not always as tight as one would expect. The need to introduce the concept of liability is best illustrated by the enormous damages caused by the huge stock of small arms recklessly left behind by the US-forces at the end of the Vietnam war. These weapons were marketed off-shore by the exhausted Vietnamese government, entered the web of global illicit circulation and surfaced in the hands of insurgents and criminals all over the world engendering untold suffering and enormous destruction. It would offer an interesting exercise for insurance mathematicians to calculate the rate that they would had to have charged the US-army for each American gun left behind in Vietnam to cover the (economic) risk of their illegitimate use off the Vietnamese battlefield.

Every firearm carries the potential of creating havoc, when misused. This risk must be translated into costs which are to be born by the legitimate holder. In order to implement this logic, every firearm is to be produced with an unique mark (number) to allow for tracing of the original legitimate owner. The only feasible moments in a life-cycle of a firearm for

collecting an insurance fee or a tax to cover potential and statistically predictable damages are the production itself and every legitimate trade transaction. For practicable purposes the total fee would already have to be collected with the first transaction after production.

It seems evident that the private insurance industry would collect a considerable fee against a policy covering all possible liabilities, taking into account the long life-cycles and the enormous damage any firearm can cause. The principle to charge the owner of small arms with the costs of potential liabilities would considerably increase the costs of gun ownership. It would make the true (societal) costs of gun possession finally transparent. It might also reduce the effective demand for firearms as life-cycle costs increase. Finally, a healthy pressure to improve the safekeeping of firearms would come from the insurance industry trying to protect its stakes. Technical innovation, like personalised trigger locks, would rapidly enter the market because such firearms would in the end allow legitimate gun owners to economise the insurance premium.

As a first step it would be important to establish the principle of compulsory third party liability insurance to be levied on the ownership of guns. It must apply to the military and the police alike, because arms stolen from their stock are as likely to become the means of destructive acts as any other firearm (Different rates are conceivable, but this is a technicality which the insurance industry will easily solve during a later stage.). Such a regulation can be introduced unilaterally, but the nature of illicit circulation and international diffusion of small arms strongly suggests to pursue in parallel the implementation of an international convention. For example, a sniper gun stolen from the stores of the FBI might end up in some remote country and be used in terrorist activities. Thus, such a risk insurance (or tax) would have eventually to be operated as an international trust fund charged to regulate cross-border liabilities. Enormous sums can be involved when small arms not legitimately possessed see action in violent conflict and civil wars.

This proposal clearly embraces market mechanisms to achieve its ends and considers this an appropriate complement to tighter government regulation of firearm ownership and trade. It is likely to provoke an outcry from the gun lobby and also from the armed forces and the police. However, the latter must understand that risk coverage is a reasonable principle. Once the problem is handled as normal insurance business it will look less threatening to legitimate holders, because additional costs will correspond to their specific risk classification.

But the important aspect of the proposed move is the translation of the risk small arms embody into monetary terms, thus making the costs of “gun cultures” transparent. The increase in effective prices would discourage overstocking at all levels and possibly reduce the demand for new production as excessive stocks will be marketed first. It also ends the effective subsidisation of gun ownership. Presently the taxpayer shoulders the damages ensuing in case of theft and misuse. With an obligatory insurance the gun owner would finally pay for the eventual damages, his individual choice to carry a firearm purporting to enhance his personal security entails.

Of course, this short exposition note can only provide a stimulus for a debate of how **compulsory third party liability insurance** for small arms can contribute to improving the safety standards, and reduce illegal circulation. Small arms are a dangerous commodity, but lack the normal treatment of dangerous commodities. Otherwise long since some obligatory insurance regime would have been introduced as in the case of car ownership. But as the

problems are becoming more pressing and costly every day, it should finally be possible to tackle them more vigorously, in this case from the economic end and call for an end of the effective subsidisation of privately owned small arms. However, innovative approaches to old problems always need a long breath and must work towards winning wide political support.

The case for an **ammunition tax**: Many observers would agree that the supply of ammunition is a key factor in most on-going armed conflicts. In many conflicts the warring parties are absolutely dependent on the efficiency of the logistics of the black market. This reliance on the black market to supply the fighting forces introduces an economic dimension into the political equation which determines the level of fighting and possibly the eventual disposition to seek a political solution of the conflict. Moreover, in some protracted conflicts fighting has virtually developed into a “mode of production”, there the calculation of the “fighters” should be particularly sensitive to the prices of their “inputs”, not least because illicit trade networks operate on a cash basis in convertible currencies.

