

**European arms exports
to Latin America -
An inventory**

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IPIS background report

Updated March 2005

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Introducing European arms exports

However peaceful and unified as the Old Continent appears to us today, many European countries continue to harbour important military industries that make profits on more than domestic markets only. European Union member states' public defence budgets, after all, have been declining for years.

Export is seen to be a goal of a significant part of the European small arms and light weapons (SALG) production;¹ 38% of known small arms-producing countries are European, where 42% of the world's known small arms producing companies are located.² At the turn of the millennium, Europe exported about 60% of its small arms production to other regions of the world, making it the largest documented exporter of small arms to North America, South America and the Middle East.³ These exports are easily explained, as small arms are designed for policing, for military use and for civilian markets. The European civilian market is smaller than that of the United States, and than seems to be the case in many other countries, where (mostly unlicensed) possession and use of small arms wreak havoc in far more than conflict zones, as the main instrument of homicidal common crime.

Apart from these legal arms exports, considerable quantities of small arms and other military equipment exit European harbours and airports illegally. Case studies on illegal arms deals revealed the involvement of European citizens.

None of this comes as a surprise. In these trades, neither Europe nor Europeans differ from other nations and citizens. What makes the situation peculiar, though, is that European arms production and exporting activities do not coincide well with the exposure of European endeavours to constrain arms flows towards the world's problematic spots. Such endeavours have come to be promoted on national, regional (European Union) and United Nations levels.

European citizens would rather not be considered responsible for arming whom they take to cause misery elsewhere, in countries embroiled in civil war. Arms may really be used there, even against civilians, or be used *tout court*. News about arms trade deals tends to be met with public indignation in Europe, whether the deal consists of old material that is passed off on non-commercial terms, or is a transaction whereby European contractors stand to make substantial profits. The mere act, or announcement thereof, of granting a country access to a European arms pipeline, is read as an indication that Europe supports that country politically as well. And as such, critics are likely to stand up and argue the country on the receiving end is unworthy of that support, dragging human rights track record into the public arena, as well as alleged democratic deficits.

¹ The term 'small arms and light weapons' (SALG) is used here in line with the definition offered in the 1997 United Nations' *Report of the Panel of Governmental Experts on Small Arms*.

² Estimate by the Graduate Institute of International Relations, *The Small Arms Survey 2004 – Rights at risk*, Oxford University Press, 2004, 335p. Figures on regional distribution of small arms producers categorize the Commonwealth of Independent States (CIS) with Europe, on pages 9 and 10.

³ The Graduate Institute of International Relations, *The Small Arms Survey 2003 – Development Denied*, Oxford University Press, 2003, 329p. The paragraph is an indirect quote from p. 103.

Manifestations of public indignation tend to be informed by appreciations about foreign policy and politics that by definition are topical and mouldable, and risk to be selective. To inform their decision-making about official arms exports on more than (selective) indignation, European authorities built decision-making mechanisms that are believed to de-politicise the matter. These mechanisms should determine whether an arms export can eventually turn out to be problematic, so as to anticipate and avoid problematic deals. To that end, several European countries now dispose of 'ethical arms export laws'. But to what extent do the legislations that were put in place effectively contribute to making this world a less dangerous place?

In the youngest decade, the deployment of sophisticated, heavy and expensive military equipment was restricted to a handful of 'real' interstate wars, most of which were waged within view of cameras. Transit shipment of heavy American military material bound for Iraq through European ports, hit the news in the Heart of Europe as well. News on such shipments gave rise to large protest, that could not stop the arms shipments, but it sure put concerned politicians and peace movements into the media spotlight.

Quite by contrast, concern about armed conflicts in the South tends to have less public appeal, even if these conflicts can be shown to cause far more victims. The same accounts for enduring security problems in areas defined as 'post-conflict' and as such post-media attention. Obstacles to that appeal include the fact that these armed conflicts and problematic post-conflict situations rarely conform to the concept of 'war' the average European refers and responds to, that is interstate, politically motivated battles fought by state armies, and regulated by international humanitarian law. The South's problematic 'new wars',⁴ by contrast, are not convincingly motivated by political aims, are often restricted to the territory of one state only and are the scene of private non-state actors that are impervious to international public law mechanisms created to regulate the more classic interstate type of war and protect civilians. New wars make for very dangerous places, even if their actors do not use new arms that are imported straight from European factories. Or if the arms are in actual crude fact imported from Europe, that export would not be expected to go through routes that are visible and as such amenable to regulation.

Illegal arms markets and brokers supply most of the arms that proliferate in today's dangerous places, including anti-personnel mines and cluster bombs, which are plainly illegal arms. Arsenals in dangerous places are also stocked with small arms and light weapons that are not by definition illegal, but are problematic nevertheless. The arms are small enough to hide, and so light that even a kid can carry and use them, whether engaged as child soldier in battle zones, or at the service of common and organized crime in the world's more dangerous cities.

Bullets fired from small arms are far from the only cause of death in situations recognized as 'armed conflicts'. Even more lethal have been situations where civilians no longer find a state around them that prevents they are being driven away from their livelihoods, to an impossible elsewhere, where they risk to perish, unseen by news cameras. The absence or weakness of state forces in these places then allows for a situation where civilians, including children, are recruited by non-state actors, to fight at their side or at the least contribute to an informal war economy that is likely to be defined 'illegal' (as a narcotics economy would be termed). The proceeds of these

⁴ European scholars, nevertheless, came to define such wars quite eloquently, e.g. Mary Kaldor, *New & Old Wars. Organized Violence in a Global Era*. Cambridge: Polity Press, 1999.

illegal activities are not likely to get invested in economic and social development, nor in strengthening (what remains of) the state. Lacking means to recover its monopoly on violence, that state cannot take on illegal, armed, non-state actors that undermine its authority. The resulting spiral of conflict and misery cannot possibly be cut without external assistance, political, financial, and military.

The mechanics of these ‘new wars’ are easy enough to understand. And yet, European authorities are not normally expected to approve arms exports to a state that has turned into a problematic and dangerous place, whichever may be the cause of its problems. *Off the record* such state may well be referred to suppliers in countries with lax arms export regimes, or to private arms brokers that operate on illegal markets, where they are recycling arms from one conflict to go arm the next. These brokers tend to be less selective in choosing clients. They might even serve more than one party involved in the same conflict, including non-state actors that are undermining states.

If an undertone of hypocrisy is discerned here, it is but an unintended outcome of an arms trade regime that – at least according to law-makers acting on behalf of the concerned European public opinion - aspires to do the least possible harm. European countries have cast that aspiration in their ethical laws that restrain arms trade nationally and regionally. The European Union set its own arms embargoes to certain countries. In 1998, moreover, the European Union Council decided on a Code of Conduct on Arms Exports,⁵ as a first step toward harmonization of the (then) 15 member states’ national policies and regulations. The Code sets minimum standards to be applied by all states. It requires these states to consider requests for exports of military equipment on a case-by-case basis, assessing their compatibility with eight criteria before authorizing exports.⁶ High on that list of criteria is compliance with arms embargoes set by the European Union or other organizations, against states embroiled in civil war. The Code further seeks to avoid that a European Union member state grants an export permit to a country, if a similar export was previously denied by another European Union member state. For this mechanism to work, European states are urged to inform one another of these denials.

The allegedly restrictive European Code of Conduct on Arms Exports, however, is not a formally binding instrument. It is not taken to have overriding power in the European member states where the largest quantities of arms are being produced and exported. The Code does have binding power in Belgium though, where it was incorporated in national law in 2003. Belgium is also among the first European countries to have made provisions for addressing the problem of third country arms brokering,⁷ as requested in the scope of a European Council Common Position on the Control of Arms Brokering that was defined in 2003.⁸ Legal experiments developed to that end, and other endeavours, merit critical evaluation.

⁵ European Council Decision, *European Union Code of Conduct on Arms Exports*, 8/6/1998.

⁶ Emanuela-Chiara Gillard, “What’s Legal? What’s Illegal?”. In: *Running Guns – The Global Black Market in Small Arms*, Lora Lumpe (ed.), London: Zed Books, 2000, pp. 27 – 52.

⁷ Holger Anders, *Controlling Arms Brokering – Next Steps for European Union Member States*. Brussel: Groupe de recherche et d’information sur la paix et la sécurité (GRIP), January 2004.

⁸ European Union, “Council Common Position 2003/468/CFSP, 23/6/2003 on the control of arms brokering”. In: *Official Journal of the European Union*, 25/3/2003, L 156/79f.

The present background paper analyses this apparent avant-garde in the making of a pan-European arms export regulation. It does so in addressing the Belgian legal framework, along with facts about arms exports that this framework regulates – all of this in the understanding that Belgium is not the sole source for arms that eventually make it to the globe’s problematic regions. Belgium does appear a country that is relevant to single out, however, with respect to its small arms production and exports. Annual authorized Belgian small arms exports are calculated to stand at a number and value that is not only disproportional to the size of that country,⁹ but that concerns products that have long ranked among the most ‘popular’ in almost all small arms and light weapons categories,¹⁰ such as the Browning Hi-Power 9x19mm pistol (that was designed and continues to be manufactured in Belgium), the FN-FAL 7,62x51mm assault rifle (designed in Belgium, presently manufactured in many more countries, including Latin American countries), the FN-MAG 7,62x51mm light machine gun, and the Browning M2 12,7x99mm heavy machine gun (designed in the United States, but presently manufactured in Belgium, the UK and the USA). Belgium is also seen to house two prominent manufacturers of small arms ammunition.¹¹ Quite a bit of this equipment is eventually seen to make it to problematic places, where it is put to actual use.

Along the way, the paper seeks to provide insight as to where and how these arms are being used, that is the crude real world, and how it is functioning in certain problematic places, on the field, in the small corners, and in the shade. That real world field is far too big to survey in one glimpse and one paper. The paper considers only one far corner: Latin America, a part of the real world that in Europe is increasingly rarely reported upon in a refined way.

Defence patterns and some odd facts about several Latin American countries are introduced in the next pages, along with information on traces of Belgian contractors’ activities in these same Latin American countries. That material serves as a basis to move on and analyse a system for curbing what Europeans perceive as problematic arms transfers. European perceptions, arms export laws and the actions that these laws inspire, are subsequently confronted with ‘a true problem’, which becomes the focus towards the end of the paper. The measuring rod to serve that last aim, ‘a true problem’, is the arming of non-state actors that undermine human security in Colombia. Case study material on arms trafficking deals that ended up in the hands of these Colombian non-state actors may surprise the average European, as documented facts are likely to surpass his and her imagination. A narrative that includes a few such case studies is therefore taken to be useful for complementing the analytic sections in the paper. The aim, after all, is to move the discussion beyond blind spots and taboos, trigger a few impertinent questions and suggest that a complacent European worldview be adjusted to the crude real world.

⁹ According to UN Comtrade figures available for 2001, Belgian small arms exports value US \$ 234 million. Only the United States and Italy are calculated to have higher small arms export values.

¹⁰ This popularity index is recorded in *The Small Arms Survey 2004*, op. cit., p. 34. The box on that page sources the remaining of this paragraph.

¹¹ *Ibidem*, p. 27.

Self-sufficiency in Latin America

Latin America does not present a particularly lucrative market for arms exports, whether European or other.¹² Even its small arms and light weapons market would be considered slow. A *Small Arms Survey* and the Brazilian NGO Viva Rio investigation on 11 Latin American countries, representing a total population of some 464 million, revealed a stockpile of 45 to 80 million firearms, owned by government institutions and civilians combined.¹³ The regional average is equal to 8-16 civilian firearms for every 100 people, which is far below the United States' average (approximately 83-96 guns for every 100 people).

However, Latin America does stand out with respect to the lethality of the use to which these 'relatively scarce' arms are being put. The region loses between 73000 and 90000 victims killed by firearms annually, a very large share of which are homicides, and is thus calculated to suffer a level of firearm death that easily surpasses the fatalities of, say, the 2003 Iraq war. Latin America was quantified to carry 36 percent of the global burden of non-conflict-related firearm deaths.¹⁴

The arms put to such exceptionally lethal use, are not by necessity imported from abroad. Today, at least ten countries in Latin America are in the capacity to produce small arms, light weapons, or ammunition.¹⁵ That capacity has been in the making for considerable time, even if these arms were not being produced to end up in the hands of civilians and non-state actors that are putting them to dangerous use today.

From the mid 1970s onwards, several Latin American countries already reduced their armies' imports of small arms and ammunition, in setting up local production under production license contracts. Many of these contracts were signed with former suppliers that agreed to put the contractor in a position to produce that military equipment domestically. These contract arrangements, in their turn, allowed Latin American contractors to help their states achieve self-sufficiency in military matters at relatively low cost, as no investments were required in research and development. Some license contracts provided for assembling imported parts only. In other cases, the contracts enabled local defence industries to fabricate the entire product.

Contracts of this type tend to specify that the arms, which are produced in the country where the license was taken, can be sold to the national army of that country only. The arms cannot be (re) exported to third countries. Re-exports would affect the commercial interests of the contractor that granted the production license, as these reduce the market where that mother industry can continue to export and/or sell licensed production arrangements.¹⁶

¹² Latin America is the world's region spending the smallest GNP percentage on defence, according to *Balance Militar de América del Sur*, Argentina, Centro de Estudios Nueva Mayoria, 2004.

¹³ International Institute for Strategic Studies, *The Small Arms Survey 2004*, op. cit., p. 50-54.

¹⁴ *Ibidem*.

¹⁵ *Small Arms Survey 2004*, subsection pp. 16-26, "Regional survey: small arms production in Latin America".

¹⁶ IPIS researcher Peter Danssaert investigated several licensed production arrangements that Belgian companies concluded in Latin America. Some of his research material was reported in a chapter on 'Licensed Production', by the Geneva Graduate Institute of International Studies *Small Arms Survey 2002 – Counting the human cost*. Oxford University Press, 2002, pp. 40-54.

Venezuela provides an exemplary case of production licensing. Since the early 1950s, that country had been buying military equipment from the Belgian *Fabrique Nationale d'Armes de Guerre*, better known as FN Herstal or simply FN.¹⁷ In 1974, Venezuela negotiated a production license contract with that same Belgian company, to be allowed local production of FN FAL 7,62 mm assault rifles. A Venezuelan state company was created for this purpose, the *Compania Anónima Venezolana de Industrias Militares* – or CAVIM.¹⁸ CAVIM began to produce and sell the rifles to the Venezuelan army from 1975 onwards.

Today, the Venezuelan armed forces are using several other FN products too, even though their FN Browning were recently being replaced by Swiss SigSauer P226 9mm Parabellum. Parts of that pistol are currently being produced in Venezuela, and assembled at the CAVIM factory in Maracay.

Venezuela has been indicated to import other small arms. In January 2000, 260 HK 9 mm guns were reported stolen from a government arsenal in Vargas. Press coverage on the subject specified that the guns had been ‘produced in Belgium’ and that the thieves had shouted that this was *para colaborar con la revolución*.¹⁹ Other sources later claimed the guns to be ‘Croatian’.²⁰

Brazil obtained a licensed production arrangement similar to the Venezuelan to produce FN FAL rifles at the state-owned *Indústria de Material Bélico do Brasil* (IMBEL) *Fábrica de Itajula*.²¹ In Argentina, a similar arrangement was made with local manufacturing plants that resort under the state-owned *Dirección de Fabricaciones Militares*, (DGFM), to produce both FN FAL assault rifles and FN MAG light machine guns.²² The *Fábrica de Armamentos del Ejército de Chile* (FAMAE) produced FN arms under license too, as does the Mexican *Fábrica Nacional de Armas*. 7.62x51mm and other ammunition is being produced under FN licenses in several Latin American countries, including at Paraguay’s DINDUSMIL,²³ and Colombia’s *Industria Militar* (INDUMIL), that is operated by its ministry of defence.²⁴ Apart from that, INDUMIL plants produce Israeli Galil assault rifles, as well as revolvers made under license from the Spanish company Llama Gabilondo.²⁵

¹⁷ FN is an established Belgian defence company. Among its claims to fame is having manufactured the pistol with which the Austrian heir-apparent was assassinated in Sarajevo in 1914, and as such, having literally ‘triggered’ the first World War.

