TRANSFERS OF SMALL ARMS AND LIGHT WEAPONS TO FRAGILE STATES: STRENGTHENING OVERSIGHT AND CONTROL

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I. Introduction

A key indicator of state fragility is the inability of state security forces to exercise a monopoly over the legitimate use of force.[1] The need for security forces in a fragile state to be sufficiently trained and equipped is thus recognized as a precondition for stability and development. This usually involves the import of conventional arms, including small arms and light weapons (SALW) and ammunition. However, supplying arms and ammunition to security forces in fragile states does not necessarily lead to the intended goals and in a number of cases has instead contributed to armed conflict and instability. The challenge for the international community is therefore to contribute to the provision of security in fragile states while limiting these risks.

To assist aid donors, arms suppliers or the states in which the companies providing arms and ammunition are based to pay more attention to this upstream aspect of conflict prevention, this paper examines frameworks for the integration of SALW transfer control and oversight mechanisms into broader stabilization initiatives, including security sector reform (SSR) programmes. In particular, it shows how strengthened control and oversight of the supply of arms and ammunition to fragile states can minimize the risk of conflict, instability and corruption.

The paper focuses on international transfers of conventional arms supplied to the national security forces of eight fragile states in the period 2002–12: Afghanistan, the Democratic Republic of the Congo (DRC), Iraq, Liberia, Papua New Guinea, Sierra Leone, Somalia and South Sudan.[2] While many

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[1] Putzel, J. and Di John, J., *Meeting the Challenges of Crisis States* (London School of Economics and Political Science, Crisis States Research Centre: London, 2012), pp. 8–11.

[2] According to the OECD, a state is fragile if it 'has weak capacity to carry out basic functions of governing a population and its territory, and lacks the ability to develop mutually constructive

SUMMARY

● The need for security forces in a fragile state to be adequately trained and equipped is recognized as a precondition for stability and development. However, supplying arms to security forces in fragile states can contribute to armed conflict and instability.

The risks associated with supplying arms and ammunition to fragile states, include the risk that the arms will be diverted to actors seeking to undermine stabilization efforts; the risk that the arms will contribute to the renewal or intensification of armed conflict; and the risk of corruption in the transaction.

A number of European Union, NATO and OECD states have undertaken risk mitigation measures, sometimes in cooperation with recipients as part of security sector reform (SSR) programmes. These measures include supporting multilateral notification systems for arms transfers; increasing control and oversight of the delivery of arms and ammunition; ensuring good standards for stockpile management, marking on import and surplus destruction; and improving the recipient states' standards in arms procurement.

The challenge for the international community is to ensure that fragile states receive the arms that they require, while limiting the negative impacts on conflict dynamics, stabilization efforts and governance.

of these states were affected by armed conflict during this period, this factor did not determine their inclusion in this study.[3] Although Afghanistan and Iraq are the most notable examples of the risks associated with the supply of arms and ammunition to nascent security forces in fragile states, similar

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issues have been highlighted in the six other states. The paper identifies lessons learned from these cases for application in ongoing and future efforts to support security forces in fragile states such as Libya and Mali.

Section II of this paper outlines the risks entailed in supplying arms and ammunition to fragile states, using examples from the eight case study countries. In many of the examples, member states of the European Union (EU), the North Atlantic Treaty Organization (NATO), or the Organisation for Economic Co-operation and Development (OECD) were providing financial and technical support for SSR programmes at the time the arms transfers took place. However, EU, NATO and OECD states are often unable to directly supply equipment due to constraints imposed by their national laws and regulations or their lack of appropriate materiel.[4] As a result, the supply of arms, ammunition and military equipment is often carried out by states that pay less attention to the risks of diversion or misuse and are therefore more ready to issue an export licence. In other cases, the problems associated with accessing and delivering materiel has meant that transfers can involve private suppliers, brokers or transport providers that have also been involved in transfers to embargoed destinations.

Those EU, NATO and OECD states that do supply arms and ammunition to security forces in fragile states also take measures to mitigate risks. Section III examines risk-mitigation measures that have been used in several of the eight cases studied, noting their strengths and weaknesses. This section also considers ways to build on lessons learned. Section IV provides general conclusions and recommendations for suppliers and recipients to limit the risk that transfers of arms and ammunition will have a negative impact on conflict dynamics, stabilization efforts and governance. The risks identified and lessons extracted here should be considered when designing the equipping aspects of the SSR programmes envisioned for reformed security forces in the Middle East and North Africa following the Arab Spring, as well as ongoing efforts in Africa and Asia.

and reinforcing relations with society'. Organisation for Economic Co-operation and Development (OECD), *Supporting Statebuilding in Situations of Conflict and Fragility: Policy Guidance*, DAC Guidelines and Reference Series (OECD: Paris, 2011), p. 21.

All 8 states are included in either the 2011 or 2012 editions of the OECD working list of fragile states. OECD, *Fragile States 2013: Resource Flows and Trends in a Shifting World* (OECD: Paris, 2012); and OECD, *Ensuring Fragile States are not Left Behind: 2011 Report on Financial Resource Flows* (OECD: Paris, 2011). The DRC and South Sudan cases studies were complemented by field research conducted by consultants.

[3] For the purposes of this paper, 'armed conflict' refers to state-based armed conflicts (wars and minor armed conflicts) as defined by the Uppsala Conflict Data Program (UCDP) Conflict Encyclopedia, <http://www.ucdp.uu.se/database/>.

[4] E.g. some EU member states are likely to deny an export licence for particular types of arms and ammunition for a range of fragile states based on risk assessments using the criteria of the EU Common Position on arms exports. Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, *Official Journal of the European Union*, L335, 13 Dec. 2008.

II. The risks of supplying SALW to fragile states

The following subsections outline some of the risks associated with supplying arms and ammunition to fragile states: the risk that the arms will be diverted to actors seeking to undermine stabilization efforts; the risk that the arms will contribution to the renewal or intensification of an armed conflict; and the risk that the transaction will be corrupt. Each subsection highlights features that are particular to state-to-state transfers or transfers involving commercial suppliers, as well as the risks that are common to both types of supply.

Risks of post-shipment diversion

Post-shipment diversion refers to situations in which arms are transferred to an end-user (e.g. rebel, terrorist etc.) other than the intended end-user, without the express authorization of the exporting state's relevant authorities. Diversion can occur in state-to-state transfers and in transfers involving commercial suppliers. Post-shipment diversion is a worrying and common feature of arms and ammunition transfers to national security forces in fragile states, as weapons have subsequently been found in the hands of actors that are seeking to undermine stabilization efforts and intensify

Post-shipment diversion is a worrying and common feature of arms and ammunition transfers to fragile states

or resume armed conflict in the fragile state or its neighbourhood. 'Missing' weapons delivered to Afghan and Iraqi security forces have attracted headlines, but these cases are far from unique.[5] For example, arms and ammunition supplied to forces of the Somali Transitional Federal Government (TFG) and the Congolese Armed Forces (Forces armées de la République démocratique du Congo, FARDC) have been found in the hands of civilians and armed groups and at arms markets across Central and Eastern Africa.