In general, however, prices are low, quite often below the cost of manufacture as huge stocks of surplus are being cascaded in a chain reaction which increases the likelihood of leaks filtering into black markets. In contrast to the creation of new jobs in the regular economy being virtually unaffordable in the context of war-torn economies, the economic threshold of turning armed violence into a profitable business is rather low due to the pervasive availability of cheap small arms.

The long shelf-life of most small arms suggests to additionally explore the control of ammunition supplies as a means to effectively reduce the availability of operational small arms at least in medium term. The definitive consumption when used promises an impact on the availability through improved controls and significant increases in prices.

Against this background it is proposed to lobby governments to levy a significant (consumer) tax on all ammunition fitting small arms used in armed conflicts. Such a tax would be absolutely consistent with the historical evolution of taxes and their legitimacy. An important element in the evolution of taxes are levies on demeritorial goods, like alcohol, tobacco. A tax on ammunition would follow in this tradition where the state acts on the basis of a consensus that a certain commodity has negative external effects and affects the common welfare. The current international discussion indicates that this consensus is rapidly maturing with respect to small arms. Though the conversion of this consensus into a consumer tax of ammunition is unfortunately not yet on the political agenda.

A tax on ammunition would be a non-fiscal tax aiming at changing consumption patterns and the behaviour of the consumers. Small arms have become an increasingly important public health issue, therefore they require a health-oriented steering of “consumption patterns”. In changing the relative price of this commodity the government explicitly intends to discriminate against the potential (mis)use of this commodity. To make an impact a rate between 100% and 200% should be considered, in order to truly discriminate against the unnecessary use and overstocking of ammunition. Being a mass produced commodity with only a limited number producers an ammunition tax should be collected at the source.

The tariff must be levied for all ammunition produced. This is perfectly acceptable because the tax is neutral for the government as a legitimate customer. The higher prices its agencies have to pay are fully balanced by tax income. All private users of small arms would have to pay a premium for their hobby or for the privilege of presumed self-defence. This is perfectly

justified given the risks of inevitable health-hazards due to the danger of illegitimate use of privately owned firearms in case of theft and other ensuing negative external effects.

With respect to international trade in cases of certified deliveries to legitimate governmental recipients the consumer tax would be relinquished. In all other cases of export the tax would be levied at the source. The additional tax income would help to cover the social costs of the misuse of firearms which are presently shouldered by the general tax payer. Given the fact that a tax levied indiscriminately at the source would be collected from foreign customers as well, a large part of the tax income should be dedicated to an international trust fund charged with coping with the disastrous consequences of reckless proliferation of small arms in the past.

There are, of course, also arguments against such a consumer tax. At the principle level neo-liberal economists argue that any consumer tax infringes the liberty of the consumer, but this tax intervention must be weighed against the negative externalities of the diffusion of small arms. "If we don't, others will do"(sell and export cheap, duty-free ammunition), this standard argument against national initiatives, will be advanced by the different lobbies associated with the ammunition business. This argument is not valid as can easily be understood, when applied to the cultivation of marijuana and other drugs, in order to create additional jobs for farmers.

It will certainly be argued as well that the stocks already in black market circulation will earn windfall profits as a result of the institution of such a tax. This will inevitably be so, before black market stocks will begin to be crowded out. It should also be taken into consideration that the introduction of an ammunition tax will provide an environment for black market activities if neighbouring states do not co-ordinate their tax policies. The mutual history of the United States and Canada provides a number of negative examples when different tax policies created black markets and huge profits for cross-border smuggling*.

But these hurdles are not insurmountable. The history of demeritorial taxing shows a surprising convergence between different cultures and continents. Ammunition seems to fulfil the properties needed to justify an internationally co-ordinated promotion of a tax. The most important factor bringing the international community in line to a process of strictly applying a hefty consumer tax on ammunition is the emerging consensus on the dangers of small arms diffusion and the commonly felt need to counteract this tendency.

From a security perspective the control of ammunition and its taxing is by far more efficient at the source than at the level of ultimate consumer. It also allows for a rigorous accountability of those legitimate international transactions which would not be subject to taxation. Higher prices for ammunition lower the chances of unlawful appropriation of ammunition, because all actors will be less inclined to overstock ammunition and the final demand is likely to display some elasticity to prices. Finally, if the major international suppliers (G-8 and NATO member states among others) could agree on a concerted tax on ammunition, they would easily be able to muster sufficient pressure to bring most other suppliers to conform to such an international tax regime as happened with other demeritorial taxes in history.