¹⁸ The contract dates from 29/6/1975.

¹⁹ “260 pistolas roban en Vargas”, in several Venezuelan newspapers 13/1/2003.

²⁰ “Armas robadas en Vargas eran para los círculos bolivarianos”. In: *El Universal*, 10/1/2003

²¹ Data from *The Small Arms Survey*, 2002, op. cit., p. 45 (table).

²² DGFM factory Fray Luis Beltrán still holds the licence to produce FN FAL but not currently does.

²³ *Ley n° 990 que aprueba el contrato entre el gobierno de la República de Paraguay y la firma Fabrique Nationale Herstal S.A. (Bélgica)* from 1985, defines the contract as Compra, Venta y Asistencia Técnica for 7.62x51mm ammunition (NATO-standard) and for 9x19mm Parabellum.

²⁴ INDUMIL holds a state monopoly on production and commerce in all small arms and light weapons, and is the only authorized firearm and ammunition importer in the country. Its function is to supply the Colombian regular armed forces and national police. Civilian customers are a secondary and restricted market. Nevertheless, INDUMIL facilities became infamous, as regular Colombian armed forces proved not the only ones stocking in there, e.g. “El cartel de Indumil”. In: *Cambio*, 2/6/2003.

²⁵ *Small Arms Survey 2004*, op. cit., p. 23.

Even if these data bear witness to the fact that an industrious Belgian company arranged for the production of a fair share of Latin America's small arms,²⁶ FN did not obtain a monopoly position. The Belgian defence industry shared the market segment with Israeli companies.

The mechanism to achieve self-sufficiency was not restricted to small arms and ammunition. Chile, Peru, Uruguay and Venezuela reported disposing of old stocks of M-35 landmines that were imported from Belgium;²⁷ Colombia disposed of Belgian Sopro NR 409 landmines, amongst many others.²⁸ Local landmine production, to substitute such and other imports was begun in the 1970s and 1980s, in Brazil, Chile, Peru and Colombia. That production stopped after these countries signed and ratified the Ottawa Convention and started implementing treaty obligations, including stockpile destruction.²⁹

Latin America was also seen to aspire at self-sufficiency in the production of heavier military equipment, such as armoured vehicles, battleships and several kinds of aircraft. Brazil's military industry was taken to be able to provide in all the country's defence needs, even if it was still importing an important contingent of Belgian Leopard battle tanks in the mid 1990s.³⁰ Such imports are believed to have become more difficult, after Brazilian policy begun to define strategies for boosting the national military industry. That policy strongly discourages contracts with foreign suppliers and existing contracts are suspected if possible.

Argentina sought to follow this Brazilian example since the Kirchner government took office. Imports of military equipment to Argentina remain possible from suppliers based in other Mercosur countries, or from foreign suppliers in general, on condition they 'create interesting opportunities for local manufacturers, by letting them participate and receive technology that may later come to boost local capacity'.³¹ Regional (Mercosur) military industry cooperation is encouraged.

A third large Latin American country, Venezuela, continues to import armoured vehicles from outside Latin America. In 2000 and 2001 its defence administration placed orders for that equipment with a Belgian supplier.³² Again in 2004, Venezuela

²⁶ Apart from handing out production license contracts, FN also participated in consortia to arm certain Latin American countries that were living their darkest dictatorial days, e.g. Comité Belge du front élargi de l'Uruguay, *Armes belges pour la dictature fasciste uruguayenne*, 1980.

²⁷ *Landmine Monitor Report 2003 – Toward a Mine-Free World*, Human Rights Watch et al. 2003. Countries' stockpiles are identified on p. 166 (Chile), p. 380 (Peru), p. 409 (Uruguay) and p. 490 (Venezuela). The *Report* also ascribes Suriname a landmine stockpile 'imported from Libya'.

²⁸ Dirección de Justicia y Seguridad del DNP, *La erradicación de las minas antipersonal sembradas en Colombia – implicaciones y costos*. Bogotá: 1/3/2002, documento 178.

²⁹ *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction*. The Convention was signed in Ottawa, Canada, in 1997. It is referred to as the "Ottawa Convention" or alternatively as the "Mine Ban Treaty".

Having destroyed its regular armed forces' ultimate stockpile in late 2004, Colombia became the first country in the world that – despite internal armed conflict – complied with landmine treaty obligations, cf. "Explosiones pacíficas". In: *Semana*, 24/10/2004. This does not make Colombia a mine-free country, as armed non-state actors continue to deploy devices banned by the Ottawa Convention.

³⁰ Such purchases are reported in annual publications by the International Institute for Strategic Studies, *The Military Balance*. Oxford University Press.

³¹ Juan Carlos Cicales, "Nueva Política de Defensa de la República Argentina". In: *Tecnología Militar*, 2003, n° 3, pp. 31 – 33.

³² Previous purchases with Sabiex are documented in *Gaceta Oficial*, Resolución N° DG-8385 of 26/9/2000, and Resolución DG-10043 of 17/2/2001, whereby the Venezuelan defense ministry allows division general Lucas Enrique Rincon Romero to contract with Sabiex International S.A.

announced its intention to spend 80 million euro on new armoured and tactical vehicles. An Austrian, British and Belgian company were reported to be competing for that order in May 2004,³³ when the Brazilian *defesanet* announced Venezuela's decision to contract Iguana 4x4 armoured vehicles with a Belgian supplier.³⁴

Modest defence expenses – correlating factors

The concerned European observer may find relief in this: Latin American aspirations to self-sufficiency in small arms and heavier military equipment correlate with modest military spending. Compared with defence expenditure in the Middle East and Africa, Latin America spends a smaller percentage of its revenues on arms.³⁵ The South American average (1,7%)³⁶ is below the NATO-Europe average (1,9%)³⁷ and the global average (2,3 to 2,7).³⁸ In absolute figures, world military expenditure was estimated to be worth some US \$ 794 billion, roughly \$ 128 per global capita.³⁹

Most of that is spent on imported heavy equipment and on hi-tech upgrades of aircraft, which Latin American countries contract with European, Israeli, Russian and – naturally – also North American companies, and with companies based in Latin America, such as Brazil. Brazil is by far the largest arms producer and exporter in Latin America.

In 2001, Brazil earmarked 1,5% of its public spending for defence. Argentina, Uruguay and Panama tend to spend even less on their defence, about 1,3 to 1,2%. Mexico spends an average of only 0,5%, and Costa Rica has no defence forces at all – Latin America's own little Iceland.

Latin American countries with incomes from mineral and oil exploitation may be expected to spend a bit more on defence than do their neighbours. Are not canons ordered where butter is available already? Chile is an interesting case to explore in this respect.

In 1985, Chile spent US \$ 176 per capita on defence. In 2001 the figure was at US \$ 180, but in 2002 that dropped to US \$ 160, 2,9 – 4% of the Chilean GNP,⁴⁰ less than Chile spent on public health and education. To Latin American standards, after

³³ Andy Webb-Vidal, "Venezuela seeks arms edge over Colombia". In: *Financial Times*, 25/5/2004.

³⁴ News posted on 11/5/2004, at <http://www.defesanet.com.br/noticia/iguana>. *Tecnología Militar* n° 2/2005 reported the deal was still being negotiated.

³⁵ As attested by statistics on the latest decades, published in *The Military Balance*, op. cit., and by table 17 in the annual UNDP *Human Development Reports* (published by Oxford University Press).

³⁶ The International Institute for Strategic Studies, *The Military Balance* 2003-2004, op. cit., p. 338.

³⁷ *Ibidem*, p. 335.

³⁸ Estimates from the Stockholm International Peace Research Institute (SIPRI), e.g. in the *SIPRI Yearbook 2003: Armaments, Disarmament and International Security*. Oxford University Press, 2003, 847 p. The last, higher figure was calculated by SIPRI in June 2004, and takes into account the U.S. military expenditure that was boosted by interventions in Afghanistan and Iraq.

³⁹ Figures relating to 2002, as published in the *SIPRI Yearbook 2003*, op. cit.

⁴⁰ Percentages differ according to the source used. The 2003 UNDP *Human Development Report* gives the lower figure; the higher figure is from *The Military Balance 2003 – 2004* ('Defence Expenditure'). Both these sources inform the next paragraphs.

all, Chile is a prosperous country, and it has a preferential relationship with powerful and other nations, including European nations.

The inventory of the Chilean arsenal contains a lot of European equipment, ranging from swift French AS-350 B3 “*Ecureuil*” helicopters to clumsy Belgian Leopard tanks.⁴¹ The Chilean navy recently added four recycled Dutch frigates to its large and mainly British-made fleet,⁴² and Italian Scorpene class submarines.⁴³ In 1994, its air force got an interesting deal to buy 25 Mirage fighter jets, which the Belgian air force no longer used, even though the Belgian taxpayer had just paid for their upgrade by the Belgian aviation company Sabca. A suicidal Belgian army general promoted the deal. A company he represented, Europavia, helped convince Chile to buy the Belgian Mirages rather than other jets on offer. A Belgian citizen and a Czech arms trader with connections in Chile lobbied for the operation. The Belgian resided in London but was useful to the deal through his wife, daughter of the then commander of the Chilean air force. Intermediaries’ commissions cost a cool US \$ 15 million from the US \$ 109 million that Chile paid for the Mirages.

Some defence expenses turn out to be productive expenses for Chile, boosting a local military industry to export on a profitable market. On closer inspection, this local industry is not all that Chilean. Its most prominent player is an emigrated descendant of a well-known Belgian family. He produced landmines, cluster bombs and even variants of American *Bell LongRangerIII* helicopters.⁴⁴ He was reported to have been on close terms with U.S. intelligence agencies in the era when one strand within that intelligence community thought it convenient to arm Iraq in its war against Iran.⁴⁵ The Chilean businessman shipped weapons factories to Iraq,⁴⁶ having bought the relevant factory parts from the British company Churchill Matrix,⁴⁷ and U.S.-based Teledyne Industries.⁴⁸ The factory later became a nuisance to the U.S., but that was removed by Stealth fighter-bombers making a run over Baghdad in February 1991.⁴⁹

The idea to set up a bomb factory in Iraq bears witness to the businessman’s pragmatism, to say the least. In the 1980s, transfer of U.S. military technology to

⁴¹ Inventory from the already oft quoted *The Military Balance*, as well as Antonio Ciranno Maureira, “El Ejército de Chile— su futuro”. In: *Tecnología Militar*, 2003/4, pp. 36 – 42.

⁴² Antonio Ciranno Maureira, “El ‘Proyecto Fragatas’ de la Armada de Chile – estado actual”. In: *Tecnología Militar*, 2003/3, pp. 23 – 26.

⁴³ Report by *Noticias Aliadas*, 23/5/2004, a French translation (“Achats d’armements préoccupants”) was posted on 9/6/2004 on concerned Belgian *Réseau d’informations et de solidarité avec l’amérique latine*, risal.collectifs.net/article.php3?id_article=1001

⁴⁴ These helicopter types are reproduced on <http://avia.russian.ee/vertigo/cardoen-r.html>

⁴⁵ “How U.S. Arms and Technology Were Transferred to Iraq”. In: *ABC NEWS Nightline*, 13/9/1991 (transcription available on www.jonathanpollard.org/1991/091391.htm).

⁴⁶ More on this case was reconstructed by Alexander von Bülow, *Im Naamen des Staates, CIA, BND und die kriminelle Machenschaften der Geheimnisdienste*. München: Piper, 1998.

⁴⁷ HM Customs & Excise C&E S2/96, *The Prosecution of Henderson, Abraham and Allen (Churchil Matrix)*, 15/2/1996.

⁴⁸ The company was brought to court, Case No.: 93-241-CR-Highsmith, Carlos Cardoen et al., United States District Court, Southern District of Florida. Howard Teicher, who served on Reagan’s National Security Council staff, offered an affidavit in the Teledyne case that declared CIA director William Casey and his deputy, Robert Gates, “authorized, approved and assisted” delivery of cluster bombs to Iraq through Cardoen” (*In These Times*, 3/6/95). U.S. intelligence services helped closing the case, for “Washington insiders have decided that Iraqgate didn’t happen”, writes Robert Parry, “*Iraqgate: Confession and Cover-up*”, May-June 1995, <http://www.fair.org/extra/9505/iraqqate.html>

⁴⁹ “How U.S. Arms and Technology Were Transferred to Iraq”, *l. c.*, 13/9/1991.

Chile was illegal.⁵⁰ Its transfer to the Middle East was not exactly promoted either, but an export permit for the bomb factory parts could be obtained when defined as ‘scrap metal’. The same Chilean also set up lines of business in Ecuador, Spain, Italy and France, and he acquired a company based in the U.S., Swissco, that was run for him by a former U.S. ambassador to Chile. Swissco arranged for the export of 130 tons of zirconium from the U.S.,⁵¹ which were used in Chile to produce cluster bombs, in violation of the 1977 United Nations Convention to ban cluster bombs.⁵² This Convention should also have prevented the cluster bombs were exported from Chile to Iraq before to the First Gulf War and more recently to Zimbabwe. That last sale of Chilean cluster bombs was assumed to have Congolese conflict zones as a final destination.⁵³

A prominent petrol-exporting nation, Venezuela would be expected to spend more on military matters than do other countries in Latin America. In 1985, US \$ 107 per Venezuelan was spent on defence. That amount had dropped to US \$ 43 by 2002, making the Venezuelan expenditure modest compared to that in other, non-Latin American petrol-exporting nations.

Lacking oil revenues to speak of, Peru has nevertheless managed to spend US \$ 175 per capita on defence in 1985. At that time, guerrilla threats to the state monopoly on violence were explained to prompt the Peruvian government to high expenditure rates.

Having its state monopoly on violence threatened by guerrilla and other non-state actors, was not seen to drive all Latin American governments to invest in its military. The US \$ 29 per capita that Colombia spent on defence in 1985 is almost inexplicably modest, given the fact that the country’s internal security situation had been under siege since guerrilla movements sprung up from the 1960s onwards, and the 1980s drug cartels’ wars against the Colombian state added to the internal security problem, as did the paramilitary ‘counter-guerrilla’ groups. Poverty cannot explain this country’s modesty in military expenditure. The Colombian GNP compares rather favourably to that of neighbouring countries which did invest heavily in defence, such as Peru.

Colombian reluctance to invest in defence might be seen to correlate better with the fact that this country never endured a ‘military regime’ of the calibre that used to rule Brazil, Argentina or Chile. Colombia never suffered a military *coup*, nor did Colombian powers that he saw a necessity to ‘bribe the military away’ from formal power. Military men held the Colombian ministry of defence for a considerable time, as the military did in other Latin American countries, but apparently none of them claimed more than a modest share of the Colombian public budget. Investment in military matters did not take off until the early 1990s, and remarkably so, when Colombia resumed its mid-century tradition of civil ministers of defence. In 2002, Colombian defence cost about US \$ 64 per capita. That amount is more than double of the rate spent on Colombian defence in 1985, but it remains still far less than the

⁵⁰ Ibidem.

⁵¹ U.S. Bureau of Industry and Security (Dept. of Commerce), *Enforcement Case Histories: Anatomy of a Successful Investigation*, www.bxa.doc.gov/enforcement/CaseSummaries/CarlosCardoen.html

⁵² The United States does not respect the ban on cluster bombs either. The Minnesota-based Alliant Techsystems continues (since 1984) to produce CBU-87 cluster bombs that have been used to ‘carpet’ Afghan soil since 2001, cf. *Primera Linea.cl*, “La historia chilena de las bombas racimo, 29/10/2001.

⁵³ “Negocio vigente”. In: *Que pasa?2001*. The sale to ‘Zimbabwe’ consisted of 23 anti-tank 60K cluster bombs as well as 43 MK83 bombs for destroying airstrips.

current US \$ 160 – 180 per capita that is spent on military matters these days in Chile, that is a country that is not confronting well-armed illegal non-state actors nor even external enemies.

