

**THE INTERWOVEN THREAT OF  
ARMS TRAFFICKING AND TERRORISM:  
A CHALLENGE TO COOPERATIVE SECURITY**

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I would like to thank the Southern Command for inviting me here today and for giving me the opportunity to address this distinguished forum. Your conference could not be timelier. It comes just on the heels of the Biannual Meeting of States assessing progress on the 2001 UN *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, which took place last week in New York City at the UN.

I will try to illustrate some of the results and shortcomings of states' actions, what challenges the interwoven threat of arms trafficking and terrorism poses to the Western Hemisphere and elsewhere, which key facilitators enable this threat to grow, and what responses, in my view, should be tailored to respond to their challenge.

Let me start by borrowing an authoritative observation regarding the Western Hemisphere, and I quote: "Today, the threat to the countries of the region is not the military force of the adjacent neighbor or some invading foreign power. Today's foe is the terrorist, the narco-trafficker, the arms trafficker, the document forger, the international crime boss, and the money launderer." This assessment must sound familiar to all of you since it comes from General James Hill, of Southcom, and since, I am sure, you experience such reality in your daily work.

The lessons drawn in the Americas apply just as well globally. Ambassador Kuniko Inoguchi of Japan, who chaired the UN Biannual Meeting of States in New York, told me that September 11<sup>th</sup> produced a decisive impact in alerting the international community to the link between the illicit arms trade and terrorism. She pointed out how trafficking in small arms and light weapons is at the core of this nexus since it enables terrorists to acquire power, train and equip recruits, and exert or barter influence. Ambassador Inoguchi mentioned the "almost synergistic link" of the illicit arms trade with terrorism and the international cooperation that is needed to break it.

She spoke against the background of reports of casualties caused by small arms and light weapons among US and coalition forces, as well as peacekeepers, in Afghanistan, Iraq and elsewhere. Horrific as they are, these losses are only a fraction of the 500,000 deaths, the incalculable toll on security, human rights, and well being that small arms and light weapons

exact every year in violence ranging from intra-state armed conflict to communal strife and to domestic disputes.

These many victims demand answers to literally burning questions: Who is responsible for such havoc and who benefits from it? The answers are, of course, very complex. We can say that the state and non-state actors that commit these atrocities bear the major responsibilities. States that arm these abusers or fail to prevent weapons from winding up in the wrong hands share the abusers' responsibilities. This failure is often mirrored by the reluctance of arms producers and exporters to recognize that today's clients with a record of abusing somebody else's human rights may become tomorrow's foes on the battlefield—foes who, in the conduct of war against their previous patrons and their allies, may be impervious to the principles of the Geneva Conventions.

Moreover, the direct complicity of some governments' highest echelons in fueling deadly arms pipelines is evidenced by the fact that heads of state have been indicted for arms trafficking crimes. Two were former heads of state in the Western Hemisphere (one was acquitted). The other is a sitting head of state in Africa whose indictment also includes a charge of terrorism. Many investigations by the UN, nongovernmental organizations, as well as the press, also named a vast array of government leaders and officials as parties to arms embargo violations.

These cases reveal well-honed arms smuggling networks operated by globetrotting brokers, transport agents, dealers and assorted facilitators who are equipped to survive their highly-placed sponsors' occasional fall from grace and power. While changing political tides, as well as magistrates' and UN actions, might have dented the climate of silence, fear and impunity surrounding the ultimate pay-masters of covert arms deals, the supporting cast of middlemen and peddlers has remained largely unscathed and outside the reach of the law. Only eighteen states in the world, including the US, have adopted controls that capture the entire chain of arms transfers, including trade that is carried out through the good offices of intermediaries.

Elusive by definition and skilled in clandestine practices, illicit arms brokers have taken full advantage of these patchy controls. When exposed, they have simply relocated their activities to places where government oversight was scant and corruption rampant. As a result, they have retained the ability to fuel violent conflict in areas where their business can thrive, regardless of the cost in civilian lives.

One thing should be absolutely clear: when an illicit arms network takes hold it remains available to whomever can afford its services, including the very same non-state actors that General Hill mentioned. To those of us who have studied arms trafficking in Eastern and Central Africa and identified major transaction and transit hubs in the region, the terrorist attacks in Mombasa came as no surprise. The reported connection between Al Qaeda and the diamond and arms smuggling pipelines in West Africa, as well as the destabilizing role of criminal organizations catering to all sorts of unsavory clients across borders and waters in South East Asia, were likewise predictable. And the list goes on.

It is crucial, however, to understand that no country and no region of the world is immune from the spider web of illegality that knows no geographical, ideological, or political boundaries.

In this regard and closer to home, I would like to mention the important work that the Organization of American States has done in identifying such linkages and by connecting the many scattered dots of the nexus between states' responsibilities, arms brokers' roles, and terrorism.