The case for a **recycling deposit**: Increasingly states intervene in markets and put up regulations to make sure that environmentally hazardous commodities are being properly

* I am indebted to David Leclercq who drew my attention to this aspect.

recycled to avoid lasting negative effects if left as waste. Thus, car manufacturers will eventually be forced to recycle their cars at the end of their useful life. The costs of recycling will be charged with the sales price. To minimise the risk of illicit firearm possession and black market activities small arms should also come under an obligatory recycling regime aiming at eliminating a potential source of illicit transactions.

All small arms items are particularly sensitive commodities which constitute a potential danger if the decommissioning does not lead to the destruction and recycling of the components. To insure a proper recycling of firearms and decommissioned ammunition, a recycling deposit should be charged with the sale of firearms and ammunition. The deposit must be a consequential sum, in order to make it attractive for everybody to return any weapon found or not any longer needed and cash in the deposit. If further investigations of ammunition supplies confirm that illicit refilling of empty cases constitutes a problem, a deposit should be levied on ammunition as well, in order to secure the safe return of the cases to the legal sphere. Aluminium soft drink tins, also a mass produced item, carry such a deposit in Denmark.

Such a compulsory deposit would have a double effect. It would elevate the economic threshold to acquire firearms, but it would also contribute to reduce the average life cycle of the existing stock of weapons and hence the availability to enter illicit circulation in general. The incentive to decommission weapons and be rewarded by a refund is likely to forestall the accidental appropriation and entry of many firearms into illicit circulation. If old stocks of ammunition can be converted into cash, they are also less likely to end up in the cross-border black markets.

A recycling deposit operates not unlike a buy-back program, but its costs are borne by the legitimate or tolerated owners of firearms and it is made a permanent feature. Given the large existing stock which was acquired without the payment of a deposit, the start capital would have to be advanced by the government during the initial phase, while the program would become self-financing after a certain period. Compared to the potential security gains the initial investment required is modest.

The case for an international **trust fund for the destruction of surplus stocks of small arms**: Large surplus stocks of small arms originating from uncontrolled accumulation of reserves during the Cold War remain a source of illegal circulation which requires co-ordinated international action. The cascading of surplus weapons from the arsenals of industrial countries to the inventory of the armed forces of less wealthy nations was started in the early nineties. Unfortunately the weaponry and the volumes involved were often not commensurate with legitimate needs of the recipient armed forces. Sometimes the suppliers were merely interested in economising on recycling costs. As a result these weapons ended up in the arms depots with diminished safety against leakage into illicit global circulation. More importantly, however, the profound economic crisis in most transition countries and a significant number of developing countries has weakened the public services, including the military to such an extent that the safety of the arms depots is no longer guaranteed. In such precarious circumstances recycling of surplus arms is not feasible.

Measured against the enormous economic damages and human suffering caused by the global illicit small arms availability investing in an international trust fund for the destruction of surplus stocks of small arms will produce high rates of return in form of foregone damages. Against this background the formation of an international trust fund for the destruction of

surplus stocks of small arms, possibly under the auspices of the United Nations, should receive priority on the agenda of the General Assembly or the CD in Geneva. Since many individuals would be sympathetic to the creation of this trust fund, one might conceive this fund as a foundation which receives governmental as well as individual contributions.

Provided sufficient funds can be assembled the trust fund would actively pursue a strategy of identifying critical surplus stock and offer its services which in certain cases might involve in addition to destruction and recycling a compensation for the lost market value of the weapons, in order to make it attractive to governments to contract the trust fund for surplus reduction.

Demand side

A case for **reversing the culture of violence**: Reducing the availability of small arms is foremost a process of reconstructing mutual confidence, it calls for a consensus of putting the state back into the driving seat along the road towards improved security. The different measures proposed to improve the control of firearms and to reinforce the supply side controls are only start of an extensive political discourse needed before any legal action can bear fruit. The ensuing discussions will already be part of the cultural and political changes required to convert declaratory policies of governments into effective measures of improved control. Bringing the diffusion of firearms under control is not merely legal act, it requires to overcome the latent gun culture whose "virus" is more firmly established in some societies than in others. Unfortunately the propagation of the gun culture is presently well entrenched in the global electronic media. Some non-governmental organisations like the US-based National Rifle Association strategically sponsor the gun culture. This "virus" does not recognise national borders and often operates as a precursor of the global network of illicit arms trade. It has been reported that the hero of the Rambo movie is perceived as a role model among young Africans in war-torn societies.