Military expenditure in Colombia remains below that of Cuba too, where about US \$ 93 per person or 3,7% of the GNP is spent on defence these days. In 1985 that military expenditure had even been up to US \$ 137 per Cuban.⁵⁴

When military expenditure is measured in GNP percentages, Suriname is South America's real big spender. In 2002, that country reserved no less than 5,0% of its public resources for defence. That is almost as much as the percentage that was spent on Surinam public health in the same year. In absolute terms, however, the Surinamese military expenditure is modest. It would not even be taken to sufficiently capacitate the sparse local security structure for effectively guarding the densely forested and thinly populated territory.

Not a cloud on the horizon?

Modest Latin American military expenditure correlates with relatively healthy security indicators. With the notable exception of Colombia, all large countries in the region manage to maintain a state monopoly on violence these days and do so at relatively low cost.

The autonomy in arms production that a few countries in Latin America aspire at need not be interpreted as a 'cause' of their economical military spending. It can also be seen as an outcome of a 'certain capacity' that these countries' military apparatus already enjoyed before they started to call for self-sufficiency in military equipment. "A bit more than a certain capacity", Europeans tend to retort at that, referring to dictatorial regimes in Chile and Argentina, where they take the state monopoly on violence to have been 'more than safeguarded'. Considerable numbers of Chilean and Argentinean political refugees have reported to the European public about that matter. Few Europeans are well informed about current Latin American realities, and fewer still commonly put these matters into regional and historical perspective. As such, they may overlook that even in these dark dictatorial ages, the situation in Chile and Argentina was an exception rather than the rule in Latin America, and snivel instead on evidence that in at least nine Latin American countries, certain U.S. agencies engendered 'preventive *coups*'.⁵⁵

Most Latin American armies do succeed in deterring their close neighbours from engaging in intervention adventures. One notable exception to that rule is the brief war between Ecuador and Peru that peaked in 1995. In that border dispute, Ecuador deployed weapons that were imported from Argentina.⁵⁶ More particularly, the arms came from stocks produced for the exclusive use of the Argentinean army.

⁵⁴ Cuba is one of two countries in the American hemisphere that are yet to sign the Ottawa Convention.

⁵⁵ Olivier Dabene, *L'Amérique latine à l' époque contemporaine* (3^e mise à jour). Paris: Armand Colin, 1999, 191 p. That count is made since the early 1960s, when pre-emptive activity was 'to combat the communist threat'.

⁵⁶ E.g. David Spencer, "Peru-Ecuador 1995: The Evolution of Military Tactics from the Conflict of 1981". In: *Small Wars and Insurgencies*, 1998, Volume 9, n° 3, pp. 129-151.

(Re) exporting military equipment to a belligerent nation constitutes an obvious infringement on the arms embargo that had been set at the time.⁵⁷ To make the situation look even worse, Argentina was one of the guarantors in the multilateral arrangement to contain Ecuador - Peru tension.⁵⁸ The political responsibility for the Argentinean arms transfer was later ascribed to then president Carlos Menem. The case was investigated along with a string of corruption affairs, in which the former president was named as well. Menem was revealed to have signed three presidential decrees between 1991 and 1995, that allowed the sale of military equipment that belonged to the Argentinean armed forces. Panama and Venezuela were inaccurately mentioned as end users on the export certificates that substantiated these sales. The material was in actual fact shipped off to destinations under international arms embargo, not only to Ecuador, but also to a belligerent party in former Yugoslavia. The deals were brokered with the aid of Jean-Bernard Lasnaud, a French citizen and resident of the United States. Lasnaud - whose real, Polish name is Lasnosky - was arrested in Switzerland in May 2002. He there testified that he assisted in the sale of 10000 small arms and 10 million pieces of ammunition to Ecuador in February 1995, in a deal worth about US \$ 7 million, which he concluded with colonel (r) Diego Palleros.⁵⁹ The latter represented *Fabricas Militares*, the Argentinean state company that holds FN production licenses. In October 2004, Palleros, Carlos Menem and his former minister of economy were convicted for having trafficked ammunition, canons and machine guns made by an Argentinean state company to Ecuador and Croatia.⁶⁰

Argentinean arms, including Belgian designed FN FAL 7,62 mm rifles,⁶¹ ended up into the hands of non-state actors and common criminals as well, such as the Rio de Janeiro drug mafia. Statistics on weapons confiscated in Rio by the Brazilian police,⁶² further reveal that FAL are but one of several FN products that circulate illegally. 9 mm pistols that circulate there too, appear to have been manufactured in the Belgian factory in Herstal.⁶³ And yet, “According to Brazilian legislation, the use and possession of automatic weapons and 9 mm semi-automatic pistols is forbidden for civilians. That factor rules out the possibility that these weapons were legally exported to Brazil, for commercialisation by authorized sales agents. That is, the chances are very high that seized Belgian weapons reached Rio de Janeiro through illicit channels”.⁶⁴

About 25% of all weapons the Brazilian police confiscated in the 1950-2001 time span, in what they term ‘irregular circumstances’ and registered in stockpile

⁵⁷ At that time, the embargo did not stop Peru to order and obtain equipment from Belgian defence contractors either, as is attested by *The Military Balance*, 1995 – 2002.

⁵⁸ David Scott Palmer, “Peru-Ecuador Border Conflict: Missed Opportunities, Misplaced Nationalism and Multilateral Peacekeeping”. In: *Journal of Inter American Studies and World Affairs*, 1997, 39, n° 3, pp. 109-137.

⁵⁹ Juan Gasparini “Entrevista exclusiva con Jean-Bernard Lasnaud, traficante de armas detenido en Ginebra”. Reporting for Agencia IPI on www.redvoltaire.net/article/577.html. Three arms cargoes were flown to Ecuador via Caracas. After delivery of a fourth cargo failed, Palleros continued business through a notorious Belgian arms broker who also tried to ship arms from Iran to Ecuador and Croatia.

⁶⁰ “La justicia imputó a Carlos Menem por contrabando de armas”. *Redacción Desarme*, 22/10/2004.

⁶¹ “Armas argentinas en Rio: Es el mismo material que fue a Croacia”. In: *La Nacion*, 14/11/2002.

⁶² *Estadísticas sobre armas argentinas de uso exclusivo de la fuerza pública incautadas en Rio de Janeiro hasta diciembre 2001*, www.desarme.org, Maio 2003.

⁶³ Viva Rio Small Arms Control Project, *Tracing small arms seized in Rio de Janeiro: some clues for Belgium made weapons*. Rio de Janeiro, October 2002.

⁶⁴ *Ibidem*, p. 4.

records, were made in either Belgium or Argentina.⁶⁵ Another quarter of the materiel confiscated in Rio appears to have been supplied from the United States. Spain is indicated to be an important supplier of small arms as well, and another large part of the illegal arsenals is made in Brazil, some of that under production licenses.⁶⁶ The Brazilian police confiscated heavier anti-tank weapons in Rio as well, made in Sweden.⁶⁷

The decade-old habit registered in the Brazilian underworld, to procure arms that were originally made for the Argentinean armed forces, does not by itself implicate the Argentinean government. The latter's intervention would not have been required to account for the amount of Argentinean arms that make it to the black market. Quite by contrast, arms transfers to Ecuadorean and Croatian armed forces, conducted at problematic times, could only have been organized at Argentina's highest and governmental level. As such, government(s) can be held accountable.

Apart from violating arms embargoes set by the international community, the Argentinean arms transfers to Croatia and Ecuador also infringe upon license contracts under which the Argentinean *Fábricas Militares* produced the arms for the local armed forces that were later exported. In Argentina, the relevant contracts are with the Belgian FN. These contracts prohibit exports to third countries to avoid a parallel circuit is set in motion that would come to undermine the competitive position of FN. The legal framework for contracting with Belgian defence companies is even more explicit on that matter. That framework is explored in the next section.

Regulating arms exports and production licenses

In Belgium, contracting of production licenses is regulated by the 1991 law on the 'import, transit and export of military equipment and technology',⁶⁸ which was last amended in March 2003.⁶⁹ This one law covers the export of all (parts of) Belgian arms, whether these arms were fabricated on Belgian soil or were produced elsewhere in a licensed production arrangement taken in a 'second country'. In neither case is re-export to third countries allowed, since such third country exports would constitute a back door through which countries could gain access to Belgian military equipment and technology while living a situation that, according to the Belgian legislator, makes that access undesirable. The Belgian arms export law explicitly seeks to close that back door.

The relevance of these last provisions should be clear from the cases referred to in previous paragraphs, detailing problematic exports to Croatia and Ecuador of arms made in Argentina under license contracts with a Belgian contractor. The Belgian

⁶⁵ Viva Rio, *Data on Brazilian and foreign-produced small arms seized by police and stockpiled at the Division of Control of Firearms and Explosives between 1950 and 2001*. Rio de Janeiro, July 2003.

⁶⁶ *Ibidem*.

⁶⁷ "Em busca da Rota das Armas: da origem legal ao destino ilegal", www.desarme.org.

⁶⁸ Belgian law of 5/8/1991 betreffende de in-, uit- en doorvoer van en de bestrijding van illegale handel in wapens, munitie en speciaal voor militair gebruik dienstig materieel en daaraan verbonden technologie.

⁶⁹ The law was voted on 25/3/2003, but was not effective until publication in the *Belgisch Staatsblad*, more than three months later, on 7/7/2003.

legislator cannot tolerate such re-export arrangements, but neither can he prevent these to take place, nor even ‘punish’ in such cases.

The arms export regime does advise to take note of countries that re-export. The relevance of such note is the following: Belgian authorities are not allowed to grant Belgian arms companies export permits or production licenses when countries are involved that were not to have re-exported to third countries in the past.

The ‘no re-export’ clause is one of more criteria that specialised commissions must check when determining whether an export permit can be granted. These matters are always to be examined on a case by case base, that is, a Belgian company asks a permit to export a specified product or grant a specified production license, to a specified country. As such, an assessment is made of whether the country a company seeks to export arms to is eligible to buy these Belgian arms or licence contracts. That list further specifies that arms cannot be exported to countries ‘where these arms stand a serious risk to contribute to aggravating human rights violations’, nor to those embroiled in civil war, nor to ‘regimes that are suspected of supporting the drug trade’. The presence of child soldiers in a country is evaluated negatively as well, as is spending more of the public budget on defence than on education and health care. These and other criteria constitute a checklist that specialised commissions take into account before writing down their advice about granting a Belgian company a permit to export military equipment or technology. That advice is not binding. It is sent to the ministry in charge of actually granting the permit. The minister takes the decision. As the commission’s advice is not binding, ministerial decisions were seen to go against the advice that the commission gave.

The 2003 remake of the Belgian arms exports law added criteria to the checklist that the commission works by, and an obligatory reference to the 1998 European Union code of conduct on arms export.⁷⁰ The minimum criteria set by that Code had been incorporated into the Belgian arms export law already, but what was new was that the Code additionally made it impossible for Belgian companies to obtain a permit for exporting arms to a country, that another European Union member state had previously denied a company on its territory a permit for exporting arms to. The fact that defence contracting resides in the realm of the confidential, was anticipated to be a bit problematic, though. For this European Union Code clause to work, measures would be required to ensure (confidential) information on denials circulates to the relevant authorities within the European Union. Only on that condition could the Code come to engender the practice that it intends, which is to harmonize the European Union member states’ national arms exports.

As that Code has not been incorporated into the national legislations of the large majority of the European Union member states, arms exports were not yet seen to be particularly well-harmonized. The Code did inspire the member states to confer intensely on the matter and report on progress in the harmonization endeavour.⁷¹ This far, only Belgian arms exports are regulated by a national law that explicitly refers to the European Code of Conduct.

The relevant Belgian law became effective in July 2003. The date is significant, as it is only one month before the country’s federal competence over arms trade was

⁷⁰ European Council Decision, *European Union Code of Conduct on Arms Exports*, 8/6/1998.

⁷¹ The Council of the European Union, *Fifth Annual Report on the Implementation of the European Union Code of Conduct on Arms Exports*. 26/11/2003, Doc 14712/1/03 Rev 1.

decentralized to lower levels of governance. Henceforth, the three different regions or *Gewesten*, in which the small country is subdivided, each have a local authority that has full competence to decide about arms exported from their territory: one such executive authority for Flanders, another one for Wallonia and a third *Gewest* that is no larger than Brussels, but has its own authority nevertheless. Arms producers and traders have to apply for export permits from local authorities in the *Gewest* they are based in. Having provided the dossiers with a (non-binding) advice, these local authorities' administrations then refer the matter to different ministers. As such, the decision about granting the arms export permit is in fact taken by a different (type of) minister, depending on where the applicant is based.⁷² To make the situation more complicated still, an important military aviation contractor, which could be considered 'Flemish' because operational facilities and employees are based on Flemish territory, does not apply for export licenses with the Flemish administration. As the company's administrative office is located in the capital, it is allowed to send the applications for permits to be decided by local authorities in Brussels.

The 'real' problem with this arrangement, however, is that applications for arms export permits are treated differently by each of the three local authorities that are expected to work by the same checklist. Specialised commissions advising their respective authorities on the compliance of a potential client country's profile with the criteria put forward in the national arms export law, have elbowroom in how they measure and value these criteria. As the latter criteria are described in terms like 'high risk the arms exported may come to aggravate human rights violations', uniformity in interpretation proves a bit difficult. At the same time, it proves too easy to come up with interpretations that are convenient in matters other than, say, human rights treaty compliance. Flemish and Walloon administrators may come to assess the situation in an arms importing country differently, and the (different) ministers who take the final decision on the basis of an advice that does not bind them, may come to different conclusions as to the convenience of a certain export permit. The 'neutral' criteria set forth in the Belgian arms export law may then come to have less weight in one part of Belgium than it has in another part of Belgium. Quite relevant is the fact that Wallonia disposes of both an employment-intensive military industry and dramatic unemployment figures, whereas in Flanders the economic situation is such that a local administration may be able to afford better living by an 'ethical arms export law' only.

Legal instruments are still to materialize to guide these local authorities in how to control the arms trade for which they have been made competent.⁷³ That absence of regional regulation need not be decoded as a matter of oversight. It may just as well be taken to indicate that few in Belgium expect a law can diminish arbitrariness in decision-making about arms exports. The present situation does not even suffer from dearth of legal frameworks. It may actually be regulated by too many of them. The problem, then, is not absence of criteria, nor how criteria are formulated, nor even

⁷² This practice existed since the 1991 arms export law became effective, but only since that law's 2003 remake are applications sent in to local authorities. These were sent in to a central authority before, that then referred the dossiers to different ministers to decide, depending on the language the application forms were filed in. Applications sent in French were simply decided by a French-speaking federal minister elected in the Walloon community, those in Flemish by a Flemish-speaking federal minister.

⁷³ On 6/5/2004, The Flemish Parliament discussed six different proposals for such a law, adopting none (cf. Vlaams Parlement, *Stuk 1815* (2002-2003) – Nr. 3). It did decide, however, to establish a Peace Institute within the Flemish Parliament that can give higher quality non-binding advice about matters such as which countries are too problematic for exporting arms to.

how that formulation allows for elbowroom in interpretation. It is absence of a guarantee that the law is applied.

None of the above is good news for the endeavour to harmonize European arms exports on a European level. The only country to incorporate the European code of conduct on arms exports into national law is not seen to guarantee that national law is implemented in a uniform way on its own national territory. Other European states may well be right in hesitating to take steps to implement the tool believed to allow for a more harmonized arms trade regime, When it comes to tackling illegal trade, Europe is seen to hesitate even more.

National laws, sub-national regulations and constraints set on international and supranational levels, such as by the European code of conduct on arms exports, sanction only one part of the arms trade. The other, illegal part of the game resorts to the judicial and enforcement regimes that have not been ‘harmonized’ much on a European Union level. Only national authorities are competent, in these matters, but they can coordinate or at least communicate with one another about illegal arms trade investigations via EUROPOL. That supra-national information cooperation to support European enforcement activities took off in 1999. Apart from illegal arms trade, issues such as drugs, humans trafficking and terrorism, are covered by that European cooperation framework as well.⁷⁴

Operational cooperation to combat illegal arms trafficking, and other crimes, has not moved very far beyond the discursive level. Responsibilities and competences in combating trans-national crime have proven difficult to allocate and share. The prevailing ambiguity makes it difficult to effectively and pro-actively combat illegal arms trafficking from European harbours and airports. Reconstruction of how particular arms shipments ended up in the hands of belligerent state parties and non-state actors in embargoed places indicates that trafficking out of Europe is quite common. Obviously, reconstructions are only made when the damage is already done. Prevention would be a less frustrating activity than is constructing the deal in investigations, but appears rather unfeasible at this point. Even persecution of culprits for the damage done proves hard.