The relationship of post-shipment diversion with the outsourcing of the supply of arms and ammunition for the rebuilding of security forces in Afghanistan and Iraq has attracted considerable attention. These cases also exemplify the use in licit arms supply chains of conflict-facilitating actors (i.e. entities that also engage in illicit arms shipments). The United States-supported train-and-equip initiative in Iraq has used a particularly large number of companies contracted directly by the donor (known as apex contractors) and associated subcontracted companies. As of 2008, 24 apex contractors supplying arms and ammunition, training or capacity-building programmes to Iraq had subcontracted at least 130 arms brokers and arms transport companies to procure and transport the various contract components.[6] These subcontractors included arms brokers on US Department of State watch lists.[7] They also include suppliers either subject to US sanctions

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[5] E.g. Strickler, L., '$1b in military equipment missing in Iraq', CBS News, 11 Feb. 2009, <http://www.cbsnews.com/stories/2007/12/06/iraq/main3584247.shtml>.

[6] Amnesty International (AI), *Blood at the Crossroads: Making the Case for a Global Arms Trade Treaty* (AI: London, 2008), pp. 60–62.

[7] E.g. Heinrich Thomet was placed on the US Department of State arms trafficker watch list but was involved in transfers to Iraq on behalf of the USA. US House of Representatives, Committee on Oversight and Government Reform, 'The AEY investigation', Majority Staff Analysis, 24 June 2008, <http://oversight-archive.waxman.house.gov/documents/20080624102358.pdf>, p. 2; and Amnesty International (note 6), p. 51.

or under indictment by a US grand jury for arms smuggling.[8] Many air cargo companies contracted to transport arms and ammunition into Iraq had previously been involved in shipments of arms to states subject to United Nations or EU arms embargoes.[9] These contractors supplied arms and ammunition to private security companies and militias in Iraq, which were then diverted to insurgent groups within and outside Iraq.[10]

During 2009–10, China, Ukraine and the USA supplied the FARDC with considerable quantities of arms and ammunition. China and the USA notified the UN Sanctions Committee on the DRC of their intention to deliver more than 9 million 7.62 x 39-mm rounds to the FARDC between May 2009 and mid-2010 for use in training.[11] No concrete information is available about any pre-delivery guarantees offered by the FARDC on securing the stockpiles and minimizing risks of post-shipment diversion.[12] Such provisions would be particularly pertinent as a large number of observers, including the UN Group of Experts on the DRC, have identified the role of FARDC officers and troops in cases of diversion—by sale or non-commercial supply—of arms and ammunition to armed groups subject to the UN arms embargo.[13]

There is considerable evidence that since the UN arms embargo on Somalia was amended in 2007 to permit the supply of arms and ammunition to TFG forces, large quantities of arms and ammunition supplied to the TFG have been diverted to private users, arms markets and opposition groups.[14] In 2011 the UN Monitoring Group on Somalia and Eritrea reported that between 'one third and one half' of all ammunition distributed to TFG forces was being diverted to the open market.[15] According to one former member of the monitoring group, in 2011 the monitors received reliable testimony that TFG sources continued to supply the arms markets with significant quantities of arms and ammunition.[16] According to some sources, at least some of these arms and ammunition have been used

Large quantities of arms and ammunition supplied to the TFG have been diverted to private users, arms markets and opposition groups

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[8] E.g. Landay, J. S., 'Chinese firm linked to smuggled AK-47s picked to supply Iraqi army', Knight Ridder Newspapers, 27 Apr. 2005 <http://www.mcclatchydc.com/2005/04/27/11562/chinese-firm-linked-to-smuggled.html>.

[9] Griffiths, H. and Bromley, M., *Air Transport and Destabilizing Commodity Flows*, SIPRI Policy Paper no. 24 (SIPRI: Stockholm, May 2009), pp. 25–26.

[10] Vallini, N., 'Italian guns for Iraqi insurgents', *Corriere della Sera*, 25 May 2005, <http://www.corriere.it/english/beretta.shtml>; 'Iraq arms leaking to insurgents', BBC News, 23 May 2006, <http://news.bbc.co.uk/2/hi/5006196.stm>; Townsend, M. and McMahon, B., 'UK guns in al-Qaida hands', *The Observer*, 19 Mar. 2006; Schmitt, E. and Thompson, G., 'Broken supply channel sent arms for Iraq astray', *New York Times*, 11 Nov. 2007; and Cloud, D. S. and Schmitt, E., 'U.S. weapons, given to Iraqis, move to Turkey', *New York Times*, 30 Aug. 2007.

[11] These notifications were submitted on 16 Apr. 2009 and 18 Feb. 2010, respectively.

[12] Since all transfers were conducted under the terms of bilateral government-to-government agreements, it is likely that the risks of diversion before or during delivery were limited.

[13] United Nations, Security Council, Final report of the Group of Experts on the Democratic Republic of the Congo, 21 Nov. 2008, annex to S/2008/773, paras 102–20, 136–42; 9 Nov. 2009, annex to S/2009/603, paras 22–43, 47–55; and 18 Oct. 2011, annex to S/2011/738, paras 563–67.

[14] United Nations, Security Council, Report of the Monitoring Group on Somalia pursuant to Security Council Resolution 1811 (2008), 20 Nov. 2008, annex to S/2008/769, 10 Dec. 2008, p. 6; and United Nations, Security Council, Report of the Monitoring Group on Somalia pursuant to Security Council Resolution 1853 (2008), 26 Feb. 2010, annex to S/2010/91, 10 Mar. 2010, pp. 6, 46–47.

[15] United Nations, Security Council, Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council Resolution 1916 (2010), 20 June 2011, S/2011/433, 18 July 2011, p. 44.

[16] Former member of UN Monitoring Group on Somalia and Eritrea, Interview with author, 3 Oct. 2012.

in combat against TFG forces and their African Union Mission in Somalia (AMISOM) allies.[17]

Risks that supplies will restart or intensify a conflict

If handled incorrectly, supplies of arms and ammunition can play a role in continued instability and tensions in fragile states.[18] Three scenarios are outlined in this subsection. First, where there are rivalries between security agencies, arms transfers can facilitate the outbreak of armed violence, as occurred in Timor-Leste. Second, deliveries of arms and ammunition to national security forces shortly before national elections can raise concerns that they will be used by the ruling party, through intimidation or violence, to help ensure that it remains in power, as occurred in Sierra Leone. Third, there is a risk that the arms will be used in either intrastate or interstate conflict, as occurred in South Sudan.

The outbreak of armed violence in Timor-Leste in 2006 has been largely attributed to residual conflict between the police and the armed forces.[19] During 2004–2006, when the Government of Timor-Leste resumed executive policing and defence responsibilities, the procurement of arms and ammunition contributed to tensions between the different parts of the security sector. For example, in 2004 the government purchased 7 FN F2000 machine guns and 66 FNC assault rifles from Belgium; it has been reported

Supplies of arms and ammunition can play a role in continued instability and tensions in fragile states

that the SALW were intended to be used for close protection purposes and by defence forces to patrol the border with Indonesia.[20] However, Australian troops later confiscated a number of these items from rapid-response police units, some of which were reportedly involved in gang violence in 2006, as well as bodyguards of an ex-minister later convicted of misappropriating arms and arming civilians during the crisis.[21]

The delivery of arms and ammunition to state security forces in fragile states in the build-up to elections can fuel concerns of electoral violence.[22] The attempted delivery of ammunition from China to Zimbabwe in 2008

[17] *Small Arms Survey 2012: Moving Targets* (Cambridge University Press: Cambridge, 2012), pp. 336–47.