The case for **restrictions on advertisement for small arms**: The aggressive visibility of advertisements for military weapons in all kind of print media is but one example of many accepted practices which contradict the declared intention of many governments to fight the diffusion of small arms, including weaponry of military design. Advertisements for military weapons* in print media are particularly suspect, since the readers are legally not entitled to purchase the products advertised. Since procurement officers are certainly not appropriately addressed by scenic advertisements praising the performance of automatic guns and military ammunition in a wide range of journals, it is pertinent to question the purpose of such advertisements.

To secure contracts in the legitimate procurement market sending extensive documentation, offering at competitive prices or bribing the right person would seem much more efficient and indeed practised strategies to win contracts. So, what is the logic behind the advertisements for sniper guns, automatic weapons etc.? Is it merely to entice the appetite of prospective customers, fanatics who are addicted to weapons, so that they would place their orders on the black market which eventually translates indirectly into higher demand in the legal market where the advertising manufacturer has its stakes? Or is it about cultivating a political

* For a detailed analysis of advertisements for military weapons see: Peter Lock, Rüstungswerbung Der Boom gegen die Krise der Rüstungsindustrie, Militärpolitik Dokumentation No.41/42, Frankfurt 1985.

climate where the focus is on military solutions of political conflicts which guarantees business as usual for the arms industry?

The fact that in general media aggressive publicity for weapons which nobody is entitled to possess, except for the armed forces and law enforcement agencies, is tolerated world-wide. It appears to indicate the prevalence of a permissive political climate with respect to the diffusion of small arms. Just as advertisement for medicine, smoking, and drinking came under regulation in many countries, advertisement for weaponry individuals are under no circumstances authorised to possess legally should be restricted to the absolute minimum required for rational procurement procedures.

Displaying ammunition as if it were lipsticks in the window of an up-market perfumery attempts to impart ammunition with an esthetical aura and to obfuscate the inherently dangerous character of the commodity. Given the legal antecedents of restricting advertisements for certain other products, the chances to challenge the public relations practice of the international small arms industry look promising. The aim must be to curb the indiscriminate propagation of firearms, at minimum of those legally restricted to military use only. Early parliamentary initiatives in the FRG* to prohibit advertisements for military weapons in general print media should be reactivated and provide a model for an initiative within the European Union.

Children and minors around the world are exposed to the products of the dominant American entertainment industry. Armed violence is a pivotal feature in these products where product placing is a major element of the business. Thus, firearm manufacturers compete for placing their violent gadgets as long and as often as possible. The minimum regulation required would be a code of conduct aiming at reducing the open propagation of armed violence and **a prohibition of product placing related to small arms.**

The case for massive **intervention in the illegal circulation of small arms**: Armed violence, organised criminality and protracted civil wars are often a reflection of economic activities which are not based on a set of rules of law. In the context of intra-state armed conflicts armed predatory acts and extortion often turn into an independent mode of production. It is therefore reasonable to assume that the different violent actors in their capacity as "homines oeconomici" are sensitive to the costs of their tools of production. Thus, prices charged in black market transactions influence the actual demand and hence the societal diffusion of small arms. If the argument that the illegal circulation of small arms is marked by price elasticity holds, then massive market intervention aiming at elevating prices would significantly contribute to the reduction of illegal circulation and societal diffusion of small arms.

Black market intervention requires financial resources and a trustworthy institution under the authority of the regional organisations like the OAS or OAU and possibly national agencies, in India† for example. The ECOWAS initiative is probably the politically most advanced agreement at the regional level to control small arms. With strong financial and institutional backing from the EU in the context of the Lomé III agreement the feasibility of aggressive black market intervention could be tested in this region which is still infested with large

* In 1985 the Social Democratic Party proposed to insert a paragraph into the Law to Control Military Weaponry (Kriegswaffenkontrollgesetz) banning the advertisement for military weapons in general print media.

† Tara Kartha's 'Tools of Terror Light Weapons and India's Security' (New Delhi 1999) describes in detail a scenario on the sub-continent which clearly endorses an active market intervention.

quantities of free-floating small arms. Such a programme which is not restricted to traditional buy-back schemes at the end of civil wars is expected to tackle the problem of illicit small arms availability by pricing small arms and ammunition out of reach to potential black market customers.

The implementation of such a scheme has to take many hurdles. It is often argued that it is not possible for an accountable agency to act on the black market. It must be stressed, however, that throughout the Cold War the intelligence networks of major powers purchased particularly small arms on the black market, in order to avail themselves with stocks of “deniability” to support their proxies. The design of the agency is also a sensitive issue, but given the damages caused by the illegal diffusion of small arms the organisational hurdles should not be insurmountable. Among others one can certainly borrow from the experience in international co-operation to combat the illicit trade of drugs.