In January 2003, the OAS published the findings of an investigation it conducted on the illegal diversion of 3,000 assault rifles and 2.5 million rounds of ammunition. The transaction ostensibly involved a 1999 transfer of obsolete arms from the Nicaraguan government to the Panamanian police. These weapons, however, were collected by the "Autodefensas Unidas de Colombia," a group that the OAS defines as a terrorist organization. Several brokers and transportation agents based in Nicaragua and Panama were involved in the deal which included a forged purchase order and a false bill of lading.

The OAS investigators concluded that one Israeli broker was "likely" guilty of fraud and of violating the Colombian anti-terrorism laws, and that a transportation agent "apparently" conspired in the crime. Moreover, the investigators charged that the Nicaraguan authorities failed to comply with OAS agreements on arms trafficking and neglected to verify end-user documentation. A similar charge was leveled against two Nicaragua-based arms brokers, while the "likely" corruption of Colombian customs officials was cited as key to the arms diversion.

Significantly, the OAS investigation linked the Nicaragua-based brokerage agency (which also reportedly represents the Israeli Military Industries) to other mediation services requested by a Lebanese arms broker for the acquisition of Nicaraguan army equipment, including anti-aircraft guns, surface to air missiles, rocket-propelled grenades and small arms. The Lebanese middleman is currently in custody in Europe and under investigation by several nations for his ties with Al Qaeda and his suspected connection to the attacks on US embassies in East Africa.

To the best of my knowledge, the OAS inquiry was the first ever undertaken by a regional organization based on the model of similar investigations conducted by the UN. This important step is partly a response to the many threats that affect the region. It is also due to the leadership that the OAS has taken in combating arms trafficking and terrorism particularly by equipping itself with two important instruments: the Inter-American Conventions against the Illicit Manufacture and Trafficking in Weapons, Munitions and Explosives (1997), and against Terrorism (2002). The first treaty recognizes that small arms and light weapons easily and often illegally cross national borders and that trans-national instruments are best suited to prevent and stem this trade. The second convention, negotiated in record time after September 11<sup>th</sup>, is the first among more than a dozen anti-terror agreements that incorporates in its provisions the protection of human rights.

It is my understanding that the OAS is also close to reaching an agreement on model regulations to control the activities of arms brokers.

However, it is crucial to recognize that regional perimeters are just as porous and vulnerable as national borders, and that the global threat posed by arms trafficking and terrorism—with their often overlapping networks—needs to be confronted with global action based on global norms.

As the discussion at the Biannual Meeting of States on small arms, as well as a lack of agreement on a UN comprehensive treaty on terrorism prove, we still have a long way to go before reaching a global understanding that could lead to uniform—and enforceable—standards in states' responses.

While it is apparent that existing legal frameworks need to be revised, updated and expanded to address these global threats, states have been reluctant to embrace global norms and squarely tackle two dichotomies in the new security environment which, simplistically put, stem from the following questions or contrapositions:

- What is legal and what is illegal in arms transfers?
- Who is a terrorist and who is a freedom fighter?

There is a sense, and in fact a conviction, among a group of like-minded governments and of civil society, that an arms deal is not only illegal when it breaks national controls or arms embargoes, but also when it violates international norms to which states have already committed themselves, including the protection of human rights and international humanitarian law. Similarly, internationally recognized and uniform standards which would close the gaps in the control of arms brokers' activities and criminalize the deeds of unscrupulous facilitators would contribute much needed clarity on this so far ill-defined legal playing field. At a minimum, controls on brokers should include registration and licensing requirements, as well as penalties for the offenders, and principles that would preclude transfers to unsavory destinations.

Two years ago members of the International Action Network on Small Arms—a worldwide coalition of more than 500 nongovernmental organizations—proposed model treaties encapsulating such norms. I regret to report that, to date, there have only been a few takers. More progress is urgently needed if states really want to honor the spirit of the UN *Programme of Action* and finally allow their law enforcers to be on the same page by enabling them to cooperate effectively within, across and beyond national and regional borders.

Equally imperative is a uniform international legal regime to identify, apprehend, and prosecute terrorists. But the international community is still struggling to reach agreement on the draft text of a comprehensive convention on terrorism. This draft UN document attempts to amalgamate and expand on existing conventions on terrorism, which include certain terrorist acts, but that do not define the crime. The draft treaty would cover much of the same ground delineated by post-September 11<sup>th</sup> UN Security Council resolutions, but it would carry more weight and bind states to more enduring commitments than the fiats expressed by the Security Council. Yet it remains in limbo because of fundamental disagreements about the question of who is a terrorist and who, instead, is a freedom fighter.

Some practitioners believe that terrorism is like pornography: you know it when you see it, so defining it would be unnecessary. The OAS anti-terror convention, for example, does not include a definition. However, many states would find this intuitive approach unacceptable. Moreover, a lack of a common understanding of the crime may hinder and even preclude cooperation and judicial assistance, particularly extradition.