[18] Klare, M., 'An avalanche of guns: light weapons trafficking and armed conflict in the post-cold war era', eds M. Kaldor and B. Vashee, *Restructuring the Global Military Sector*, vol. 1, *New Wars* (Pinter: London, 1997); and Sislin, J. and Pearson, F. S., *Arms and Ethnic Conflict* (Rowman and Littlefield: Lanham, MD, 2001).

[19] Office of the United Nations High Commissioner for Human Rights (OHCHR), *Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste* (OHCHR: Geneva, 2 Oct. 2006); International Crisis Group (ICG), *Timor-Leste: Security Sector Reform*, Asia Report no. 143 (ICG: Brussels, 17 Jan. 2008); and Timor-Leste Armed Violence Assessment (TLAVA), *Dealing with the* Kilat: *An Historical Overview of Small Arms Availability and Arms Control in Timor-Leste* (TLAVA: Oct. 2008).

[20] McDonald, H., 'Timor minister equipped police as private army', *Sydney Morning Herald*, 19 June 2006.

[21] US Embassy in Dili, 'East Timor sitrep for June 20, 2006', Cable to US State Department, no. 06DILI320, 20 June 2006, <http://wikileaks.org/cable/2006/06/06DILI320.html>; 'Lobato jailed for arming Dili hit squads', *The Age* (Melbourne), 7 Mar. 2007; and Timor-Leste Armed Violence Assessment (TLAVA), 'Groups, gangs, and armed violence in Timor-Leste', (TLAVA: Apr. 2009).

[22] Höglund, K., 'Electoral violence in conflict-ridden societies: concepts, causes, and consequences', *Terrorism and Political Violence*, vol. 21, no. 3 (2009).

is perhaps the best-known example.[23] In early 2012, the opposition Sierra Leone People's Party raised concerns regarding the delivery from China of $4.5 million worth of SALW and ammunition for the paramilitary wing of the police, the Operational Support Division (OSD). It feared that these arms would be used to intimidate political opponents in the lead-up to the November 2012 elections.[24] Michael von der Schulenburg, Head of the UN Integrated Peacebuilding Office in Sierra Leone (UNIPSIL), expressed 'great concern' about this shipment to the UN Security Council in March 2012 and stated that 'An enlarged, heavily armed and, allegedly, ethnically imbalanced OSD risks undermining the good work that has been done by the Sierra Leone Police', particularly in the context of the upcoming elections in November 2012.[25] The Sierra Leonean Government explained that the acquisitions reflected the needs of the expanded police force, but it did not answer von der Schulenburg's questions regarding why the OSD needed the heavy machine guns and rocket launchers that were reportedly included in the consignment.[26]

The delivery of arms to state security forces in the build-up to elections can fuel concerns of electoral violence

Large-scale transfers to South Sudan have also fuelled concerns about potential conflict between South Sudan and Sudan. Much attention has focused on the imports of major conventional weapons, SALW and ammunition from Ukraine during 2005–11, in particular the 33 T-72 battle tanks, 150 RPG-7 grenade launchers, 6 anti-aircraft guns and thousands of tonnes of small arms ammunition that were discovered on the MV *Faina* in 2008 when it was hijacked by Somali pirates en route from Ukraine to Mombasa, Kenya.[27] Of particular concern are reports that the tanks were used against opposition forces in towns in Unity state, South Sudan, in 2011, with civilian casualties also reported.[28]

Risks of corruption

Transparency International (TI) has identified the defence sector as being particularly prone to corrupt practices, with procurement being 'the highest area of risk'.[29] This can be explained by the 'complexity, high contract values,

[23] Fritz, N., *People Power: How Civil Society Blocked an Arms Shipment for Zimbabwe*, South African Institute of International Affairs (SAIIA) Occasional Paper no. 36 (SAIIA: Johannesburg, July 2009).

[24] 'Sierra Leone ruling party dismisses arms intimidation concerns', Voice of America, 16 Apr. 2012, <http://blogs.voanews.com/breaking-news/2012/04/16/sierra-leone-ruling-party-dismisses-arms-intimidation-concerns/>.

[25] United Nations, Security Council, 6739th meeting, S/PV.6739, 22 Mar. 2012, p. 3.

[26] 'Sierra Leone ruling party dismisses arms intimidation concerns' (note 24).

[27] US Embassy in Khartoum, 'GOK/GOSS agree on timetable for second tank shipment', Cable to US State Department, no. 09KHARTOUM881, 29 July 2009, <http://wikileaks.org/cable/2009/07/09KHARTOUM881.html>; Holtom, P., 'Ukrainian arms supplies to sub-Saharan Africa', SIPRI Background Paper, Feb. 2011, <http://books.sipri.org/product_info?c_product_id=420>, pp. 10–12.

[28] Amnesty International (AI), *South Sudan: Overshadowed Conflict* (AI: London, 2012), pp. 18–20.

[29] Pyman, M., *Building Integrity and Reducing Corruption Risks in Defence Establishments: Ten Practical Reforms* (Transparency International: London, Apr. 2009), p. 5. See also Feinstein, A., Holden, P. and Pace, B., 'Corruption and the arms trade: sins of commission', *SIPRI Yearbook 2011: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2011).

confidentiality issues, security restrictions on competition and limited access for subsequent audit and investigation' associated with arms deals. [30]

Afghanistan and Iraq provide clear examples of widespread corrupt practices throughout the supply chain that have resulted in significant loss of money to the national governments. However, it has been generally harder to identify reliable accounts in open sources of corrupt practices in the other fragile states studied here. This could be linked to the small number of transfers carried out during the period covered or the fact that it can take considerable time for corrupt cases to be identified and investigated before being made public; the lack of examples should therefore not be regarded as proof that corruption is absent from arms procurement in fragile states. One area that merits further investigation is whether fragile states are particularly prone to corrupt practices in arms procurement in medium-term post-conflict periods—when international attention has diminished and these states have begun to assert more control over their own affairs, including arms procurement. Using examples from Iraq, Sierra Leone and Timor-Leste, this subsection highlights the risks of corruption in procurement that arise from dishonest officials and the use of brokers.

Are fragile states particularly prone to corrupt practices in arms procurement in medium-term post-conflict periods?