And yet, several European Union countries now dispose of national legislation to tackle the problem of illegal arms brokering. That brokering was often seen to proliferate in loopholes and legal voids left between different, territorially defined arms trade regimes. Illegal arms brokers tend to be described in the specialized literature as in the next quote. “Consider the following scenario: A Belgian resident, acting from a hotel room in Paris, brokers a deal between an arms sales agent in Lithuania, who is selling Russian weapons stocks, to a recipient in a war zone”.⁷⁵ This is but a hypothetical scenario, because “very often the transactions will be even more complex, including a chain of interlinking brokers, companies, bank accounts and shipping agents, so as to camouflage the true nature of the transaction or the identity of the players involved”.⁷⁶ And if this were not enough, “to cover up their trail – for legal or ethical reasons, but also to secure their future business prospects – shipping agents and arms brokers go to considerable lengths to establish intricate international

⁷⁴ *Europol Convention & Fact Sheet*, that defines the Europol mission, cf.: www.europol.int.eu.

⁷⁵ Brian Wood & Johan Peleman, “Making the Deal and Moving the Goods – the role of brokers and shippers”. In: Lora Lumpe (ed.), *op. cit.*, 2000, pp. 129 – 154, quoted from p. 132.

⁷⁶ *Ibidem*.

webs involving multiple subcontractors, front companies and circuitous transport routes”.⁷⁷

Scenarios like these have strengthened the awareness that arms exports cannot sufficiently be controlled through mechanisms for granting export permits. Far from all arms trade transactions require (genuine) end user certificates and corresponding arms export permits granted by the country from which the arms are exported. The number of countries involved in a transaction, meanwhile, increases the difficulty to effectively persecute and punish. Even if the main culprits in a proven case have been identified and even captured, punishments may not be easy to obtain. Often they are intermediary figures who by arms from a supplier in one country (with or without an authentic end user certificate and/or export permit), transit the purchase through another country, and supply the arms to a third country that may be embargoed. These dealers, meanwhile, need not necessarily be nationals of any of these states (and in the hypothetical scenarios, they tend to operate from a hotel in Paris).

The problematic part of these and similar scenarios have been explained convincingly to legislators in Europe. The Belgian legislator responded in awarding itself extra-territorial competence to persecute in arms brokering deals that have a connection to Belgium, whether through the territory on which (part of) the transaction took place, the individual(s) who brokered to deal or the transporting company from which services were contracted.⁷⁸ As such, Belgian arms brokers can be brought to court for crimes they committed in countries other than Belgium.

By 2003, six other European countries (Austria, Finland, France, Germany, the Netherlands, and Sweden) had incorporated provisions to combat illegal arms brokering in national law as well, and a European Union Common Position on the Control of Arms Brokering was formulated.⁷⁹ That Position urges all European states to cooperate and, if they have not already done so, take the relevant steps in national law to combat illegal arms trafficking.⁸⁰

These national and supra-national, European Union provisions do not by themselves guarantee that culprits in arms brokering deals are effectively brought to court. Several practical difficulties have to be overcome along the way. Judicial cooperation of several countries involved in a brokering deal (including the country where a suspect is hiding) may be difficult to ensure. Formal permission must be obtained to send investigative commissions to the countries where the crime was committed, and persecutors must dispose of unlimited time and means to actually carry out that investigation. Persecution, moreover, is only possible in cases where a connection can be shown to exist with a country that disposes of a law to go after its arms brokers and transporting companies.

A national of, say, a problematic place in the South cannot be prosecuted on the basis of such an anti-arms brokering law, unless he was negligent enough to leave

⁷⁷ Ibidem, p. 130. More on arms brokers in the book by Brian Wood & Johan Peleman, *The Arms Fixer. Controlling the Brokers and Shipping Agents*. Oslo: NISAT, BASIC & PRIO, full text available on http://www.nisat.org/default.asp?page=publications/pub_videos.htm

⁷⁸ Title III, Art. 10 in the afore-mentioned Belgian federal law on arms exports, voted on 25/3/2003.

⁷⁹ European Union, “Council Common Position 2003/468/CFSP on the control of arms brokering”. In: *Official Journal of the European Union*, 25/3/2003, L 156/79f.

⁸⁰ The state of affairs is surveyed by Holger Anders, *Controlling Arms Brokering – Next Steps for European Union Member States*. Brussel: Groupe de recherche et d’information sur la paix et la sécurité, January 2004.

traces that convincingly connect his actions to a European judicial disposition that is competent to prosecute in that case. The fact that the arms he supplied to a truly problematic place turn out to be Belgian or are made in another country with an anti-broking mechanism in place would not by itself provide a connection that a European persecution can work on. European laws cannot do much about non-Europeans trading (re-exporting) European arms to problematic places, nor punish 'entities' in the South (be they governmental or non-state actors) for engaging in a civil war, violating human rights, recruiting child soldiers, nor even for spending more on defence than on education or public health care. Those characteristics score badly on the criteria checklists that the European arms exports framework refers to, and prevent these states have access to legal arms exports from Europe. The arms export laws, then, produce yet another customer for the illegal arms market, which thrives on re-exports of material that was once exported or at least produced legally.

And yet, Belgian arms exports law and contracts awarded with reference to that legal framework are explicit in prohibiting re-export of arms made in Belgium and produced elsewhere under a licensed production arrangement with a player in the Belgian defence industry. The value of that provision is weak. The only means that the judicial system has been given to sanction forbidden re-exports, is that in principle, the country from which these re-exports took place, will no longer have access to Belgian military equipment and technology. That is, the country will no longer be eligible for new exports, implying that Belgian companies will no longer be able to obtain permits to export military equipment to that country, nor to contract new production license arrangements with defence industry based in that country. Belgian defence companies, then, may come to 'suffer' from the fact that this provision decreases the market they can export to, legally. In actual fact, however, they may not suffer much, given the great difficulty in proving re-exports took place, as these re-exports belong to the realm of the illegal and are unlikely to be traceable.

Irregularities are extremely difficult to prove when military equipment is involved that proceeds from licensed production. Production license contracts tend to be granted for long periods of time, even for decades. The material produced under such license arrangement, such as the FN FAL 7,62, is notoriously robust. These rifles' life cycle easily surpasses the licensed production arrangement's already long time span. These facts make it very difficult to control foreign deployment of Belgian military technology. Adding to that difficulty is the absence of guarantee that foreign production will not continue after the production license contract expires, and the ambiguity about whom has the responsibility to report and proof this and other irregularities. Defence contracts, including licensed production contracts, are treated with great confidentiality. Outsiders would not normally obtain data, less even come up with evidence about irregularities. The only parties that would be taken to dispose of the information to attest irregularities are the parties involved in the deal, the Belgian defence contractors and their clients abroad. As the Belgian contractors stand to lose part of their market for future contracts, they would not be expected to be very forthcoming with information that only they can possess. In fact, they would have no motive other than 'ethics' to disclose information on re-exports of arms that contain a bit of Belgian technology to problematic places, since the stringent Belgian arms export law prevents the Belgian contractors from exporting to these places. As such, the foreign party that produces arms under a Belgian production license and re-exports the proceeds of that production to places that are not eligible for Belgian arms, is no competitor in a 'parallel circuit'. Illegal re-exports to problematic places do not

by themselves damage the Belgian defence contractor's economic interests, reporting these re-exports to the Belgian authorities does. Ethically concerned authorities, meanwhile, would be taken to have an interest in information on arms trade irregularities, to be supplied by non-insiders.

Putting the legal framework to a test

Mid-2003, a Belgian defence company sought to obtain a permit to export arms to Venezuela.⁸¹ Belgian authorities, consequently, checked that application against the criteria listed in the Belgian arms law, including the possibility Venezuela re-exported Belgian military equipment and technology in the past. Information that such equipment in fact did exit Venezuela abounded. The case merits to be examined in some detail.

The Venezuelan state enterprise CAVIM, a long-time client of the Belgian defence industry, had been candid about its (re-) export plans in the late 1990s, stating that it was to begin production of 5,56 mm SS 109 ammunition. That ammunition, it underlined, was intended to supply both domestic and export markets in South American and the Caribbean.⁸² Export of Venezuelan made military equipment in that region was being announced as well, especially to Cuba.⁸³

These plans and other Venezuelan activities are worth recording here, since they implicate Belgian defence contracts. Venezuelan production of 5,56 mm ammunition is in fact a licensed production arrangement with a Belgian defence contractor. That same contractor allowed and capacitated CAVIM to produce 7,62 mm ammunition in the past, to go with the FN FAL rifles that CAVIM began producing in 1975. That production has been reported to (have) come to an end. In 1998, the Venezuelan *Dirección de Armamento de la Fuerza Armada* (DARFA) decided the army's FN FAL rifles would be replaced for a lighter and less lethal 5,56 mm rifle.⁸⁴ DARFA consequently began arranging for the domestic production of 5,56 mm ammunition, under a Belgian production license contract. FN, meanwhile, suggested the FAL be replaced with a 5,56 mm assault rifle of its making, aptly called 'minimi'. That rifle, however, did not come out well in the Venezuelan selection procedure.⁸⁵ The decision about the type and supplier of the 'Venezuelan assault rifle for the 21st century' was postponed.⁸⁶ The FAL would remain in use for a while. DARFA specified it was to be replaced gradually, anyway, in the course of the next decade, and the whole replacement procedure was to remain within tight budgetary constraints. The replaced

⁸¹ The case was hot in the summer of 2003. Lode Delputte reported in *De Morgen* 16/8/2003, p. 1 and pp. 16-17, "FN-leveringen aan Venezuela kunnen vooral Colombiaanse guerrilla ten goede komen".

⁸² In 1999 CAVIM even announced these export intentions on its website, and ascribed them to its director Romel Fuenmayor. News coverage on the topic by, *interalia*, Javier Ignacio Mayorca, "Listo plan para fabricar munición calibre 5.56 NATO". In: *El Nacional*, 15/3/2000.

⁸³ "Cavim ofrece municiones y explosivos a la Isla". In: *El Universal*, 17/11/1999.

⁸⁴ Carlos Hernández, "Seguridad y Defensa en Venezuela". In: *Tecnología Militar*, 2000/3/4, pp. 34-37.

⁸⁵ DARFA mail correspondence with IPIS.

⁸⁶ *STRATFOR Report* 3/7/2001, "Venezuela: contributing to regional violence".

FN FAL rifles would come to be stocked in arsenals.⁸⁷ Destruction of this rather significant stockpile was no option for the Venezuelan authorities: The rifles would have to remain available in emergency situations.⁸⁸

Not all that many rifles seem to end up in Venezuelan arsenals though, or if they do, there are few guarantees the arms stay there for long. Venezuelan arms tend to get robbed,⁸⁹ and end up on a flourishing black market.⁹⁰ That market has been supplying armed non-state actors in neighbouring Colombia for quite some time, and continues to do so, as evidenced by Colombian authorities' reports on confiscated arms.⁹¹ The fact that FN FAL rifles are listed in these reports would not by itself imply that the rifles were once made in Venezuela under Belgian production license, as similar licensed production takes place in other Latin American countries as well. Nevertheless, many of the confiscated rifles were still marked as having been made for the Venezuelan army when Colombian authorities found them in the hands of guerrilla and illegal paramilitary counter-guerrilla forces. None of these illegal arms finds should in fact surprise, as illegal armed non-state actors were regularly seen trespass the Venezuelan border for provisions, and to hide for Colombian authorities.

Colombian reports of confiscated Venezuelan arms and ammunition increased after Hugo Chávez Frias was elected president of Venezuela, at the end of 1998. This is not to say the Chávez government has been supplying arms to the Colombian state. But neither can that government be said to have been very effective in preventing arms made for the Venezuelan armed forces ended up with illegal armed non-state actors that had been undermining the Colombian state for decades.

When the then commander of the Colombian armed forces, Fernando Tapias, communicated a formal complaint about that last matter to the Venezuelan authorities, the latter in their turn pointed at 'the usual' illegal trafficking that they could not be held accountable for.⁹² Others have assessed that accountability differently. One of them is Chávez' former (*coup*) companion Jesús Urdaneta Hernández, whom Chávez later rewarded in making him director of the Venezuelan *Policía Política*, DISIP. After that companionship ended, Urdaneta Hernández testified that the Chávez government was actively aiding and abetting the FARC guerrilla, and supplying that guerrilla with arms made for the Venezuelan army.⁹³ Allegations of that type have increased steadily, culminating in the mid-January 2005 debacle over the capture of a FARC-guerrilla commander in Caracas.

Yet another privileged witness to speak out on this matter is Colombia's former minister of foreign affairs, Guillermo Hernández de Soto, when reporting on a meeting that he attended with the Venezuelan, the Mexican and the then Colombian

⁸⁷ Ibidem, that source estimates the amount of Venezuelan FAL rifles at 100000. Other sources spoke of 62000 pieces.

⁸⁸ Javier Ignacio Mayorca, "Venezuela no desechará uso del fusil FAL". In: *El Nacional*, 25/2/2000.

⁸⁹ "El tráfico, la corrupción y el robo alimentan a la subversión". In: *El Pais* (Cali), 27/8/1999.

⁹⁰ An overview was already published in 1997 in *El Nacional*, "Armas vergonzosas, 20/10/1997. More was published by Mario Iván Carratú Molina, "El silencio sobre las armas". In: *Venezuela Analítica*, 17/5/2001.

⁹¹ In April 2004, the Colombian police commissioned another load of arms 'from the brand Herstal' in FARC arsenals ('DAS incauta armamento y munición de las FARC en Bogotá y Amazonas' (news posted on www.mindefensa.gov.co on 15/4/2004).

⁹² "Rangel achaca a tráfico ilegal guerrilla posea armas". In: *Terra*, 13/6/2001.

⁹³ Cf. "Ex Jefe de la Policía se destapa". In: *Semana*, 17/6/2000.

president Andrés Pastrana, and the ministers of foreign affairs.⁹⁴ De Soto witnessed president Chávez admit the FARC guerrilla had requested him to supply arms. In saying this, the Venezuelan president did not admit that he saw to supplying the arms, but he did own up to having operational contacts with a guerrilla movement that was quite successfully undermining state power in the neighbouring country. More than operational contacts would be taken to exist, when the inventory is examined of the Venezuelan presidency's attitudes and acts that the Colombia state considered hostile to its efforts to contain the internal war.⁹⁵

Last but not least are reports, made public in August 2003, that on more than a dozen instances the Venezuelan Air Force entered "Colombian airspace in order to provide cover for FARC forces retreating into Venezuela (...) the Venezuelan military's now undeniable assistance to FARC is moving from an irritant to a serious international issue".⁹⁶

There is no doubt Colombia has turned into an extremely dangerous place. The present insecurity is caused by guerrilla and illegal, paramilitary counter-guerrilla activity, all of which promote and even participate in illegal economic activity, such as narcotics production, processing and trafficking. Obviously, the insecurity has also been said to result ('collaterally') from the Colombian regular forces' attempts to combat all of that illegal activity. The ensuing situation is easily recognized in Europe as 'civil war', human rights violations are reported to be far too regular, and child soldiers get recruited at all sides but the regular armed forces that try to prevent such recruiting. Colombia would obviously score badly on the checklist that European authorities are referred to, when examining requests for arms exports permits, were their national defence companies ever to apply for permits to export to Colombia. Given the arms export law that applies to them, Belgian defence contractors would not even try applying for such permits. Criteria defined in the Belgian law strongly discourage export to Colombia. These criteria do not tolerate a Belgian company to supply even the Colombian regular forces to undo the country's armed chaos, human rights violations, narcotics economy, child soldier recruiting, and do not cost more of the public budget than do Colombian health and education. That last impossibility may be recognized as consequence of restrictive overkill, that European citizens have inspired legislators to install. The observation that Belgian defence companies are represented in Colombia nevertheless,⁹⁷ is a bit of a mystery. Belgium, moreover, was listed as the second largest supplier for Colombian small arms imports in 2000.⁹⁸

That armed non-actors who wreak havoc in Colombia are supplied with Belgian arms would be hard to imagine. Or if there are indications to the contrary, these need to be carefully examined, in distinguishing the crude fact that military equipment of Belgian design proliferates in Colombia's armed conflicts, from what is 'intended' by

⁹⁴ Guillermo Hernández de Soto, *La Ilusión Posible: un testimonio sobre la política exterior colombiana*. Bogotá: Editorial Norma, 2004. The relevant chapter is "Venezuela. Historia de los amores difíciles", pp. 235-304.

