

## Check against delivery

### **Regulating small arms brokering**

Brian Wood, Amnesty International

My name is Brian Wood. I'm from Amnesty International, a member of IANSA.

The global arms trade is becoming increasingly differentiated and diverse. One of the consequences is the increasing reliance on intermediaries. Arms brokers are intermediaries who arrange or facilitate the transfer of weapons but who may not take possession of the weapons themselves. They usually work in networks with arms transporters, financiers and state officials.

Civil society and UN investigators have exposed international brokering networks that armed the perpetrators of the 1994 Rwanda genocide, the Angolan and Sierra Leone rebels who committed atrocities, and those who perpetrated subsequent crimes against humanity in the Great Lakes Region and in Sudan in violation of UN sanctions. Some of the same brokering networks have been involved in fuelling conflicts in other world regions. Very few have been prosecuted. Illicit arms brokers have continued to operate with impunity in violation of arms embargoes, as well as in breach of international law.

Many of these cases have received widespread publicity around the world and the public perception is that the United Nations is failing to enforce its mandatory embargoes and that the international community is turning a blind eye to those who aid and abet gross violations of human rights and humanitarian law.

Recently, a movie portraying the nefarious activities of an international arms broker entitled "The Lord of War" has been shown in many countries. Tragically, the main character is based on the real lives of several arms brokers, roaming the world, exploiting loosely controlled surplus arms stocks and arranging their delivery to conflict zones. This film will be screened next Tuesday here at the UN HQ and some of those involved in the film will speak about their work.

In general, UN Member States have been far too slow to address the problem. Less than 40 states have laws to regulate arms brokering activities and in many cases these laws are weak. When a broker's activities are prohibited or strictly controlled in their own State, they can often move their operations to another country where the activity is not illegal or is poorly regulated. Thus the networks can exploit locations where their brokering activity is not covered by arms export and import laws. The weapons never enter the country where the broker is based. By using a chain of shell companies and circuitous routes where law enforcement is weak and officials can be more easily corrupted, they arrange the delivery of their deadly cargoes to armed groups and forces that are committing grave human rights abuses.

In 2001 a UN Group of Government Experts reported on the problem and made some useful recommendations. The UN Firearms Protocol entered into force in 2005 and, although not applicable to state-to-state transfers of small arms, the Protocol recommends:

- the registration of brokers operating within their territory;
- the licensing or authorisation of brokering activities; or

- the disclosure on import and export licences or authorisations, or on accompanying documents, of the names and locations of brokers involved in the transaction.

However limited their scope, these three provisions feature in most of the regional and multilateral instruments on brokering agreed since 2001:

- Wassenaar Arrangement Elements for Effective Legislation on Arms Brokering (2003)
- OAS Model Regulations on Brokering (2003)
- EU Common Position on the Control of Arms Brokering (2003)
- Nairobi Protocol (2004)
- OSCE Principles on Controlling Brokering (2004)

Such instruments now cover over 100 countries, representing a convergence of thinking and action to regulate brokering activities. However, there are some inconsistencies and weaknesses in the instruments and this is holding back progress to introduce arms brokering controls into national legislation.

Last year, the UN Secretary-General urged the negotiation of a legally-binding international instrument regulating arms brokering in his “In Larger Freedom” report. Will the governments now heed his call?

Despite a growing convergence of views on how to control arms brokering, the current agreement (by a resolution passed in the 2005 First Committee) is simply to establish another Group of Governmental Experts (GGE) in late 2006. So far, the GGE is not explicitly instructed to consider the feasibility of an international instrument. It may take many more months before concrete recommendations are discussed and agreed. In effect, this has postponed concrete action, during which many more lives will be lost due to the proliferation of arms by irresponsible arms brokers.

IANSAs is urging States to:

- **Develop a legally-binding, global instrument regulating brokering of small arms & light weapons.**

If the 2006 Review Conference recommends the development of a binding global instrument it would provide a clear and strong guiding principle to the proposed Group of Governmental Experts.

- **The proposed Group of Governmental Experts on arms brokering should report by the end of 2007 on (i) proposals for a global instrument of standards to regulate international arms brokering and transporting, (ii) elements for international cooperation and assistance to control arms brokering, and (iii) consultations with recognized non-governmental experts on the subject.**

- **States should make the violation of a UN arms embargo a criminal offence with universal jurisdiction.**

States have already agreed in the PoA to criminalise the violation of UN arms embargoes. The logical next step is to make transferring and brokering small arms in violation of a UN arms embargo an international

crime with universal jurisdiction. Universal jurisdiction already exists for piracy, war crimes, genocide, crimes against humanity, torture, and trafficking in human beings, among others.

**• States should explicitly include in the definition and scope of the term ‘arms brokering’ (i) the activities of all brokers, whether state agents or private actors, (ii) brokering activities with transport agents and financiers of international arms deals; and (iii) explicit criteria for licensing that are consistent with states’ obligations under international law.**

Too often existing laws do not specify that private persons and public officials who arrange transport and finance or otherwise fix arms deals between buyers and sellers are engaging in arm brokering activities. Also, the criteria used by States when authorising an arms brokering deal are frequently not specified or made consistent with existing international law. By including these aspects, states will be able to regulate brokering much more effectively.

Mr Chair and distinguished delegates, we need urgent action now. The world cannot wait any longer for concrete assistance to prevent illicit arms brokering.