During 2005, Iraq's Supreme Anti-Corruption Commission investigated several cases of corruption at the Iraqi Ministry of Defence (MOD) related to acquisitions of arms and ammunition from foreign suppliers. Ziad Cattan, head of procurement for the MOD under the interim prime minster Iyad Allawi (2004–2005), is reported to have signed most of the 89 military contracts worth a total of $1.3 billion during his tenure, in many cases for secret, 'no-bid' (i.e. non-competitive) contracts involving friends of Cattan as middlemen. [31] One case involves a $236 million contract with the Polish arms company Bumar for helicopters, ambulances and SALW signed in December 2004. Iraqi officials refused to accept the helicopters because they were 28 years old and outdated. [32] The minister of defence during Cattan's tenure, Hazem Shaalan, was convicted for embezzling $500 million that was intended for arms acquisitions. [33]

Sierra Leone provides an example of a post-conflict state that continues to use the brokers that procured arms during periods of conflict. In January 2012 the Sierra Leonean Government received a consignment of Chinese-manufactured SALW and ammunition. The transaction was brokered by a local firm, Amylam Sierra Leone Ltd, but also involved one of that firm's shareholders, Serge Muller. [34] Muller's firm, Rex Diamond Mining Company NV, had been granted mining leases by the Sierra Leonean Government in 1994 and he was involved in facilitating arms deals during the 1991–2000 civil

[30] Pyman, M. and Wegener, A.-C., *Building Integrity and Countering Corruption in Defence & Security: 20 Practical Reforms* (Transparency International: London, Feb. 2011), p. 52.

[31] Cattan is reported to have stated that before taking up his post at the MOD 'I sold water, flowers, shoes, cars . . . We didn't known anything about weapons'. Moore, S. and Miller, T. C., 'Before rearming Iraq, he sold shoes and flowers', *Los Angeles Times*, 6 Nov. 2005.

[32] 'Iraq probes shady defence spending', Al Jazeera, 3 Aug. 2005, <http://www.aljazeera.com/archive/2005/08/200841012239821282.html>.

[33] Howard, M., 'Ex-Iraqi defence minister wanted over $1bn fraud', *The Guardian*, 20 Sep. 2005.

[34] Spleeters, D. 'Serge Muller, diamantaire belge et trafiquant d'armes' [Serge Muller, Belgian diamond and arms dealer], Apache, 8 Aug. 2012, <http://www.apache.be/2012/08/08/serge-muller-diamantaire-belge-et-trafiquant-darmes/>.

war for both military and civilian regimes.[35] Muller reportedly continues to broker for Sierra Leone, without the authorization from Belgian authorities that, as a Belgian citizen trading from a Belgian address, he should have.[36] Sierra Leone's continued use of Muller to broker large consignments of arms suggests that its current procurement practices pay insufficient attention to the vetting of companies and individuals in procurement supply chains.

In Timor-Leste, civil society groups have raised concerns about the potential for corruption in arms procurement after the government became responsible for procuring SALW for its security forces.[37] Of particular concern has been the lack of transparency in the procurement process and potentially corrupt relationships between the government and the brokers winning tenders. For example, in mid-2005 Caval Bravo Pty Ltd, a Dili-based brokerage, won a tender to supply 257 000 rounds of 5.56-mm assault rifle ammunition worth $108 000 for the National Police of Timor-Leste. The company was also said to have been granted the sole authority to procure weapons for Timor-Leste's security sector.[38] Questions of impropriety were linked to the fact that Caval Bravo is directed by Bader Alkatiri, the brother of Dr Mari Alkatiri, who was Timor-Leste's prime minister when the company won the contract.

III. Mitigation measures

The mitigation measures discussed below are primarily intended to be undertaken by states that are aid donors or arms suppliers or by states in which commercial suppliers providing arms and ammunition are based. The mitigation measures largely draw on existing practices that are designed to limit the risk that arms supplies will contribute to conflict, diversion and corruption. Successes of existing mitigation measures are also considered, as are ways in which external assistance and cooperation can be provided to increase local ownership and involvement in implementing the measures by fragile states. Different strategies for mitigating particular risks associated with state-to-state and outsourced supply are discussed, as well as general strategies.

Multilateral notification systems are intended to provide transparency and oversight

Multilateral notification systems for arms transfers

Multilateral notification systems for arms transfers are instruments that have been put in place by supplier or recipient states to limit the negative impact of

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[35] Ontario Securities Commission, 'In the matter of the Securities Act, R.S.O. 1990, c. S.5, as amended and in the matter of Rex Diamond Mining Corporation, Serge Muller and Benoit Holemans: statement of allegations of staff of the Ontario Securities Commission', 8 Feb. 2007, <http://www.osc.gov.on.ca/en/Proceedings_soa_20070208_rexdiamond.jsp>; and Berman, E. G., *Re-armament in Sierra Leone: One Year after the Lomé Peace Agreement*, Occasional Paper no. 1 (Small Arms Survey: Geneva, Dec. 2000), p. 22.

[36] Spleeters, D., 'Armes: trafiquer en toute impunité' [Arms: traffic with impunity], *Le Vif/L'Express* (Brussels), 30 July 2012.

[37] 'No transparency in government purchases of weapons from Indonesia', East Timor Law and Justice Bulletin, 7 Sep. 2012, <http://easttimorlegal.blogspot.com/2012/09/no-transparency-in-government-purchase.html>.

[38] Dodd, M., 'Timor PM link to arms contract', *The Australian*, 7 July 2005. See also Prime Minister and Cabinet of Timor-Leste, 'Government corrects report about ammunition purchases for the National Police', Media release, 7 July 2005, <http://www.pm.gov.tp/7july05.htm>.

transfers of arms and military equipment. These instruments are intended to provide transparency and oversight for either suppliers or for recipients and their neighbours, primarily to prevent excessive accumulations that can contribute to tensions and conflict or diversion. This subsection focuses on the way in which multilateral notification systems are managed for UN arms embargoes and highlights a regional notification system for SALW imports established by members of the Economic Community of West African States (ECOWAS).

UN Security Council resolutions imposing arms embargoes on the DRC, Liberia and Somalia permit the supply of arms and ammunition and military training to government forces as part of disarmament, demobilization and reintegration (DDR) and SSR processes but require the supplier to notify the relevant UN sanctions committee prior to delivery. While the UN Sanctions Committee on Somalia has the power to block any of the proposed transfers, the sanctions committees on the DRC and Liberia do not.[39] All three sanctions committees have issued guidelines for supplier states regarding notification procedures, which have been established following interactions between particular panels and sanctions committees.[40] The guidelines for the DRC request the most detail and apply to a number of items that are not included in the Liberia and Somalia embargoes.[41]

The notifications have proven to be an important source of information on supplies of arms and military training to the DRC, Liberia and Somalia and have been used by UN panels of experts and peace operations to help identify sources of illicit SALW.[42] However, their effectiveness has been undermined by patchy compliance by supplier states, particularly in the cases of the DRC and Somalia. Supplier states often fail to provide a notification or provide notifications that are incomplete or that are provided after the delivery has taken place.[43] Efforts to address this behaviour by naming states that have failed to provide complete notifications has led to strong objections by the states in question. For example, on its release the 2009 report of the Sanctions Committee on the DRC 'provoked strong criticism from China, which was named as failing to provide complete and timely notifications to the Sanctions Committee'.[44] The utility of the noti-

The effectiveness of notification systems has been undermined by patchy compliance by supplier states

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[39] UN Security Council Resolution 1744, 21 Feb. 2007; UN Security Council Resolution 1807, 31 Mar. 2008; and UN Security Council Resolution 1903, 17 Dec. 2009.