⁹⁵ Ibidem. Early in his presidency, Hugo Chávez said he was 'not taking sides in the Colombian civil war'. In labelling it thus, he did in fact take side against the legitimately elected government's effort to contain the violence that illegal armed non-state actors caused the Colombian population to suffer.

⁹⁶ The International Institute of Strategic Studies, *Strategic Survey 2003/2004*. Oxford University Press. 2004, quote taken from p. 87.

⁹⁷ The author received a list of such Belgian companies by way of AWEX, the governmental association that promotes exports from Wallonia.

⁹⁸ *The Small Arms Survey 2003*, Oxford University Press, 2003, more particularly in the table on p. 115. Sources quoted with that table include the UN and COMTRADE customs codes.

the Belgian government that decides on arms exports. These intentions can only be the best: to do the least possible harm.

And yet, in the summer of 2003, the Belgian defence contractor FN obtained the permit that it had applied for, that the company needed for exporting rifle parts to Venezuela. Neither the commission that examined the export permit application, nor the minister to whom that commission reported, nor the parliamentary oversight mechanism, had concluded that export to be problematic. Venezuela after all, had not engaged a civil war, nor did it score badly on other criteria on the European arms exports checklist. Apparently, no information had been taken into account about re-export (plans) of military equipment made under Belgian production license, nor the problematic fact that Venezuelan army equipment was trickling down to illegal armed non-state actors in neighbouring Colombia. When living in Belgium, Venezuela and Colombia are places that are difficult to get informed about. Some of the individuals involved in the relevant decision-making procedure had been duly informed about irregularities, nevertheless.

The permit for exporting military equipment to Venezuela, in this case as in previous cases, was granted under the responsibility of the then Belgian minister of foreign affairs Louis Michel.⁹⁹ In February 2001, that minister had been interpellated in the federal parliament about whether Belgian foreign relations took into account reports that ‘in the last 4 years, semi-automatic small arms and ammunition had been supplied to the FARC-EP guerrilla from Venezuela, including arms that proceed from Belgian licensed production at CAVIM-facilities’. The parliamentary question, put in writing, had added that ‘naturally, Venezuelan authorities deny trading with FARC, but rampant corruption, involvement in illegal trade (arms, drugs) turn, explains why arms produced in Venezuela are now in the hands of the FARC guerrilla’.¹⁰⁰

Minister Michel replied ‘Belgium is just as concerned as are the countries in that region about small arms proliferation. Belgium consequently supports regional initiatives to combat illegal transfer of small arms, such as the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Related Materials, that was adopted a few years ago’.¹⁰¹ In December 2001, the same party interpellated the same minister about the same matter. Michel acknowledged receiving the question, but never gave an answer.

Replies to parliamentary questions do not matter as much as do facts that show how foreign relations take into account the situation that the questions signalled. The clue for putting to the test this foreign relations cabinet, and the ‘ethically inspired’ Belgian arms export regime that it promoted, is whether that regime tolerated arms to be exported to problematic places. In granting new export permits to Venezuela, after that country had been indicated to supply the black market that in its turn supplies problematic non-state actors, the Belgian arms export control mechanism failed to live up to the expectations.

⁹⁹ As of November 2004, Louis Michel is the European Union’s Commissioner for Development and Humanitarian Aid.

¹⁰⁰ The question was formulated by then senator Lode Van Oost, of the Flemish ecologist party. The author translated the question from Flemish, available at www.dekamer.be/grva/50_3N.html.

¹⁰¹ Author translation of the ministerial reply that is available from www.dekamer.be/grva/50_3N.html. The OAS Convention that is referred to and that was signed in Washington in 1997, can be obtained in full-text version from www.oas.org/juridico/english/treaties/a-63.html.

Taking a walk on the dark side

Is illicit small arms proliferation in dangerous places but a consequence or a side effect of the all too common corruption that local governments are committed to combat, as they solemnly declare to do in the OAS Convention, but cannot effectively prevent? The question is relevant in the case of Venezuelan arms trafficking to Colombian non-state actors. The accountability of the Chávez government in that case would need to be examined a bit further still.

In 2002, the Colombian authorities obtained a testimony from a Colombian who was at that time known only as ‘El Tecnico’.¹⁰² The man, living under a witness protection programme in the United States, was a former undercover informant who had successfully infiltrated in the FARC *frente 10*. His information had already proven to be accurate before. It led the Brazilian drug kingpin Fernandinho Beira-Mar (real name Luis Fernando Da Costa) to be arrested in Colombia. The information also helped prevent a guerrilla attack on a town in the Venezuela-Colombia border area, and it allowed for identification of several illegal landing strips in that border area. This same informant also stated Venezuelan military officers had been using the landing strips for trafficking rifles and ammunition to the FARC. El Tecnico, who claimed to personally attended meetings where arrangements for trafficking were being made, these officers had said they acted on instruction of the Venezuelan presidency.

Even before El Tecnico’s testimony went public, a Venezuelan governmental complicity in arms trafficking had been hinted at in a variety of sources. Confiscated Venezuelan arms’ series numbers had been observed not to correspond to numbers the Venezuelan ministry of defence listed to have been stolen or lost in combat.¹⁰³ In January 2001, moreover, a fresh load of semi-automatic rifles was intercepted while on its way from Venezuela to Colombian guerrilla customers.¹⁰⁴ Early 2002, the Colombian air force intercepted another Venezuelan airplane that was transporting a load of ammunition that was destined for FARC as well.¹⁰⁵ At about the same time, journalists disclosed a video on which known FARC guerrilleros were seen to attend a meeting with Venezuelan military.

FARC is not even the only Colombian guerrilla organisation to dispose of military equipment that was produced for the Venezuelan army. These same Venezuelan arms and 7,62 mm ammunition have also been found in arsenals that were confiscated from the *Ejército de Liberación Nacional (ELN)*.¹⁰⁶ That very same

¹⁰² Colombian investigative journalists referred to his testimony in e.g. ‘Las Armas de Chávez’. In: *Revista Cambio*, 4/11/2002.

¹⁰³ “Por lo menos 30 mil habrían ingresado ilegalmente en dos años”. In: *El Pais*, 22/5/2000. One paragraph of the article is worth quoting at length: *Buena parte de las 9380 armas incautadas por las FF.MM. colombianos a la guerrilla eran fusiles, pistolas y ametralladoras de las tropas venezolanas. Lo preocupante del caso es que poca vez los números de código de esas armas coinciden con los códigos de los arsenales que el Ministerio de Defensa patriota reporta como robados, extraviados o perdidos en combate*”.

¹⁰⁴ Andy Webb-Vidal, “Venezuelan guns aiding guerrillas”. In: *Financial Times*, 25/1/2001.

¹⁰⁵ “Relaciones peligrosas”. In: *Semana*, 3/2/2002.

¹⁰⁶ “Ejército descubrió armas de las fuerzas militares venezolanas en zona rural de Arauquita”. In: *El Tiempo*, 12/4/2004.

type of equipment was seen to be at the disposal of Colombian illegal armed paramilitary groups that began to combat the guerrilla movements. These ‘self-defence’ or *autodefensa* groups, that are referred to by the acronym AUC, have taken justice into their own hands in a problematic way. Human rights groups determined them to be the worst plague to hit the Colombian population. Last but not least, Venezuelan arms are in use by Colombian ‘common criminals’ as well, some of which are active in the international drug trade. Neither the AUC nor the Colombian drug mafia – if these two categories can be distinguished from one another at all – are taken to dispose of privileged ties with the Venezuelan government and/or army. Nor would they need such ties. The black arms market provides them well. That market in arms and ammunition flourishes along the 2219 kilometre border separating Colombia from Venezuela,¹⁰⁷ as not both countries are seen to be equally cooperative in guarding that border.¹⁰⁸ But Venezuela is not the only source for the black arms market that supplies Colombian illegal armed non-state actors.

In 2003, two retired Colombian army officers were brought to court for having trafficked 7640 AKS-47 assault rifles, spare parts and ammunition, to paramilitary *autodefensa* groups.¹⁰⁹ They bought the arms in 1999 in Bulgaria, at *Arsenalad Kazanlak*.¹¹⁰ That Bulgarian supplier had been given a doctored end-user certificate from the Colombian INDUMIL. Together with his wife, one of the convicted officers ran a small transportation firm, *Equipos y Repuestos*, which had arranged for shipping the arms out of the Bulgarian port of Varna. A first cargo was transported on a ship under Dutch flag, and arrived at the sleepy Pacific coast harbour of Buenaventura. There, the arms were unloaded from the cargo without raising a stir, were piled on tractors, and continued their journey inland to AUC troops rather than to the INDUMIL facilities supposed to be the importer. The presence of the arms went unnoticed until Colombian authorities found their inventories of confiscated arms to include 124 AKS-47 M1A1. This newcomer on the Colombian small arms scene was determined to be of Bulgarian import, and the facts were revealed.

Again in 2003, a Colombian army major was arrested for a similar illegal arms brokering. In that case, the amount of arms was smaller and made in Israel.¹¹¹

Israeli connections in arms deals with Colombian paramilitary troops have been documented in other case studies as well. One of these became known as ‘the Otterloo case’, after the (Dutch) name of the ship that a Panamanian company, Trafalgar Maritime, bought for that particular arms trafficking occasion. The events occurred in 2001, but the affair only became public in 2002.

The Otterloo case was investigated by the Organisation of American States,¹¹² and the Small Arms Survey categorized it among “the largest illicit arms transfers

¹⁰⁷ A recent report on the matter is “Incautan en Venezuela 2000 cartuchos que iban a ser entregados a un grupo armado colombiano”. In: *El Tiempo*, 22/9/2004. The article specifies the intercepted materiel to be FAL rifle ammunition.

¹⁰⁸ “Ministra de Defensa de Colombia critica a Venezuela por no cooperar en el control de grupos armados y narcotraficantes en la frontera”. In: *El Tiempo*, 5/2/2003.

¹⁰⁹ “Tráfico pesado – Dos oficiales (r) del Ejército y una empresaria de la industria militar van a juicio, acusados de contrabando de armas para las AUC”. In: *Revista Cambio*, 7/4/2003.

¹¹⁰ The affair is also as well by the Bulgarian Centre for Democracy Studies, *Weapons Under Scrutiny – Implementing Arms Export controls and Combating Small Arms Proliferation in Bulgaria*. Sofia: CSD & Saferworld, 2004, 109 p. This and other problematic Arsenal sales are reviewed from p. 41 onwards.

¹¹¹ “Capturan a mayor del Ejército por tráfico de armas con destino a paramilitares”. In: *El Tiempo*, 20/1/2003.

documented in 2002 (...) that supplied arms that are most likely to be used in armed conflict".¹¹³

Reconstruction of the Otterloo case revealed the shipping documents that were used described its cargo as 'plastic balls'. Such balls had effectively been loaded into the Otterloo in Veracruz, Mexico. The ship had then sailed to Rama, Nicaragua, where the plastic balls were moved aside for an arms cargo that consisted of at least 3000 AK-47 rifles and 2,5 million rounds of ammunition, worth an estimated US \$ 5 million. The Otterloo continued its journey to Colombia, arriving at the port of Turbo on 5 November 2001. Speaking for the AUC, Carlos Castaño later acknowledged reception of the arms.¹¹⁴

The arms were in fact bought from the Nicaraguan police. That police force disposed of AK-47s that it did not consider appropriate for policing Nicaraguan towns. The police, therefore, sought to swap about 7000 AK-47s for an arms type that they took to suit their policing needs better. Having decided their new arms were to be Israeli, they contacted the nearest outlet of a representation company, *Grupo Internacional de Representaciones* (GIR S.A.) in Guatemala. That company offered to also help find a party interested in buying the Nicaraguan police's obsolete AK-47 arsenal. GIR S.A. business contacts in the region suggested the Panamanian police might be interested in buying the AK-47s.

One of these contacts, Shimon Yelinek, had recently moved to Panama, after a profitable career trafficking arms to Congo and other places.¹¹⁵ GIR S.A. invited him to come to Managua, where Yelinek inspected the AK-47s that the Nicaraguan police sought to sell. He discarded the arms for being too old and used. He was prevented from turning the offer down, however, when the Nicaraguan army moved into the deal, offering to sell brand new AK-47s from their own stocks. They would replace these stocks with the old arms that Yelinek refused to buy from the Nicaraguan police. The army that voluntarily offered to change its new arms for old ones is likely to have been compensated in some way.

To start the deal, Yelinek produced an end-user certificate from the Panamanian police. The certificate's number and signatures had been doctored, for that police had no need for arms that were considered inappropriate for policing in Nicaragua.¹¹⁶ The Nicaraguan police, however, did not take the trouble verifying the authenticity of the end-user certificate. That matter had been left to the care of GIR S.A., in Guatemala.¹¹⁷ The managers of that company claimed they had received the end-user certificate in good faith from their fellow countryman Shimon Yelinek. The latter was arrested in Panama in November 2002.¹¹⁸ In August 2003, however, a Panamanian criminal court dismissed the charges against Yelinek on grounds of lack of

¹¹² *Report of the General Secretariat of the Organisation of American States on the diversion of Nicaraguan arms to the United Defense Forces of Colombia*. OEA/Ser.G, CP/doc.3687/03. 29 January.

¹¹³ *Small Arms Survey 2003, op. cit.*, 2003. The case is referred to in the section 'Insights and Mysteries: Global Small Arms Transfers', pp. 97-123.

¹¹⁴ "Armamento ilegal nicaragüense podría estar en manos de autodefensas". In: *El Tiempo*, 24/4/2002.

¹¹⁵ Yelinek also supplied missiles to Lebanese businessmen who then supplied Al Qaeda. One of these Lebanese, Samih Osailly, a key figure in the diamonds-for-arms trade, was arrested in Antwerp, Belgium, in April 2002. Cf. Douglas Farah, "Report Says Africans Harbored Al Qaeda. Terror Assets Hidden in Gem-Buying Spree". In: *The Washington Post*, 29/12/2002.

¹¹⁶ Several articles published in the Panamanian newspaper *La Prensa*.

¹¹⁷ "Nexos guatemaltecos de Tráfico de Armas a Colombia". In: *El Espectador*, 23/4/2002.

