

Background

One of the key issues highlighted in numerous reports published by the experts working for the UN Security Council investigating sanctions violations, and by NGOs and investigative journalists, is the vital role played by illicit arms brokers in facilitating black market arms shipments. The recipients of these arms are those groups that are prohibited by law from acquiring weapons – embargoed states, rebels and insurgents, criminal gangs, and terrorists.

That such transactions undermine the legal authority of governments and international organisations is bad enough. More importantly, a 2002 UN report on illegal arms supplies to Liberia noted that the arrival of fresh supplies of arms to combatants coincided with intensified fighting whose direct consequences were measured in the dead, wounded, and fleeing civilian population.

Organizing such illegal shipments of arms involves a large amount of skill, organization, preparation, and financial resources. Documents need to be forged, officials bribed, legitimate arms companies persuaded to sell their weapons, money laundered, and aircrew recruited. The illegal broker fulfils these functions; and acts as a ‘middle man’, bringing together the seller and purchaser of the weapons, and arranging the transport and financing of illegal arms deals. One participant at the Conference described illegal arms brokers as ‘the weakest link’ in a black market arms transaction.

A problem that governments have faced in bringing brokers to justice, after their role in facilitating illegal arms deals has come to light, is that in many states the activity of brokering is not covered by existing laws. While states have well established laws governing the physical export and import of arms, the activity of arranging arms transfers often falls outside the remit of their regulations. Growing international attention to the threat posed by illegal brokers has prompted an increasing number of governments to enact legislation to control brokering. As of May 2003, 16 governments have legislation that regulates arms brokering.

Brokers have a legitimate role in the legal arms trade; ‘middle men’ have a part to play in meeting states’ legitimate security needs. The aim of the conference was to develop shared understandings on how to better regulate brokering. Regulation of arms brokers would help to prevent activity leading to illegal arms transfers, and allow lawful brokers to operate within a defined legal framework.

Illegal arms brokering represents a particular challenge to governments. The activity, by definition, concerns conduct taking place in a number of jurisdictions and proof is often (as in cases of fraud) only found after following a long trail of documentary evidence. States’ various constitutions and legal histories result in differing legal methods being used to regulate brokering. Therefore, it is important that they cooperate with each other, and learn from their shared experiences, in order to properly control arms brokering.