[40] United Nations, Security Council Committee established pursuant to Resolution 1533 (2004) concerning the Democratic Republic of the Congo, 'Guidelines of the committee for the conduct of its work', 6 Aug. 2010; United Nations, Security Council Committee established pursuant to Resolution 1521 (2003) concerning Liberia, 'Guidelines of the committee for the conduct of its work', 30 Mar. 2010; and United Nations, Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia, Guidelines of the committee for the conduct of its work', 11 May 2009—all available at <http://www.un.org/sc/committees/>.

[41] E.g. the DRC committee requires notifications to include 'Details of the identity of the cargo carrier' and 'Marking numbers or codes of each shipped item'.

[42] Holtom, P. and Bromley, M., 'Arms transfers to the Democratic Republic of the Congo: assessing the system of arms transfer notifications, 2008–10', SIPRI Background Paper, Oct. 2010, <http://books.sipri.org/product_info?c_product_id=415>.

[43] E.g. United Nations, Security Council, Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council Resolution 2002 (2011), 27 June 2012, annex to S/2012/544, 13 July 2012, para. 77.

[44] Holtom and Bromley (note 42), p. 11. See also United Nations, S/2009/603 (note 13), paras 124–63; and 'The experts win support', *Africa Confidential*, vol. 50, no. 24 (4 Dec. 2009), p. 5.

fication systems is also undermined by the fact that public reporting of the information contained is not required. The most detailed publicly available information on notifications and deliveries can be found in the 2008 report of the UN Panel of Experts on Liberia, but this level of transparency has not been matched in other cases.[45] Finally, sections of the governments of the DRC and Somalia regard the notification systems as infringements of their national sovereignty and have refused to provide information requested by Panel of Experts members.[46] Even though it is the supplier state's responsibility to provide the notification, a lack of cooperation on the part of the recipient state weakens the process. The notification system for Liberia appears to have been adhered to more closely; in this case, the level of commitment to the embargo by Liberia and supplier states seems to be higher, despite the Liberian Government's ongoing problems in fulfilling its obligations on marking and record keeping.[47]

Existing reporting mechanisms could provide the foundations for more detailed reporting systems

Despite these limitations, experience from the three existing UN embargo notification mechanisms could be used in other fragile states, including in cases where no UN arms embargo has been in place but where the recipient government is willing to accept international assistance for the coordination and oversight of arms imports. In particular, supplier states and recipients could exchange information on the intended recipient's current holdings and the licences issued and used by the exporting state. Some groups of supplier states—in particular, the EU and the Wassenaar Arrangement on Export Controls—already have systems for sharing such information.[48] More significantly, some groups of recipient states—including many fragile states—have sought to increase the collection, storing, sharing and publishing of information on SALW imports. Both the 2006 ECOWAS Convention on SALW (to which Liberia is a party) and the 2010 Kinshasa Convention (which the DRC has signed, but which has not yet entered into force) include detailed mechanisms for the collection, storing, sharing and publishing of information on SALW imports.[49] These existing reporting mechanisms could provide the foundations for more detailed reporting systems that could increase transparency in transfers of arms and ammunition to fragile states.

Any notification system will have its limits and can only provide the starting point for more detailed discussions about the wisdom of particular transfers. For example, during 2010 Ukraine submitted detailed notifications to the UN Sanctions Committee on the DRC on deliveries of tanks, armoured vehicles,

[45] United Nations, Security Council, Report of the Panel of Experts on Liberia submitted pursuant to paragraph 5 (e) of Security Council Resolution 1792 (2007) concerning Liberia, 27 May 2008, annex to S/2008/371, 12 June 2008, para. 38.

[46] United Nations, S/2009/603 (note 13), para. 256.

[47] United Nations, Security Council, Midterm report of the Panel of Experts on Liberia submitted pursuant to paragraph 5(f) of Security Council Resolution 2025 (2011), 24 May 2012, annex to S/2012/448, 20 June 2012, para. 47.

[48] See Holtom, P. and Bromley, M., *Implementing an Arms Trade Treaty: Lessons on Reporting and Monitoring from Existing Mechanisms*, SIPRI Policy Paper no. 28 (SIPRI: Stockholm, July 2011).

[49] ECOWAS Convention on Small Arms and Light Weapons, their Ammunition and other Related Materials, signed 14 June 2006, entered into force 29 Sep. 2009, <http://www.ecosap.ecowas.int/>; and Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition and All Parts and Components That Can Be Used for Their Manufacture, Repair and Assembly (Kinshasa Convention), adopted 30 Apr. 2010, opened for signature 19 Nov. 2010, not in force, <http://treaties.un.org/Pages/CTCTreaties.aspx?id=26>.

artillery, SALW and large quantities of ammunition. It provided information on the names of the vessels contracted to undertake the delivery, the route of the shipment, the expected date of arrival, and the numbers and labelling of the 15 containers transported.[50] While the amount of information provided by Ukraine could not be faulted, the wisdom of the transfer itself was clearly open to question. In particular, the volume of ammunition being transferred should have raised concerns about post-shipment diversion, while the delivery of tanks and armoured vehicles may have been judged to be unwise. While neither the UN nor any state could veto the delivery, questions could have been asked about the appropriateness of the delivery and information could have been sought about steps taken to limit the risks of post-shipment diversion. It is unclear if such steps were taken.

Control and oversight of the delivery of arms and ammunition

An option for limiting diversion risks is for donor states that are involved in training security forces in fragile states to also control and oversee any supplying of arms and ammunition that takes place. In the late 1990s and early 2000s, Australia, Belgium and the UK used this approach in Timor-Leste, Liberia and Sierra Leone, respectively.

Since commercial suppliers now play a more active role in the training and equipping of security forces in fragile states, donor state control and oversight has become more complex.[51] As well as ensuring that recipients of assistance do not become dependent on donors for security provision, donor states now have to ensure that commercial firms do not diminish capacity in recipient countries as they seek profits and compete with rivals. This has led donors to rely more on watch lists and other methods of guaranteeing that the companies involved in train-and-equip activities are reputable and reliable.

Donors can monitor the use of donated arms and then confirm their return or destruction

Examples from Timor-Leste and Liberia show how donors can monitor the use of donated arms and then confirm their return or destruction. Between 2000 and 2001 Australia lent 300 M16 assault rifles to the Defence Forces of Timor-Leste for training new cadets, giving them experience using the make and model of rifles that they would use after training. The consignment was facilitated by the UN Transitional Administration in East Timor (UNTAET). The donor oversaw the use and storage of the rifles during the training and was also responsible for their removal after 1200 M16A2 rifles had been supplied by the USA.[52] In December 2004 the Belgian city of Antwerp donated SALW and ammunition to the new Liberian National Police for training with the UN Mission in Liberia (UNMIL).[53] Antwerp City Council agreed to deliver the weapons only on

[50] These notifications were submitted on 20 Jan., 1 Feb., 2 Mar. and 5 Mar. 2010.

[51] Isbister, R. and Donnelly, T., *International Markets for Security and Military Assistance*, Organisation for Economic Co-operation and Development (OECD) Working Paper 2/2012 (OECD: Paris: Oct. 2012).