¹¹⁸ "Detenido empresario israeli en caso de venta de armas a las Autodefensas Unidas de Colombia (AUC)". In: *El Tiempo*, 5/12/2002.

jurisdiction, given that the weapons had been loaded in Nicaragua and delivered in Colombia. That court's decision was appealed by the Panamanian *Fiscalia de Drogas*, which took over the investigation.¹¹⁹

OAS investigation of the Otterloo case, in its turn, put part of the blame with Nicaragua, for having neglected to verify the end-user certificate.¹²⁰ That negligence was considered a material breach of the commitments Nicaragua made when ratifying the Inter-American Convention to combat illicit small arms trafficking. Obviously, the OAS report also blamed the other three states that had been named in this particular illegal arms transaction. The outcome of the affair was not seen to be entirely bad. In the words of the *Small Arms Survey*, “the most welcome revelation from the affair concerned the attitudes of governments. Instead of retreating in denial and obfuscation, regional governments were more willing to acknowledge their problems of illegal small arms trafficking, although some still hesitate to fix them. In the past, deals like this would have been tolerated or dismissed as the unfortunate result of negligence or graft. The 2003 OAS report leaves no doubt about the need for systematic reform of government stockpile management and transfer of decision-making in Central America”.¹²¹ Today, 24 American States have ratified the Inter-American Convention to combat small arms proliferation,¹²² but its implementation has not moved far and could do with more support from signatory states and other members of the international community (as duly acknowledged by a Belgian foreign affairs minister, *supra*). The mechanics of illicit arms trafficking are indeed seen to run far too smoothly in the Otterloo case and other cases that could be quoted from, *ad nauseum*. The latest long time arms trafficking operation to be made public was ran by alias ‘El Casco’ from the Colombian island San Andrés. El Casco bought war material in Honduras, Nicaragua and even El Salvador, concluded some of his deals in Panama, and counted among his clients FARC commanders such as Fabian Ramirez, paramilitary blocks and the Norte de Valle drug cartel.¹²³

No evidence has been disclosed this far, that problematic arms trafficking to non-state actors in Latin America takes place out of European countries that dispose of stringent arms export regimes. The absence of open source material to substantiate activity in that direction does not by itself imply that no such trafficking occurs, nor that no investigation is on its way. In fact, that such trafficking does occur would be logically deduced from the large patterns of global arms trafficking that have been documented in case study material on other regions.

Quite a few of these case studies brought Belgian infrastructure into the picture, more particularly the very large and ‘free’ harbour of Antwerp and the small Ostend airport. At the end of the last century, this Belgian airport was frequented by brokers looking for crews willing to fly arms from East European arsenals to war zones

¹¹⁹ “Declaran nulas las pesquisas sobre armas”. In: *El Panamá Americana*, 6/8/2003.

¹²⁰ The outcome of that OAS report is reviewed in the *Small Arms Survey*, *op. cit.*, 2003, p. 116.

¹²¹ *Ibidem*. This optimistic note might be taken to be tempered somewhat, in the light of evidence of continuing arms trafficking into Colombia, from the same countries. A recent indication that trafficking from Nicaragua to illegal armed groups in Colombia has continued was reported upon in “Incautan en Colombia armas procedentes de Nicaragua”. In: *Miami Herald*, 26/7/2004.

¹²² The ratifications are listed on the OAS website's link to Treaties and Conventions, under ‘weapons’. The United States is one of 9 American states that is still to ratify the Convention it signed in 1997.

¹²³ “Adiós a las armas”. In: *Semana*, 17/10/2004.

elsewhere.¹²⁴ Destinations were not motivated ideologically or politically. Arms were simply being shipped illegally to where profits could be made, and that was pretty much everywhere parties engaged in armed conflict, be they states or non-state actors, including countries and parties under international arms embargoes. These days, Ostend is no longer the scene for such activity, as a consequence of a European Union measure - not the European Code of Conduct on Arms Exports, nor even specific anti-arms brokering measures, but simply strict noise abatement regulations that the European Union produced in January 1999. Because of these regulations, Ostend Airport could no longer be a haven for the beat-up Boeing 707 freighters and dodgy DC-8s, which used to fly disreputable cargo out.¹²⁵

Admittedly, Belgian infrastructure could not have obtained its reputation for arms trafficking all that easily without the aid of non-Belgian residents,¹²⁶ and business links abroad. Investigative journalists and NGOs' naming and shaming of the individuals and companies involved in trafficking activities, inspired some of the action that Belgian legislators would eventually come to take, including extra-territorial powers for persecuting arms traffickers linked to Belgium who committed crimes elsewhere.

Advocating anti-brokering measures, investigators had concluded: "It is important to note a distinction between arms brokers and shippers based in West Europe versus those based in East Europe. In the European Union, brokering represents a cynical failure of rule of law to constrain commercial activity in keeping with domestic obligations. In the former Soviet Union, the sale of weapons, through brokers who are often from EU countries, reflects the general lack of standards in the state, corruption and the lack of control by the state over increasingly autonomous actors who once were state owned but are now effectively privatised and unregulated".¹²⁷

A question to end this section and lead to the next, is whether illicit arms trafficking is but a perverse outcome of the current global era's economic processes, while these perversions may be expected to disappear sooner than later. If it is not just that unintended perverse outcome, would that illicit arms trade have to be seen as the dark side, which is part and parcel of the global era, just as much as is the bright side and legal trade in unproblematic goods that is believed to be beneficial for building a more inclusive global economy? Can ethically inspired laws beat the laws of a market economy, when a business is concerned that is essentially 'unethical' and lethal? Can illegal arms trafficking be stopped as long as it finds buyers on a lucrative market? Can arms transfers be kept from going where they have consistently been going, that is, to armed conflicts? One might as well ask: can the global era shed its dark side?

¹²⁴ Brian Johnson-Thomas, "Anatomy of a Shady Deal". In: Lora Lumpe (ed.), *Running Guns – The Global Black Market in Small Arms*. London: Zed Books, 2000, pp. 13 - 26; Brian Wood & Johan Peleman, "Making the Deal and Moving the Goods – the role of brokers and shippers". In: *Ibidem*, pp. 129 – 154.

¹²⁵ Brian Johnson-Thomas, *l.c.*, 2000, p. 17-18.

¹²⁶ A former KGB-officer, known by one of his many alias names as 'Viktor Bout', used to reside in Belgium, and trafficked arms from Ostend Airport. Several volumes of research material on his activities are archived at IPIS library. In July 2004, *Deng* n° 15 reviewed the latest episode of his Life and Works. Bout is operating out of Moscow. Some of his companies nowadays transport booze for US soldiers in Iraq, and medicine for humanitarian NGOs in Congo on aircraft they also use for flying in ammunition to exactly the same zones.

¹²⁷ Brian Wood & Johan Peleman, *l.c.*, 2000, p. 146.

Communicating vessels

Embargoes and other means may define certain arms transfers ‘illegal’, but do not stop them. Actually, the more legal routes are blocked, the more tempting are illegal transfers and the more likely such transfers actually take place, while the black market expands. The principle of communicating vessels describes these situations well, and even awards them ‘rationality’: Illegal arms sales are more lucrative than are legal arrangements just because of their illegality. These transactions tend to be all the more lucrative, the better the buyers can afford to buy on that illegal market.

Transactions undertaken by each of the many non-state actors that are active in Colombia fit these criteria well. Considerable financial means are at the disposal of Colombia’s guerrilla movements, several blocks of paramilitary *autodefensas*, and still other organised groups, all of which thrive on profits made in the illegal narcotics economy, and still other profitable trades such as petrol pilfering, the kidnap industry and related forms of extortion. It hardly comes as a surprise that indirect indicators of illegal small arms proliferation in Colombia, such as arms decommission statistics, are high and have even been on a steady increase since 2002.¹²⁸

The explanatory principle of communicating vessels, combined with indications that not all illegal arms trafficking into Colombia is sourced in nearby Venezuela, might even relieve Venezuela of part of the blame. Or at least, it downplays the belief that the supply of Venezuelan arms to FARC is motivated by the Chávez presidency’s alleged ‘ideological sympathy’ for that guerrilla. Arms traffickers may simply make profitable use of the fact that Venezuela borders Colombia, and be in it for no more than the money. To substantiate this last hypothesis, the next sections review reports and case studies of illegal trafficking to Colombian non-state armed actors.

Studies by *interalia* the US RAND National Defense Research Institute indicate that weapons tend to trickle into Colombia by small quantities, and are routinely bought with illegal drugs, at a rate of one kilo of cocaine sulphate for one AK-47 assault rifle.¹²⁹ “Venezuela is the transit route for arms that reach the Gulf of Venezuela [and are sourced elsewhere], which are then transferred by road into Maicao (La Guajira). Weapons also enter by road from Venezuela to Tibú north of Cúcuta and then north west to the Catatumbo region, where they mainly supply the ELN guerrilla. Arms, primarily for the FARC, have also been found coming across the border from Ecuador via both legal and illegal land crossings into [the Colombian] Putumayo department. They likewise enter by sea via ports such as Esmeraldas, Ecuador and are transferred to Colombian Pacific ports of Tumaco and Buenaventura, where they are distributed to the FARC and the AUC. It is suspected that there are at least 21 arms trafficking routes from Venezuela, 26 from Ecuador, 37 from Panama and 14 from Brazil. Further along the border with the Venezuelan state of Amazonas,

¹²⁸ “Decomisadas en los últimos dos años y medio a guerrillas y paramilitares – 15000 armas sin destino definido”. In: *El Tiempo*, 25/8/2004.

¹²⁹ International Crisis Group, *Colombia’s Borders: the Weak Link in Uribe’s Security Policy*. ICG Latin America Report N°9, September 2004, The following quote is from pages 12-13. It is sourced by both ICG research interviews and the report by the RAND Defense Research Institute, *Arms Trafficking and Colombia*, 2003.

in June 2004, 40,000 rounds of ammunition for AK-47 assault rifles were found in Puerto Carreño (Vichada), allegedly destined for FARC units operating up the Guaviare River. Such reports are consistent with indicators that many arms enter Colombia from Venezuela and Brazil via rivers in the Amazon rain forest. Private citizens have been known to provide guerrillas with weapons, as part of kidnapping ransoms”.

Case study material that documents the trafficking of larger volumes of arms sourced in Central America and elsewhere is found from a variety of sources,¹³⁰ including an association of demobilised *Frente Faribundi Martí para la Liberación Nacional* (FMLN) combatants, from El Salvador. In 1999, that association sent a series of documents to the US State Department. These documents attest how missiles, that had been available to the FMLN guerrilla, and arms that other insurgents used in Guatemala, were eventually being sold to the Colombian guerrilla.¹³¹ The reason why these transactions would happen was plain to see. The demobilisation of Central American guerrilla organisations had not particularly emphasized decommissioning and destructing arms stockpiles. These arms, mostly of Russian origin, later found their way to the local black arms market. That market was also attracting US and Israeli equipment, that came from Contra bases in Honduras and Costa Rica. Some of that equipment had initially been supplied to the regular armed forces in Honduras through legal circuits before being diverted to Contra bases.¹³² This material moved on to the Central American black arms market after the Sandinista era had come to an end and the US no longer saw a need to maintain Contra troops to combat that Nicaraguan version of the communist threat.

The existence of a Central American insurgency left-over arms bazaar could help account for quite an important part of the arsenal ascribed to FARC by the end of the 1990s.¹³³ Apart from vintage FN FAL 7,62 mm rifles (at that time considered a preferred guerrilla arm), that arsenal was also taken to include Russian surface-to-air missiles, especially SAM 16, 14 and 7, that the FARC might come to deploy against the Colombian regular forces’ helicopters and airplanes.

FARC was seen to acquire large quantities of new material as well. To that end, frentes of the guerrilla organisation engaged in a deal with mayor league players on the international arms trafficking scene, none of which could be assumed to have sympathy for the ideology that is generally ascribed to the FARC guerrilla. One of these players was Vlademiro Montesinos, the right-hand to the then Peruvian president Alberto Fujimori, who actually tended to criticize the Colombian government at the time for being too soft in its negotiations with the FARC guerrilla.¹³⁴ As the head of the Peruvian national security service, Montesinos had built himself a reputation of being versatile in many trades, and acquired the title of ‘Doctor Arreglatodo’. His talents did not fail to attract US intelligence services and move him onto their legendary payroll. Montesinos’ career, however, took a sharp

¹³⁰ A compilation was made by Procesodepaz.com, and published as “Por lo menos 30 mil habrían ingresado ilegalmente en dos años”. In: *El Pais*, 22/5/2000.

¹³¹ “Los misiles de las FARC”. In: *Semana*, 6/9/1999.

¹³² Lucy Mathiak & Lora Lumpe, “Government Gun-Running to Guerrillas”. In: Lore Lumpe (ed.), *op. cit.* 2000, pp. 54 – 80. Troops in Honduras still dispose of Israeli arms, according to “Unidades de élite en Centroamérica”. In: *Tecnología Militar*, 2003, n° 4, pp.16-20.

¹³³ “La paz armada”. In: *Semana*, 25/1/1999.

¹³⁴ Richard Millet, *Colombia’s conflicts: the spill-over effects of a wider war*. Carlisle PA: Strategic Studies Institute Monographs, October 2002, 60p.

dive in September 1999. Fat dollar accounts in Switzerland that were ascribed to him were the crucial drop in a bucket. It put in motion legal actions, which in their turn lead him to disappear from Peru. Montesinos later reappeared in Panama, trying in vain to obtain ‘political asylum’.¹³⁵ Having disappeared there once more, he was finally arrested in 2000, in Venezuela, where he had lived undercover for about the 6 months previous to his arrest. That arrest and Montesinos’ subsequent extradition to Peru enabled investigation of how this man came to supply arms to the FARC. That investigation revealed remarkable facts.

In 1998, the FARC sought to buy 10000 AK-47 assault rifles to standardize its heterogeneous arsenals.¹³⁶ The estimated 17500 FARC combatants were using a wide variety of equipment, including several different types of AK-47s, each of which also required different ammunition. The perspective of having to supply only one type of ammo to the many FARC *frentes*, expectedly also to be acquired at lower cost, looked alluring. Eager to get more than half of its combatants a decent new gun, FARC cut a deal with Montesinos, by way of intermediaries.

Montesinos produced an end-user certificate for AK-47s that looked as if it were signed by the Peruvian army. With that certificate, he sent an envoy to Miami, in order to contact Charles Acelor.¹³⁷ A Franco-American businessman, Acelor used to represent an Italian defence company, owned by a *contessa*, his former wife. That Italian company possibly supplied Peru in the past, explaining why Montesinos turned to its former representative to help him set up a new arms deal. After the Peruvian visit, Acelor effectively called in a few old contacts who referred to Jordan, where he was sure to find large surplus stocks of AK-47s. He was one of more people to be in the know about a stock of 60000 Kalashnikovs that the government of Jordan bought from East-Germany in the mid-1980s, where these had been produced by Gerate und Werkzeugbau WIASA. The arms were intended to be deployed by a government-backed militia in the event of a civil emergency.¹³⁸ In actual fact, the arms were never deployed and efforts were eventually made to sell it.

It is significant that the arrangement for a deal to arm a group in Latin America would come to involve Jordan. That last country’s geographical and geopolitical situation has made it depend heavily on the United States, in both political and economic terms. In military matters, Jordan cannot bypass American institutions at all. Jordanian defence needs and sales tend to be catered for and arranged by Sarkis Soghenalian, a Turkish born Lebanese citizen and long-time resident of the United States.¹³⁹ Soghenalian by then, had had a very long career as an arms dealer. In that capacity, he became the subject of lengthy research articles and books on the subject, where he tends to be referred to as ‘merchant of death’.¹⁴⁰ And yet, Soghenalian

¹³⁵ Panamanian president Mireya Moscoso resisted US pressure to make her grant that asylum.

¹³⁶ Germán Castro Caycedo, “Las armas de las FARC”. In: *Semana*, 19/6/2001.

¹³⁷ “Ciudadano francés admite en Perú que fue intermediario en venta de armas a las FARC”. In: *El Tiempo – Acciones Judiciales*, 25/6/2004.

¹³⁸ Others to be in the know about the existence of the stock included US intelligence services, which later forwarded a list of serial numbers to Colombian authorities, in an effort to identify intercepted guns and trace these to their Jordanian-German origin later on, e.g. Bill Rempel & Sebastian Rotella, “Arms Dealer Implicates Peru Chief in Peru Smuggling Ring”, In: *Los Angeles Times*, 1/11/2000.

¹³⁹ The relevance of both Soghenalian and Acelor having U.S. citizenship was pointed out in Kathi Austin, *Arms Trafficking: Closing the Net – A Test Case for Prosecution under the U.S. Law on Arms Brokering*. Washington DC: The Fund for Peace, 15 June 2001, 32p.