While international programs for mine clearing are widely accepted and receive considerable support, the idea of a follow-up initiative focusing on clearing illicit small arms has not yet taken root. Like mine clearing small arms “clearing” has important humanitarian and economic dimensions. For regions where protracted intra-state conflicts have produced elaborate networks of black market supplies specialising in small arms and the complementary illegal channels for the export of marketable products, like gems, diamonds, tropical wood and diverted humanitarian aid commodities are well entrenched, the availability of a **Rapid Intervention Fund (RIF)** administered by the United Nations would be helpful. Governments would be eligible to receive funds in support active intervention in the black market and to take measures controlling the illegal economy. The same would apply to countries where an early warning of an emerging conflict has been given.

But the supply of organised crime might also be directly targeted in some cases. In southern Africa the border towns in Angola are believed to operate huge black markets where the organised crime in South Africa is believed to procure its weapons from stocks spilling over from the protracted civil war. A few million dollars invested in mopping up the arms bazaars in the border region would make a considerable contribution to containing the sprawling violence in South Africa.

The financial volumes required for such a rapid intervention fund are modest if compared with the costs of conflict and post-conflict reconstruction. However, the rate of return measured in added global economic development should be high and therefore it might be adequate to involve the World Bank in the provision of the required funds.

The case for **dual standardisation of small arms calibres**: An important measure to improve the control of the illegal proliferation and diffusion of small arms would be internationally agreed standards for calibres of small arms which strictly distinguish between weapons designed to serve the military and in law enforcement and weapons designed for sport, hunting and legal private ownership. Such a set of norms would facilitate in the long run much improved controls. It should be acceptable to all nations because it does not directly interfere with national regulations of private ownership of guns. At the same time it would be an important step towards the marking of ammunition proposed by the UN-expert group on ammunition* as ammunition for official use and private consumption is

* Report of the Group of Experts on the problem of ammunition and explosives, GA 29 June 1999, A/54/155.

unequivocally identifiable. The diffusion of arms and ammunition from official use to illegal non-state ownership and illicit circulation would become instantly transparent.

Liberal sales regulations with respect to private acquisition of firearms and ammunition would not any longer lead to illegal exports of ammunition to feed international black market networks. It would become inherently more difficult to procure ammunition for illegally possessed automatic weapons as their possession is globally restricted to the military and the police. In a transition period of ten years it should be feasible to achieve a complete separation of the two markets.

Once such a set of manufacturing norms is in place, it will become easier to exert international pressure against ammunition manufacturers supplying international black markets with non-private calibres. It may even be possible to win the consent of arms manufacturers because the introduction of such dual-standardisation would mean additional business.

Small arms are a case for **common responsibility**: Most small arms and ammunition illegally circulating around the globe were legally produced in industrialised countries. At some stage these weapons were separated from the chain of legal custody. The ways and means of the transfer into illegal ownership almost always require the availability of convertible foreign currency because black markets operate only on cash basis. Thus, the recipient party of the illegal trade must control some economic activity linked to international (global) market generating the indispensable convertible cash. Often this linkage is also constrained to black market transactions as is the case with the notorious diamond trade which keeps the civil war in Angola going. In every case, however, the economics of the black market for arms can also be targeted from the demand side through tightening the controls of illegal economic transactions and targeted economic embargoes.

As a result on-going **armed conflicts**, even in remote impoverished regions, are never isolated events. To the contrary, their dynamics and logistics depend on their **continued participation in the global economy**, though often through the backdoor of criminal sectors. Without the oxygen of economic interaction with the global economy armed conflicts would suffocate or at least transform into rather low levels of violence.

Thus, tackling the small arms availability in on-going wars requires an understanding of the underlying economics which would allow targeted and internationally co-ordinated action to close the revenue generating backdoors of the global economy through which criminal brokers organise logistical life lines for the fighting parties. More generally illicit small arms availability and the growth of the global GCP (gross criminal product) seem to be closely linked, not only in cases of armed conflict as increasing levels of armed violence in fragmented societies in Latin America and Africa testify.

The awareness of far-reaching consequences of tolerating criminal economic activities for the diffusion of armed violence is still underdeveloped. From an economic perspective no armed conflict is far away. In some cases it might be necessary to sharpen the legal instruments*, in order to stem the arms supply of on-going wars. But there is no denying that all armed conflicts are economically at our doorsteps and the spoils form part of our consumption pattern which makes them our common responsibility.

* While some would argue that closing loopholes is impossible, the crippling record of the American embargo against Cuba suggests, a lot can be achieved provided the necessary political will exists.

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