[52] 'U.S., Belgium to supply arms to East Timor army', Reuters, 26 June 2001, <http://www.etan.org/et2001b/june/24-30/26us.htm>; and 'East Timor Defence Force', *Jane's Intelligence Review*, 1 Oct. 2001.

[53] United Nations, Security Council, Report of the Panel of Experts submitted pursuant to paragraph 1(e) of Security Council Resolution 1760 (2007) concerning Liberia, 22 Nov. 2007, annex to S/2007/689, 5 Dec. 2007, para. 120; and United Nations, Security Council, Final report of the Panel

the condition that they would be used solely for training purposes and that UNIMIL would destroy the SALW and remaining ammunition after the training programme. The weapons were flown from Brussels to Monrovia on 2 March 2005 and the 460 000 rounds of ammunition were shipped on a Belgian military cargo vessel, arriving in Monrovia on 29 March 2005.[54] Part of the consignment was subsequently destroyed (see below).

The tendency to increasingly use commercial suppliers in the supply of arms and ammunition, as well as training, for the security sector in fragile states has been particularly notable in Afghanistan and Iraq. One way to limit diversion risks for transfers that involve commercial suppliers is to maintain a watch list of foreign and domestic individuals and companies that have been identified by government agencies as posing particular risks with regard to conflict facilitation or diversion. The watch list would then be consulted before awarding contracts to supply or transport arms and ammunition, with companies and individuals on the watch list barred from engaging in such activities. The US departments of State and Commerce maintain watch lists of entities that are barred from trading in military goods and related technologies. All US licence applications are screened against these lists, which in 2006 included more than 130 000 individuals and companies in the USA and abroad.[55] Since 2008 the EU and its member states have compiled a number of watch lists of air carriers of concern, consisting mainly of companies that have previously been engaged in illicit or destabilizing arms transfers.[56]

A watch list can be incomplete or out-of-date, and it is difficult to ensure that it is available to everyone who needs this information. The latter is not just a problem for intergovernmental sharing of information; it has also proven to be true for sharing information between agencies of the same government. A number of transfers to Afghanistan and Iraq have been notable for high-profile failures to use watch lists.[57] Practices in this field could be strengthened by developing mechanisms that make greater use of open-source information, thereby avoiding some of the national security concerns that can emerge in this area. Using open-source information, SIPRI has developed online tools for screening and targeting suspect aircraft that are likely to be involved in illicit trade in SALW and makes these tools available to licensing and customs officials as well as members of UN arms embargo groups of experts.[58] Another step could involve building and sharing 'white lists' of transporters and brokers that have agreed to comply with certain standards.

Even when all of the actors involved in a transfer are reputable, the transfer can still be questioned

However, even when all reasonable steps have been taken to ensure that all of the actors involved in a particular transfer are reputable, the actual transfer can still be questioned. For example, although the weapons transferred from Belgium to Liberia were supplied in accordance with good international standards, questions were

of Experts on Liberia submitted pursuant to paragraph 4(e) of Security Council Resolution 1854 (2008), 25 Nov. 2009, annex to S/2009/640, 11 Dec. 2009, para. 170.

[54] City of Antwerp Official, Communication with author, Sep. 2012.

[55] Waltz, S., 'U.S. small arms policy: having it both ways', *World Policy Journal*, vol. 24, no. 2 (summer 2007), p. 70.

[56] Griffiths and Bromley (note 9), pp. 61–62.

[57] See e.g. note 7.

[58] Ethical Cargo, <http://www.ethicalcargo.org>.

subsequently raised about the suitability of the delivery itself. For example, the Uzi sub-machine guns included in the consignment were deemed inappropriate for police training and authorization was given for their destruction by UNMIL in September 2005.[59] The remainder of the consignment was reportedly not used after 2005 and was kept in UNMIL storage facilities until 2009, when UNMIL recommended that the 12-gauge Mossberg rifles and 9-mm Browning pistols should be used but 480 Smith and Wesson revolvers should be destroyed.[60] Before the consignment was delivered to Liberia, the City of Antwerp had designated the revolvers to be sold to avoid the cost of destruction. The revolvers were included in the donation to avoid them re-entering local markets after re-sale in Belgium.[61] As with some deliveries of surplus SALW and ammunition to Afghan and Iraqi security forces, the donation thus appears to have provided a way to remove poor-quality weapons from stockpiles in the donor state, rather than contribute to equipping a fragile state's security sector.

Stockpile management, marking on import and surplus destruction

The effective management of arms stockpiles, the destruction of surplus arms and the marking of arms on import have all been prescribed as means to combat the illicit arms trade.[62] While states have supported these proposals in international forums, many have struggled to act on their commitments, even when provided with considerable assistance. In some cases these measures have been integrated into programmes for the provision of arms and ammunition to fragile states, but they have also been applied for supplies to more stable states with diversion risk concerns. The application of these

Many states have struggled to act on their commitments, even when provided with considerable assistance

measures is illustrated below through the examples of marking in South Sudan and of the use of private security companies and state armed forces to assist with strengthening armoury security and stockpile management and destruction in Liberia and Papua New Guinea.

There is no established system for marking imported weapons in South Sudan.[63] In 2010 the Regional Centre on Small Arms (RECSA) provided two weapon-marking machines to the Government of Southern Sudan's Bureau for Community Security and Small Arms Control (BCSSAC)—a part of the Ministry of Interior that was set up in 2008 with a great deal of support from the international community.[64] These machines have reportedly been used to mark 44 700 small arms owned by the police, wildlife and prison services

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[59] United Nations, S/2009/640 (note 53), paras 171–72.

[60] United Nations, S/2009/640 (note 53), paras 171–72.

[61] Antwerp City Council, 'Lokale politie Antwerpen: verkoop van oude dienstwapens en munitie' [Antwerp Local Police: sale of old service weapons and ammunition], Decision 1814, 13 Sep. 2004; and Antwerp City Council, 'Lokale politie Antwerpen: schenking van oude dienstwapens en munitie aan de Verenigde Naties' [Antwerp Local Police: donation of old service weapons and ammunition to the United Nations], Decision 2439, 20 Dec. 2004.

[62] United Nations, General Assembly, Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, A/CONF.192/15, 20 July 2001.

[63] These paragraphs are based on field research carried out by an independent consultant tasked with providing a background paper on South Sudan.

[64] The Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States (RECSA) is an intergovernmental organization established in June 2005 to coordinate action against SALW proliferation. See <http://www.recsasec.org/>.

in Central and Eastern Equatoria states.[65] However, to date the BCSSAC has still not received the database software that is supposed to accompany the marking machines, and so the information on the marking is stored in Word files. One international expert on SALW who has observed the current system has criticized it for lacking a systematic approach.[66]

The Sudan People's Liberation Army (SPLA), South Sudan's army, has yet to mark any of its weapons. Since neither the BCSSAC chairperson nor his deputy were combatants during the Sudanese civil war, the bureau commands little respect and has no influence within the SPLA; the SPLA's limited engagement with marking efforts can thus be partly explained by the fact that the marking machines were supplied to the BCSSAC, rather than to the SPLA. While the SPLA is not opposed in principle to having its weapons marked, it will only undertake the process if it, rather than a civilian institution, is in charge. There have been recent reports that the UN Mission in South Sudan (UNMISS) is considering buying weapon-marking machines and software that would replace the RECSA-donated machines.