¹⁴⁰ Cf. Kenneth Timmermann, *Death Lobby: How the West Armed Iraq*. New York: Houghton Mifflin, 1991.

consistently continues to claim that he only engages in deals that are cleared by the US intelligence services.¹⁴¹

Upon receiving a purchase order from the Peruvian army, the Jordanian authorities contacted the CIA as well.¹⁴² In the purchase order, and in the Jordanian communication to the CIA, no less than 50000 rifles were mentioned, along with more sophisticated arms that Soghenalian was asked to supply as well. Montesinos, negotiating henceforth without Acelor's intermediary services, intended to have the Peruvian army use all of that equipment except for the AK-47s. In joining the two orders together, Montesinos probably sought to obtain a better price from the Lebanese, as well as higher commissions. He was estimated to have paid about US \$ 78 million for the entire order.¹⁴³ The value of the AK-47s was but a fraction of that total contract amount, and Montesinos counted on selling these rifles at a higher price to FARC later on.¹⁴⁴

The end-user certificate from the Peruvian army looked OK to Soghenalian and the CIA had cleared the deal. Later Soghenalian admitted he did in fact think it a little strange that the Peruvians insisted the cargo of AK 47s be airdropped to the 'Peruvian troops near the border with Colombia'.¹⁴⁵ He claimed he did not know the airdropped arms were to continue their journey into Colombia, to FARC camps.¹⁴⁶ That part of the deal did not become public knowledge until July 1999, when the Colombian army began confiscating large quantities of arms made in Jordan.

Initially, Montesinos claimed he had no knowledge the arms were destined for FARC either. According to him, the arms were stolen from the Peruvian army by the Colombian guerrilla. Montesinos did not stick to that story for long. He then changed a few details, claiming 'people posing as Peruvian army officers' had tricked him to get involved in the deal. Montesinos was about to take a run anyway, for common corruption matters rather than his role in this arms deal. His version of the arms trafficking deal was easy to prove incorrect, since the Peruvian army had not actually provided the end-user certificate that was used to obtain the Jordan permission to supply the AK-47s. Upon closer inspection, that end-user certificate appeared to have been signed by 'Peruvian generals' who never existed, and the seal on the certificate was false. The Jordanian authorities turned out to have neglected to verify the authenticity of this end-user certificate and for good reasons. They claimed to have had 'strict orders from the CIA' not to obstruct the deal in any way.¹⁴⁷

That last account of the deal having been facilitated in some way by Powers that Be, would be confirmed by a reconstruction of the arrangement whereby 10000 AK-47 assault rifles were airdropped into the hands of the Colombian guerrilla. Transport needs were taken care of by a Russian-Ukrainian crew, flying a very large Ukrainian-

¹⁴¹ E.g. in an interview he gave to William Kistner in March 2001, published as "Sarkis Soghenalian: The Cold War's Largest Arms Merchant". In: *PBS Frontline/World* 2001.

¹⁴² "CIA Links Cited on Peru Arms Deal That Backfired". In: *The New York Times*, 6/11/2000.

¹⁴³ "Ciudadano francés admite en Perú que fue intermediario en venta de armas a las FARC". In: *El Tiempo*, 25/6/2004.

¹⁴⁴ The Brazilian drug lord Luis Fernando Da Costa eventually paid US \$ 8 million for these weapons, according to Jeremy McDermott, "FARC and the paramilitaries talk over Colombia's drugs trade". In: *Jane's Intelligence Review*, Vol 16, n° 7, July 2004, pp.28-33.

¹⁴⁵ Germán Castro Caycedo, "Las armas de las FARC". In: *Semana*, 19/6/2001.

¹⁴⁶ William W. Mendel, "Colombia's Threats to Regional Security". In: *Military Review*, May-June 2001, pp. 8-9.

¹⁴⁷ Germán Castro Caycedo, *l.c.* 19/6/2001.

registered cargo plane.¹⁴⁸ From December 1998 until April 1999, the plane made at least four flights to transport the guns. None of the flights encountered problems in leaving Jordan, nor when refuelling in Algeria, Cabo Verde, Grenada and Trinidad Tobago on one flight, nor even in Spain, the Canary Islands, Mauritania and other places still where it refuelled on other flights.¹⁴⁹ Airports appeared to have received orders not to obstruct the cargo plane. Such orders would have come from an institution that disposes of sufficient political power and a global logistics system to arrange for a cargo plane loaded with AK 47s to be treated in this way, and with reasons to throw in its weight to ensure this particular series of cargo flights to be treated that benevolently.

At each of its four flights, moreover, the plane could proceed unobstructed to a part of the Amazon airspace that was being rather a bit watched by the United States, in the scope of the War on Drugs. Four US radar systems were surveying the airspace from Colombia, and two more from Peru. It is difficult to imagine espionage planes and satellite systems surveying this airspace would have overlooked an enormous Russian cargo plane descend from 30000 to a risky 2000 feet, to airdrop 240 crates of arms, in packages of 20 to 21 crates each, each package attached to two parachutes.¹⁵⁰ From the second airdropping operation onwards, the packages had been provided with localisation devices. In that way, the FARC could save themselves the trouble searching and collecting the cargo for days, as they had in fact done to recover the first load that was airdropped in December 1998. The matching devices for localising the cargo had been provided to FARC by the Peruvian *Servicio Nacional de Inteligencia*,¹⁵¹ the national security service led by Vlademiro Montesinos.

Several hypotheses could be formulated as to what motivated the head of the Peruvian security service, a reputed anti-communist arms dealer, and ‘certain element in the US intelligence community’ to arm a ‘marxist’ guerrilla organisation.

A first hypothesis underlines Montesinos had his private financial motive, expecting to sell the AK-47s at a much higher price than Sarkis Soghenalian had charged him. His fat Swiss accounts are evidence of profits made, even though those profits would not necessarily have been made in this particular deal, nor ought money have been the (only) motive that made Montesinos engage in it.

A second hypothesis clears out when presenting the deal in a larger context. The 10000 AK-47s that landed in the hands of the FARC then appear a piece in a more encompassing scheme.¹⁵² Montesinos’ arms trafficking activity concurs, at least in time, with a proposal that the Clinton Administration was preparing the US Congress to consider to support ‘Plan Colombia’. A Colombian presidential programme by that name had been passed in the Colombian parliament, to strengthen institutions and boost socio-economic investment, and to these ends demand large support from the international community. In Washington, that Colombian development plan was later revised a bit, so as to include a demand for military support. To finance that support, the Clinton Administration asked Congress for a US \$ 1,3 billion budget, for starters. 85% of that budget would be earmarked for contracts with the U.S. military industry,

¹⁴⁸ More particularly, modified Ilyusin-76 bearing the registration UR-UCE, according to Peruvian court documents quoted in Kathi Austin, *l.c.*, 15/6/2001.

¹⁴⁹ Transport details are listed in Kathi Austin, *l.c.*, 15/6/2001.

¹⁵⁰ Testimony in “El hombre que vio llover fusiles”. In: *Revista Cambio*, 16/12/2002.

¹⁵¹ *Ibidem*.

¹⁵² This paragraph, invoking that scheme, is in line with Germán Castro, *l.c.* 19/6/2001.

for purchasing military equipment and hiring special services, including instruction to use (fly) that equipment. This plan fit in the scheme of things that goes by the name War on Drugs. In the U.S., drugs sourced from Colombia were being presented as a nuisance that could be ended by way of aerial spraying and training anti-narcotics battalions. Spraying of coca fields, training of battalions, and the purchase of combat helicopters to protect the spraying operations and transport the battalions, could be financed with U.S. tax money that Congress was asked to allocate in support of Plan Colombia. As such, U.S. public budgets would come to finance contracts with large players in the U.S. military industry, allowing e.g. Sikorsky to sell very expensive Blackhawk helicopters in Colombia.¹⁵³ U.S. support to Plan Colombia could also pay for private military companies' support to Colombian military communications and analytic systems.¹⁵⁴ Most of these private companies work out of Virginia and employ former intelligence officers and other professionals that have been made redundant or gone private after the end of the Cold War. Recycling their expertise to that other noble cause, the War on Drugs, would almost seem a natural course of events that merited promotion. It would not take much to get the U.S. business community to lobby for Plan Colombia support with Congress. But something had to be done about those lobbying against it, such as human rights organisations that were contesting the plan for U.S. military aid to Colombia. Members of Congress who had been taking a stand against supporting a military component to Plan Colombia, were expected and seen to put aside their reserve after the news began to circulate that 'a narco-terrorist guerrilla force acquired a new arsenal of Jordanian-made AK-47s', posing a threat the Colombian armed forces could not possibly contain without U.S. military support. The decision that the US Congress voted in early 2000 is history by now. It allocated a substantial budget for military aid to Colombia that totalled U.S. \$ 2.6 billion by mid 2004.

A third hypothesis to explain the motives for this arms trafficking deal looks at it from the perspective of the AK-47s' technical specifics.¹⁵⁵ It indicated the FARC did not exactly do 'the deal of the century' buying arms from the Jordanian stockpile. While they had been convinced they were purchasing modern Russian-made AKM-47 rifles, a type of which they already had some, and which they had come to prefer, Soghenalian was in actual fact supplying material fabricated in 1984 to 1985 in the former DDR, known to insiders as AKM-MpiKM. That East German version of the AK-47 requires 7,62 x 39 mm ammunition that is hard to come by in Latin America, where NATO-standard 7.62 x 51 mm ammunition is commonly used and produced (in licensed production arrangements such as with the Belgian defence contractor FN). As the latest generation of assault rifles in use in the former Soviet-Union and Eastern Europe deploys 5,56 x 45 mm ammunition, its production has been shifted to accommodate that need. Stocks of 7,62 x 39 mm ammunition are consequently running dry, in Eastern Europe and elsewhere. In Latin America these days, a bullet of that calibre is sold at about 5000 (Colombian) peso, while other ammunition sells for about 1000 peso. Interestingly, the Peruvian armed forces still use and produce 7,62 x 39 mm ammunition. These armed forces are the only ones in Latin America to do so. Few were surprised later on, when Colombian authorities intercepted large quantities

¹⁵³ That these helicopters risked to be shot down with the Russian-made surface-to-air missiles that the guerrilla bought on the Central American black arms market, was not publicly known yet. Cf. supra.

¹⁵⁴ The list of these contractors was reviewed by Sergio Gómez Maseri, "Se destapan 'mercenarios'". In: *El Tiempo*, 19/6/2003.

¹⁵⁵ This hypothesis builds on "El 'tumble' a las FARC – Los 10000 fusiles que les vendió Montesinos a las FARC no resultan tan buen negocio para los guerrilleros colombianos". In: *Semana*, 9/7/2001.

of Peruvian-made ammunition of the appropriate calibre in the Colombian-Peruvian border area.¹⁵⁶

If the afore mentioned hypotheses were to contain elements of ‘truth’ that could be combined with one another, Montesinos would be concluded to have orchestrated a highly successful illegal arms transfer. That deal was profitable for him, it also suited segments within the US military and intelligence community he was reported to have previously worked for anyway, and it weakened the FARC financially. Most of the supplied Jordanian rifles have been traced and confiscated in the meantime by the Colombian authorities. What is left of the arsenal is rather useless,¹⁵⁷ since matching ammunition is difficult to come by. Which leaves only the question to be addressed, whether that Colombian guerrilla is as clumsy as it appears to be in the case described here.

Details on how the deal was actually done, that have come to the light later on, reveal that the FARC and the Peruvians did not trust one another in the first place. Montesinos maintained contact with the FARC through his personal envoys, the brothers José Luis and Luis Frank Aviar Cancha. He sent these Peruvian envoys to Colombia to oversee the deliveries and air droppings *in situ*, in the jungles of Vichada and Guainia. Concurrently, the FARC sent killers to Peru to prowl around the houses of the Aviar Cancha families.¹⁵⁸ The Peruvian party, meanwhile, took precautions to ensure that FARC paid all of the arms. To that end, the Peruvians were said to have ‘kidnapped’ their Colombian contact in this deal. This ‘victim’ was the commander of the FARC *frente* 16, who was their contact to alias ‘El Negro Acacio’ (real name Tomas Medina Cardenas), the FARC block commander who in his turn was held to be responsible for this arms deal.¹⁵⁹

This FARC commander who served as liaison between El Negro Acacio and the Peruvians, was known as alias ‘Carlos Bolas’ (real name Eugenio Vargas Perdomo). He was arrested in 2002 in Surinam, while travelling on a false Peruvian passport. With a US extradition order pending, Bolas was handed over to the DEA and flown over to Washington, becoming the first Colombian *guerrillero* to be extradited.¹⁶⁰ His interrogation revealed him to have played a key role in a narcotics-for-arms trade, and that the FARC had developed a cocaine export route through Surinam. Bolas was accused of arranging the export of 257 tonnes of cocaine via Surinam to Mexico, Spain and Paraguay. US authorities also traced him to Nicaragua and Honduras where arms had been traded for drugs.¹⁶¹ Intercepted cocaine exports also bore witness to the use to which the relatively important shipping links are put that Surinam maintains

¹⁵⁶ Richard Millet, *Colombia's conflicts: the spillover effects of a wider war*. Carlisle PA: Strategic Studies Institute Monographs, October 2002, 60p; and “En los limites con Perú se mueve el tráfico de armas para las FARC”. In: *El Tiempo*, 11/3/2003.

¹⁵⁷ According to former FARC commandant alias ‘Carlos Ploter’ quoted in “Ex-guerrillero revela tácticas de las FARC en una conferencia en Washington”. In: *El Tiempo*, 16/6/2004.

¹⁵⁸ “El hombre que vio llover fusiles”. In: *Revista Cambio*, 16/12/2002.

¹⁵⁹ These connections were reviewed in “FARC/ Es el nexo entre ‘Negro Acacio’ y famoso traficante de armas dice Fiscalía”. In: *El Tiempo*, 12/1/2003.

¹⁶⁰ Jeremy McDermott, *l.c.* 2004 ; “El juicio contra ‘Carlos Bolas’”. In: *El Tiempo*, 10/1/2003.

¹⁶¹ Jeremy McDermott, *l.c.* 2004. Bartering arms for drugs was seen to become an ever more common way of doing business in these circles e.g. “En el caso de la guerrilla, los investigadores militares han detectado que de cada cinco de las últimas transacciones, cuatro han sido pagados con droga. Un fusil puede ser cangeado hasta por un kilo de base de coca (un promedio de 2,3 millones [pesos colombianos] y un cartucho, por un gramo de droga”. In: “Decomisionadas en los últimos dos años y medio a guerrillas y paramilitares”. In: *El Tiempo*, 25/8/2004.

with the European Low Countries that formerly colonised it. The larger the legal cargo volume that is shipped to and from, the easier illegal substances are smuggled on that cargo.¹⁶²

Suriname was seen involved in the trafficking of more than cocaine, when in 1999 the Brazilian air force intercepted a plane smuggling arms. The plane had flown in from Suriname and was revealed to be on its way to Colombia. Brazil did not take the matter lightly.¹⁶³ Feeling its national security was under threat, Brazil intensified cooperation with the Colombian authorities.¹⁶⁴ Brazilian and regional security was not taken to be under less of a threat afterwards, however, according to insiders sources: “Arms trafficking between Suriname and Colombia is an ongoing issue, with weapons destined both for the right-wing paramilitaries of Carlos Castaño and for the FARC. Some of these weapons may have come from Surinamese military stores, others come from as far away as Russia and China”.¹⁶⁵

Putting European arms exports to another test

Seen to illustrate the principle of communicating vessels less than that of a leaky cauldron, is Suriname eligible for European arms export? Arms export regimes, such as the Belgian, take a country ‘involved in the international drug trade’ not to be a place their military companies can export to. That Suriname did in fact play a role in that trade was established by other sources than a U.S. investigation against a Colombian guerrilla commander. Both a former president of Suriname and his former opponent in the civil or ‘Inland’ war that devastated Suriname in the mid 1980s, were indicted *in absentia* by Dutch tribunals for their involvement in narcotics wholesale.¹⁶⁶ While an Interpol arrest warrant stops them from leaving their country, both of the convicts continue to enjoy their full freedom and have manifold economic activities in Suriname today.¹⁶⁷ Both created political parties that announced to present presidential candidates for the 2005 elections.¹⁶⁸

If the Republic of Suriname and its officials were considered seriously involved in the international drug trade, apart from in re-exporting arms, Belgian authorities saw no reason to make much of it. In 2001, two permits were granted allowing arms export to Suriname, and another one was granted in 2002. The Belgian newspaper La

¹⁶² And yet, not all that easily, for nine such cargoes were intercepted in the 1996-1998 period only, on the shipping route Paramaribo-Vlissingen (the Netherlands).