By contrast, the EU agreed on a common definition in 2001. This decision paved the way to a EU-wide arrest warrant which in 2004 will effectively allow any Member state to obtain the arrest and surrender for pre-trial or court proceedings of an individual from any other EU state. As a result, extradition could be carried out expeditiously and with minimal formalities. Obviously, what applies in the EU, the world's most integrated region, may not apply elsewhere.

Historian Timothy Garton Ash attempted to overcome the definitional impasse by offering baseline parameters to the drafters of the UN comprehensive convention. He argued that a definition should be based on "biography; goals; context; and methods." Garton Ash elaborated his perspective by posing questions for each of the items he listed. To ascertain the terrorists' biographical background and goals, he posited, we should ask who are the terrorists, where are they coming from, what do they really want? On context, he pointed out that when a group resorts to violence to achieve a goal, it matters what kind of state this group is in and whether the means of working for peaceful change are available or not. On methods, the questions to be tackled regard the use violence and whether such violence is targeted specifically against the armed and ununiformed representatives of a state, or against innocent civilians. If the latter are the target, Garton Ash concludes, we need to ascertain whether the group attempts to limit civilian casualties, or aims at mass killings for maximum effect. I believe that Garton Ash's proposal merits closer examination.

In sum, while it is true that the post-September 11<sup>th</sup> security environment has spurred a rethinking of the legal framework of responses to transnational threats by rogue state and non-state actors, clear and transparent parameters for defining such responses have been difficult to achieve. Such parameters should be developed in a continuing international dialogue leading to a shared understanding of states' prerogatives and limitations, especially regarding the use of force and when civil liberties are at stake.

I grew up in Italy, a country that has known the twin evils of organized crime and terrorism. My generation's thinking and outlook has been deeply affected by the experience and memory of fifteen years of bloodshed and insecurity when familiar city blocks and streets became the stage of running battles fought prevalently with small arms, light weapons, and explosives. I am glad that my country responded to these twin threats within the limits of the rule of law and, by and large, by avoiding draconian measures that would have penalized the many for the crimes of the few.

Above all, that experience has taught me that there is no real substitute to cooperation both at the domestic and the international level, the polling of resources, the painstaking assemblage of information, the courage to reach out beyond one's field of expertise to identify the linkages, the flash points, the weaknesses of our opponents and those of our own system. In short, there is no real substitute for prevention. Such an approach does not call for quick fixes and may be fraught with challenges and frustrations, but I believe this is the approach worth pursuing as the most effective and enduring.

For more on the topic of small arms and light weapons see: [www.iansa.org](http://www.iansa.org)

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On Arms brokering see:

*Enforcing Extraterritorial Jurisdiction on Arms Brokering Offenses: Challenges and Opportunities for International Cooperation*, presentation at the seminar of governmental and nongovernmental experts, the “Dutch-Norwegian Initiative on further steps to enhance international cooperation in preventing, combating and eradicating illicit brokering in small arms and light weapons, Oslo 22-24 April 2003,” available at [http://transatlantic.sais-jhu.edu/current\\_issue4.php](http://transatlantic.sais-jhu.edu/current_issue4.php)

*Expanding the Net: A Model Convention on Arms Brokering: A Briefing Paper for the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, (Washington, DC: The Fund for Peace, 2001), available at <http://www.fundforpeace.org/publications/reports/expandingnet.pdf>

With Jeremy Carver, Richard Winfield, Rae Lindsay and James Bourke: *Model Convention on the Registration of Arms Brokers and the Suppression of Unlicensed Arms Brokering Prepared for the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, available at [http://www.fundforpeace.org/publications/reports/model\\_convention.pdf](http://www.fundforpeace.org/publications/reports/model_convention.pdf)

With Elise Keppler, *Casting the Net: Implications of the US Law on Arms Brokering*, (Washington DC: The Fund for Peace, 2001) available at <http://www.fundforpeace.org/publications/reports/thenet.pdf>

*In Name Only?* in Smart Sanctions: Targeting Economic Statecraft (Rowman & Littlefield, 2002)

*Arms Embargoes* in Smart Sanctions: The Next Steps (Bonn International Center for Conversion Studies, 2001).

*Arsenals on the Cheap: NATO Expansion and the Arms Cascade* (Human Rights Watch, 1999), available at [www.hrw.org](http://www.hrw.org)

On cooperative security against terrorism see:

“Shoulder to Shoulder Interview Series” (May and June 2003), available at <http://www.transatlantic.sais-jhu.edu>

*Legitimacy and Legality: Key Issues in the Fight against Terrorism* (The Fund for Peace, September 2002); available at <http://www.fundforpeace.org/publications/reports/keyissues.pdf>