Donors should bear in mind the risk that their assistance can produce a dependency relationship

The armed forces of donor states are not the only potential suppliers of assistance for strengthening armoury security and stockpile management: there are examples in which private security companies (PSCs) have provided assistance that has limited diversion risks. However, questions about the sustainability and capacity-building elements of these programmes remain. The US Government has reported that it has maintained control over the arms and ammunition that have been imported by Liberia for training the Armed Forces of Liberia (AFL), although control and management of these imports have actually been carried out by DynCorp, a PSC.[67] The USA initially planned to finish its training programme in 2009, but DynCorp remained responsible for training and imported arms and ammunition until all responsibility for arms and ammunition was transferred to the AFL on 10 May 2012. However, in June 2012 the UN Panel of Experts on Liberia reported that the AFL's Emergency Response Unit, whose tasks include armoury guarding, was still not fully operational.[68] This lack of Liberian capacity can be partly attributed to years of dependence on donor-provided armoury security: donors should therefore bear in mind the risk that their assistance for SSR can produce a dependency relationship rather than build capacity in the management and control of imported arms and ammunition.

As part of its efforts to train the police and armed forces in Papua New Guinea in the early 2000s, the Australian Government sponsored the development of seven new armouries for the Papua New Guinea Defence Force (PNGDF), which were handed over in 2002–2003.[69] An audit conducted in 2004 suggested that of the 7664 assault rifles delivered to the PNGDF since 1971 only 26 per cent remained in stock.[70] The Australian Government has also facilitated the destruction of large quantities of surplus small arms

[65] BCSSAC adviser, Correspondence with consultant, Juba, May 2012.

[66] International expert on small arms, Interview with consultant, Juba, Mar. 2012.

[67] United Nations, S/2012/448 (note 47), paras 44–45.

[68] United Nations, S/2012/448 (note 47), paras 44–45.

[69] Alpers, P., *Gun-running in Papua New Guinea: From Arrows to Assault Weapons in the Southern Highlands* (Small Arms Survey: Geneva, June 2005), p. 56.

[70] Alpers (note 69), p. 26.

and explosives, provided logistics training for PNGDF staff, and supported a complete physical stocktaking of all military small arms.[71]

Stockpile management, marking on import and surplus destruction clearly have value when it comes to addressing post-shipment diversion concerns. However, fragile states often find it hard to adhere to these measures. An 'upstream approach' that would require suppliers to ensure that fragile states had adequate stockpile management and security would impose conditions on both the supplier and the recipient. The UN Group of Experts on the DRC has recommended that all international donors supporting SSR in the DRC 'should include stockpile management as a pre-condition for providing assistance to [the] FARDC'.[72] The UN Security Council did not include this condition in its Resolution 1896 of November 2009. Instead, it recommended that the Congolese Government 'promote stockpile security, accountability and management of arms and ammunition as an urgent priority'.[73] Conditionality might not be attractive to suppliers, but ensuring that good standards of stockpile management are in place before arms are provided—and providing assistance when they are absent—could contribute to efforts to limit diversion.

Improving the recipient states' standards in arms procurement

As part of wider processes of promoting 'local ownership' of reconstruction efforts in fragile states, all major policy documents on SSR emphasize the importance of integrating the defence sector into public expenditure training tools and efforts to strengthen budgeting processes.[74] The OECD Guidelines on SSR cover both 'core security actors', including the armed forces, police and gendarmerie, and 'security management and oversight bodies', such as the executive, government ministries and the legislature; that is, the guidelines cover all state authorities that are likely to be involved in the acquisition and use of arms and ammunition.[75] However, training on good procedures in the procurement of arms and ammunition are often absent from SSR activities.[76] Moreover, according to the OECD Handbook on SSR, 'standard public finance management approaches are rarely included in SSR programmes'.[77] The OECD Guidelines on SSR include a set of good practices in 'Integrating the defence sector into public expenditure work', but these

Training on good procedures in the procurement of arms and ammunition are often absent from SSR activities

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[71] UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in all its Aspects, 'National small arms statement: Australia', 2007, <http://www.poa-iss.org/NationalReport/NationalReports.aspx>, p. 10.

[72] United Nations, S/2009/603 (note 13), para. 378.

[73] UN Security Council Resolution 1896, 30 Nov. 2009, para. 9

[74] On good practice in budgeting for the military sector see Omitoogun, O. and Hutchful, E. (eds), SIPRI, *Budgeting for the Military Sector in Africa: The Processes and Mechanisms of Control* (Oxford University Press: Oxford, 2006).

[75] The OECD Guidelines on SSR are contained in Organisation for Economic Co-operation and Development (OECD), *Security System Reform and Governance*, DAC Guidelines and Reference Series (OECD: Paris, 2005), p. 20.

[76] The OECD Handbook on SSR includes a section on SALW controls, but this focuses on collection programmes and stockpile management. It makes no direct reference to limiting the dangers associated with deliveries of SALW and ammunition during SSR processes. Organisation for Economic Co-operation and Development (OECD), *The OECD DAC Handbook on Security System Reform (SSR): Supporting Security and Justice* (OECD: Paris, 2007), pp. 106–107.

[77] Organisation for Economic Co-operation and Development (note 76), p. 24.

focus on 'strengthening the defence budgeting process' and do not detail how to manage specific acquisitions and minimize the associated risks.[78] The Council of the EU's SSR concept includes 'the process of equipping the armed forces, establishing a mechanism for procurement, maintenance, as well as budgetary or financial regulations' among the areas in which the EU could provide assistance.[79] However, no cases could be found where this area has been included in EU SSR activities.

To a certain extent, this omission reflects the roots of the SSR concept in the security–development nexus and efforts to move away from traditional approaches to providing assistance to security providers (e.g. US train-and-equip programmes).[80] As the OECD Guidelines on SSR note, 'On the security side, the narrow focus on training and equipping security forces which characterised many past (and some current) assistance programmes is now seen to reinforce militarist, state-centric security paradigms that are not consistent with protecting populations.' The use of development funding significantly expanded the range of funding instruments that could be used to support SSR activities. However, it also brought restraints on the range of areas in which some of these funds could be used. This can be most clearly seen in the rules that govern the EU's security policy activities, including in SSR, particularly with regard to the direct supply of military equipment. For example, in the EU Council SSR concept, the provision of necessary 'equipment' is mentioned in relation to the 'rule of law' sector (i.e. the judiciary and prisons) but not in relation to the military or police sectors.[81] It also appears that this shift has resulted in less attention being paid in SSR guidelines and activities to improving the capacity of national security forces in fragile states to acquire arms and ammunition in a responsible and transparent manner.

The issue of arms procurement is also largely absent from the mandates of UN peacekeeping and peacebuilding operations. A notable exception to this rule is the case in which the UN Development Programme (UNDP) and the UN Integrated Office in Sierra Leone (UNIOSIL) were granted a mandate and budget to assist in equipping the Sierra Leonean Police's OSD with riot-control gear, uniforms, weapons and ammunition for the 2007 presidential and parliamentary elections.[82] The assistance was regarded as a one-off intervention, and from the outset the UNDP explained that it could not arrange for the procurement of 22 multipurpose riot guns or 4000 canisters of tear-gas that were identified in the needs assessment. The Sierra Leonean Police therefore took responsibility for this aspect of the project and a tendering process began in April 2007. CSV International of France won the tender but failed to deliver the equipment because it could not acquire a transit permit

The issue of arms procurement is largely absent from the mandates of UN peace operations

[78] Organisation for Economic Co-operation and Development (note 75), p. 38.

[79] Council of the European Union, 'EU concept for ESDP support to security sector reform (SSR)', 12566/4/05 Rev. 4, Brussels, 13 Oct. 2005, p. 14.

[80] Organisation for Economic Co-operation and Development (note 75), p. 57.

[81] Council of the European Union (note 79), p. 15.

[82] UN Development Programme, 'Mid-term Evaluation of the Peace Building Fund supported projects in Sierra Leone', UNDP Evaluation Resource Centre, June 2009, <http://erc.undp.org/evaluationadmin/manageevaluation/viewevaluationdetail.html?evalid=4563>, para 55.

in Brussels. The Sierra Leonean Police cancelled the contract with CSV in December 2008 and awarded it to another company.[83]

The case studies reviewed for this paper reveal a number of procurement deals gone awry due to the involvement of corrupt, inappropriate or irresponsible practices. Training and assistance for the procurement of arms and ammunition should therefore be included in SSR programmes in fragile states organized by donor states or via the mandates of UN peace operations. These should emphasize capacity building and local ownership.

A number of non-governmental organizations (NGOs) have already produced guides and toolkits and have provided other assistance in this area. For example, the OECD and the Geneva Centre for the Democratic Control of Armed Forces (DCAF) have produced a range of guides focused on defence institution building, and Transparency International has produced a set of training tools that are aimed at tackling corruption in the defence sector.[84] However, there are no training modules specifically aimed at assisting fragile states—particularly those that are affected by armed conflict—to improve arms procurement standards. TI is taking steps to fill this gap by developing training modules on 'Procurement in conflict environments', with modules covering both procurement by peace operations and procurement by nascent security forces.[85] These modules will adapt TI's existing training modules on military procurement to post-conflict environments.

No mitigation measure should encourage the supply of unnecessary arms and ammunition to fragile states

In general, care should be taken to ensure that no mitigation measure is undertaken that encourages the supply of unnecessary arms and ammunition to fragile states. Much of the best work that is being done in SSR has a longer-term perspective and avoids trying to impose speedy but inadequate solutions in difficult and complex situations. The same principle should apply to work that is undertaken in the difficult and sensitive field of procurement.

IV. Conclusions

Overcoming the legacies of conflict while providing equipment and training for national security forces was a common challenge found in all the fragile states examined here. There were also evident dilemmas of choosing when to deliver arms and ammunition to nascent security forces so as not to contribute directly to conflict dynamics, and of avoiding providing items that risk being misused or diverted after delivery. For each arms transfer, an overarching question was whether it would contribute to or threaten security. If states that are providing military equipment, training or other forms of support for a fragile state's security sector have troops on the ground in the fragile state, these troops can provide oversight and perhaps control over the delivery and subsequent use of the arms. However, in many cases such close oversight of the delivery process is neither practically feasible nor politically desirable.

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[83] UN Development Programme (note 82).
[84] Tobias Bock, James Cohen and Anne-Christine Wegener, Transparency International UK representatives, Author interview, 17 Sep. 2012.
[85] Bock et al. (note 84).

For states that are interested in assisting the stabilization processes in fragile states, and can therefore also be considered to be potential suppliers of arms and ammunition, finding ways to limit the risk that a transfer will contribute to conflict, instability or poor governance is paramount. This entails making difficult decisions to meet urgent needs and requires access to reliable and up-to-date information when making risk assessments and confidence that the right elements are contained in the procedures for making such assessments. Steps that can be taken to mitigate risks of misuse or diversion after delivery include (*a*) training programmes; (*b*) clauses in delivery agreements imposing conditions on storage or the supplier directly providing assistance in safe storage; (*c*) clauses in delivery agreements requiring destruction of surpluses; and (*d*) assistance in calculating the quantities of arms and ammunition that should be delivered relative to the recipient's legitimate security needs.

Overcoming the legacies of conflict while providing equipment and training for national security forces is a common challenge

Most of the examples presented here highlight the need for multilateral measures on the supply side to minimize the risk that arms transfers will contribute to conflict, instability and poor governance. The notification system connected with certain UN arms embargoes and the sharing of information by some major arms suppliers via the Wassenaar Arrangement are two existing examples. However, these practices could be strengthened for states that are recognized as having high risks of conflict or instability. Such an approach impinges on the national sovereignty of the recipient state and so is sensitive, as shown by the responses of sections of the governments of the DRC and Somalia to the UN arms embargo notification system. Therefore, where possible, suppliers should consider not only sharing information among themselves but also consulting with fragile states to exchange information on recipient holdings, storage conditions and needs. Information on export licences granted and denied, shipments made and, where applicable, brokering and transit could be exchanged between suppliers and between suppliers and recipients in a timely manner for high-risk cases. Steps could also be taken to strengthen and implement nascent recipient state information-exchange mechanisms, particularly those attached to the ECOWAS Convention on SALW and the Kinshasa Convention. Although particularly sensitive, sharing information on watch lists of brokers and transport providers could also help limit diversion risks. Providing assistance on such issues to recipient states could also help to eliminate some of the concerns identified above.

Perhaps the most challenging aspect of mitigating risks relates to the demand side: ensuring that fragile states receive the arms and ammunition that they require. As noted above, suppliers have used donations as a way to dispose of obsolete equipment; in doing so, they made no contribution to security and stability in recipient states. Training and assistance for arms procurement—which can be provided by NGOs as well as states and UN peace operations—must therefore be integrated into SSR programmes, to contribute to efforts to avoid irresponsible and corrupt arms procurement.

Abbreviations

AFL	Armed Forces of Liberia
BCSSAC	Bureau for Community Security and Small Arms Control
DRC	Democratic Republic of the Congo
ECOWAS	Economic Community of West African States
EU	European Union
FARDC	Forces armées de la République démocratique du Congo (Congolese Armed Forces)
MOD	Ministry of Defence
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organization
OECD	Organisation for Economic Co-operation and Development
OSD	Operational Support Division
PNGDF	Papua New Guinea Defence Force
PSC	Private security company
RECSA	Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States
SSR	Security sector reform
SALW	Small arms and light weapons
TFG	Transitional Federal Government
TI	Transparency International
UN	United Nations
UNDP	UN Development Programme
UNMIL	UN Mission in Liberia

TRANSFERS OF SMALL ARMS AND LIGHT WEAPONS TO FRAGILE STATES: STRENGTHENING OVERSIGHT AND CONTROL

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