¹⁶³ News on this case was published in *Jornal do Brasil*, 19 & 23/8/1999.

¹⁶⁴ That cooperation was seen to be leading to regular interceptions of military material in Brazil bound for Colombian guerrilleros, e.g. a case reported on in “Brasil: Incautan munición presuntamente para guerrilla colombiana”. In: *El Nuevo Herald*, 16/7/2004.

¹⁶⁵ Richard Millet, *Colombia's conflicts: the spillover effects of a wider war*, op. cit, 2002, p. 24.

¹⁶⁶ Dutch news articles reported on these legal procedures, e.g. “Acht jaar cel voor Ronnie Brunswijk”, 3/3/1999; “Bouterse krijgt zestien jaar cel”. In: *NRC Handelsblad*, 17/7/1999; “Bouterse in appèl”. In: *NRC Handelsblad* 3/7/2000. A background article on procedures against this last convict was published by R. Van Elst, “Bouterse en de Decembermoorden”. In: *Nederlands Tijdschrift voor de mensenrechten*, april-mei 2002, Jg 27 n° 3, pp. 208-224.

¹⁶⁷ On the state of Suriname’s difficulty to confine convicted traffickers, An Vranckx, *Suriname, democratisering en decentralisatie*. 2004, 38p, via www.ipisresearch.be (research → Latin America)

¹⁶⁸ “Op bezoek bij Ronnie Brunswijk”. In: *De Volkskrant*, 31/7/2002.

Libre Belgique had evidence that the permits were to export FN P90 submachine guns.¹⁶⁹

In principle, FN sells these guns only to police forces. The P90 is a personal defence weapon that fires on light weight 5.7 x 28 mm ammunition. Fired from a P90 submachine gun, the novel explosive recipe of the 5.7 bullet guarantees it to perforate 48 kevlar layers,¹⁷⁰ or more than 4 bulletproof jackets of a certain type. Accuracy is assured within a 200 metre firing range, where P90 submachine guns are seen to have decent stopping power.¹⁷¹

Belgian P90 submachine guns have come to be on demand worldwide, including in Suriname. FN consequently sought to obtain the relevant export permits. With what it was buying in 2001 and 2002 the Republic of Suriname could supply about half of its 1840 member national security force, which are ‘incorporated in the army’.¹⁷² This accomplishment, or rather, the export permit that FN obtained to service that Surinamese buying order, is all the more remarkable, as a permit to export P90 submachine guns to Mexico had been denied a year earlier, in 2000.

According to a Belgian version of that ‘Mexican case’, the permit was denied because there was ambiguity about the end-user. The certificate substantiating the permit application with the Belgian authorities was from the Mexican police force, but ‘the assumption had risen there were intentions to re-sell or even re-export the guns’. Moreover, the certificate was said not to have arrived in Belgium on time. As public opinion had been stirred quite a bit about the possible P90 sale to Mexico, a country where police forces were taken to exert repression and shoot down indigenous people embroiled in the Zapatista uprising, far from everyone in Belgium was unhappy about the denial of the export permit, even if that denial was produced on strictly formal grounds.

The Belgian account about the arms export permit was contradicted by brigadier general Efrén Martínez Guzmán at Sedena, the Mexican ministry of defence,¹⁷³ in an open letter published in the Mexican newspaper La Jornada on 26/5/2000. He there claimed that the end-user certificate had arrived in Belgium quite on time and that this certificate had actually been provided on explicit demand of FN, Mexico’s long-time supplier. The company had boldly asked the Mexican *Dirección General de Fábricas de la Defensa* to help circumnavigate Belgian arms exports regulations, in providing an ‘open’ end-user certificate that was to remain valid for two years. Within that time span, FN planned to use the certificate to obtain export permits in Belgium, allowing the company to import arms to Mexico, where these were intended for sale on the ‘open market’. As such, the Mexican defence authorities need not really be interested in importing the arms. FN, possibly working through intermediary trading companies, would see to finding a market for the imported arms. As indications had been received that the export scheme was presented in Belgium in a different light, Mexico decided to cancel the certificate on 12 May 2000. ‘Mexico did not want to buy the guns anymore’, was the comment in Belgium. In Mexico, actually, the party that provided

¹⁶⁹ “Le registre est un nid à problèmes – Des P90 de la FN ont été livrés au Surinam et en République dominicaine: de quoi se scandaliser?” In: *La Libre Belgique*, 26/8/2002.

¹⁷⁰ Information copied from FN sales catalogue. FN also developed a Five-seveN Pistol.

¹⁷¹ Jean-Pierre Housson, “Las armas individuales modernas – la dificultad de elegir”. In: *Tecnología Militar* 2002, n° 2, pp 27-33.

¹⁷² Figure reported in *The Military Balance 2003 – 2004*, op. cit., 2004.

¹⁷³ This controversy was reported on by Raf Sauviller, “FN hofleverancier van de dood”. In: *Deng* n° 14, juni 2004, pp 22-29.

the end-user certificate had never wanted to buy the arms.

Belgian minister of foreign affairs Louis Michel pointed an accusing finger at certain members of parliament, journalists and NGO-people. He took their meddling in the affair to have caused a blow to the Belgian military industry. 'Because of that Mexico was now confronted with the impossibility to satisfy its legitimate needs to acquire submachine guns. Or at least, the country could not have these needs satisfied by FN Herstal. That was not as dramatic for the Mexicans, as it was for FN', minister Michel added. Mexico was said to have in fact ordered similar guns from Italy a few days after having heard of the 'Belgian denial' to grant FN the relevant export permit.

The affair led the Belgian minister of foreign affairs to promote the European Union Code of Conduct on Arms Exports, and especially its clause to avoid that one European Union member state permits an arms export that was previously denied by another European country. In this particular 'Mexican case', Italy would have been prevented from allowing its defence companies export arms to Mexico, after FN was denied the relevant export permit in Belgium – that is, if also Italy were to incorporate that Code of Conduct into its national arms law. As long as Italy could abstract from the Code, the Italian defence industry has undue competitive advantage over Belgian companies.

Applying the European Code of Conduct, meanwhile, would have prevented Belgium to engage in another controversial arms export deal in the summer of 2002. FN was then granted a permit to export 5600 minimi machine guns to support 'the young democracy' of Nepal, after Germany had already denied its own Heckler and Koch a permit to export a larger quantity of arms to that same country. The German denial had been known by the initiated few in Belgium, but authorities nevertheless approved the FN export permit. Public indignation over the FN contract with Nepal nearly caused the Belgian coalition government to fall. That coalition saved itself by announcing it would amend the Belgian federal arms export law so as to incorporate the European Union Code of Conduct on Arms Export in a binding way. That step was promised to prevent further embarrassment with new arms deals.

That law became effective one year later, after which Belgium began to insist other European Union member states pass similar laws. After all, the situation in which the defence contractors of only one member state are bound by the Code's constraints, including the clause that prevents export to countries for which permits were denied elsewhere in Europe, induces unfair competition. An argument built on that economic rationality tends to be taken more seriously than are polemics on ethics, politics and similar shaky ground.

But even if this European Code of Conduct were to be fully incorporated in all European Union member states' arms export laws, arms might not be prevented from proliferating in problematic places. It might not even prevent that 'denied costumers' obtain spectacularly effective personal defence weapons such as P90 submachine guns from non-European suppliers. These guns could come to be produced through an intra-firm technology sharing arrangement, as FN is seen to function well in today's global real world economy. The Belgian company now prides itself of important daughter companies in the United States, such as Browning and Winchester, and the U.S. based FN Manufacturing Inc. supplies the U.S. army.¹⁷⁴ That market contributes to FN (finally) becoming a profitable company. Future U.S. production of Belgian

¹⁷⁴ Raf Sauviller, 2004, *l.c.*, p. 26.

arms would help ensure supply to places that a stringent European arms export regime does not consider eligible.

Other strategies to export the fruit of Belgian arms research and development can be surmised. One route taken to be open is Belgium-Suriname-X. The 2001 and 2002 P90 submachine gun exports to Suriname are worth reconsidering in this light.

While the denial of the FN P90 export permit to Mexico was being signalled, a bit too conspicuously, to the usual arms export opponents that still define that denial as a 'victory' today, little was being communicated about the 2001 export of the same arms to Suriname. Little commotion could rise about the deal. Those that did know about it and act upon that knowledge taking the eventual decision, were not inclined to take into consideration information about the involvement of Suriname in illegal trafficking in and out of Colombia. In that context, the exported arms could safely be assumed to be hot on regional markets, and not only for regular police forces. After the permit for exporting the arms to Suriname had been approved, no questions were raised, either, about controlling whether the arms really arrived on Surinam territory. Belgium does not even have an embassy in Suriname. The post is seen to from the Belgian embassy in Caracas, which also follows up on 15 more states in the region. An envoy from the embassy in Caracas tends to visit Suriname twice a year.

Little concern was raised about the implied impracticality to control delivery of the arms. Shipping companies that transport arms are allowed to sign the delivery certificate themselves, which are then sent to the authorities that granted the export certificate, fully in line with the control procedures defined in the arms export law.

The understated problem in this is not to imply that the Republic of Suriname has no need for security equipment. It certainly has that need. Suriname is unable to secure the leaky borders around its territory. The absence of risk for being caught smuggling is not for lack of goodwill of the scarce local security force. It is mainly a consequence of long borders with Brazil, Venezuela, Guyana and French territory (the D.O.M. French Guiana) being inaccessible to that security force.¹⁷⁵ The question remains, nevertheless, whether it was wise to provide that security force with highly demanded sophisticated arms. The context being what it is, weapons in general and especially the P90 are more likely to be stolen and trafficked before security officers have a chance to use them.

Controlling and ensuring that arms stay in the country they were supplied to, is a difficult matter, and not only in the case of Suriname. Similar concerns may be voiced about P90 sub-machine guns that were supplied in 2002 to the anti-terror brigade of the Dominican Republic.¹⁷⁶ P90 arms are also seen to be available in El Salvador, where the local *Comando Especial Anti-Terrorista* obtained the submachine guns in exchange for their older Belgian FN FNC.¹⁷⁷

If these arrangements are problematic, it is not so much because of the type of exported gun, nor the particular countries these arms were supplied to. The problem is more general and plain to see. Exporters have little control over the place the supplied arms are eventually used, nor over the use to which the arms are put. That trivial fact tends to be obscured, nevertheless, as it embarrasses a cornerstone of an ethical arms

¹⁷⁵ More on that matter in earlier mentioned Suriname report, An Vranckx, *op. cit.*, 2004.

¹⁷⁶ Cf. Raf Sauviller, *l.c.*, 2004 ; "Le registre est un nid à problèmes – Des P90 de la FN ont été livrés au Surinam et en République dominicaine: de quoi se scandaliser?" In: *La Libre Belgique*, 26/8/2002.

¹⁷⁷ Julio Montes, "Unidades de élite en Centroamérica". In: *Tecnología Militar*, 2003, n° 4, pp.16-20.

export regime that countries like Belgium aspire at. It draws on the hypothesis that the world is divided by borders that are impenetrable. That hypothesis is instrumental for maintaining the belief that problematic arms export and proliferation can effectively be contained, but it does not help much for effectively containing such arms exports in actual fact. The hypothesis is useful, because it allows concerned citizens of European arms exporting countries to believe that flows of military equipment can be canalised in a way that is ethically responsible and politically correct. Objective criteria have been defined for how those ethics and political qualities can be ensured. These criteria are a condition to maintain the belief that whatever is supplied to places that the criteria defined tolerable, is also likely stay there. Concern is erased, consciousness is soothed, a worldview preserved.

Real world phenomena documented in this background paper turn out to differ from what concerned European citizens would prefer them to be. Ugly facts about arms trade that came up prove difficult to frame into a worldview where space is neatly carved up by frontiers that can keep the good and the bad things each at their sides, that are impenetrable, never too large or difficult to guard, while no interests exist that prompt people to neglect these geopolitical lines on the map. And yet, illegal trade in small arms is a documented real world phenomenon, especially its trade to areas where their presence can cause the largest possible damage.

Some of the traded goods that eventually make it to conflict areas are European, and were once legal arms exports to destinations that European authorities considered to be unproblematic. Re-export of such arms is prohibited on legal paper, but quite common in actual fact. Re-export prohibitions are even more difficult to enforce if the goods were produced outside of Europe, under licensed production agreements with European defence industry contractors. Although all re-exports are termed 'illegal', action can rarely be taken against them, and very little is done to even try in cases where some sort of action would be conceivable.

In this context, an 'ethical arms export regulation' that some in Europe aspire at, appears an edifice that is built on shaky ground, conceived upon the hypothesis that the world's problem zones are neatly curtained off from other, less problematic ones, all of which are set in pre-globalised times, when cross-border trade was rare, and the few goods that did cross borders still stood a decent chance to get thoroughly inspected. That hypothesis does not cover the present era. Assumptions built on it today belong to the realm of fiction. Fiction as such need not be problematic nor even dangerous, but it does become dangerous when it is made to keep a consciousness clean when it ought not to.

Arms for Macondo

A place known as Macondo was born in fiction. Drenched in a sauce of magical realism, that kind of fiction tends to appeal to European readers. And yet, Macondo is taken to resemble the real world in a part of Colombia, not all that far from the border with Venezuela.

These days, the real world border that separates Colombia from Venezuela was proven to be permeable for arms, drugs and illegal armed groups. It is generally

recognized to be the more problematic of South American hot spots,¹⁷⁸ and even became notorious in Europe, most recently in commotion that arose when the Aznar government announced its intention to send military equipment to Colombia.¹⁷⁹ The matter, that turned into a bit of a soap in the first half of 2004, is worth recording in this context.

The Spanish offer to sell arms to Colombia was seen to be proof of ‘Spanish support to the Colombian fight against terrorism’, and to have larger political and diplomatic than economic value, “as it shows that European nations now understand the war [in Colombia] and are supporting the government”, said Colombian defence minister Jorge Alberto Uribe Echavarría.¹⁸⁰ Apart from a set of medevac-configured C-212 Aviocar light tactical transport aircraft, for evacuating the wounded from battle zones, the Spanish offer consisted of 46 AMX-30 EM2 battle tanks and 20 US-built M114A2 155mm artillery pieces.¹⁸¹ The AMX tanks were built under (French) licence in Spain in the 1950s and 60s, but had been upgraded later on with powerpacks and computerized fire-control systems. Spain no longer had a need for them. Nevertheless, Spain still wanted US \$ 6 million for the load.

That money, and a lot more, Colombia was believed save when in late May 2004 the deal was said to be off.¹⁸² By that time, a commission of the Colombian armed forces had travelled to Madrid to inspect the tanks for sale. They had found less than half of the tanks in conditions to move, concluding that considerable costs would have to be made if the tanks were ever to be deployed in Colombia.

That the deal would be cancelled had also been the desire of Spanish members of parliament for a considerable time, especially those who would take on the Aznar government about anything. That the tank deal be cancelled had even been the desire of concerned Frenchmen who were eager to trace where proceeds of the French defence industry would eventually be deployed. All argued against the transfer of old battle tanks to Colombia, as they failed to see how the Colombian state could deploy such heavy material against its domestic terrorists, believed to hide out in inaccessible mountain ranges. Security experts were quoted in the European press, where they put forward the hypothesis that the Spanish tanks would be deployed in the Venezuela-Colombia border area, that being the only part of Colombia with a topography that is suitable to have tanks roll on. In that reasoning, they argued that the intention of Colombia could only be to aim the tanks’ heavy artillery at the Chávez regime on the other side of that border.

The last argument did not go unnoticed in Europe. The United States’ efforts to undermine the Venezuelan presidency practically guarantee that it continues to enjoy sympathy in certain European circles, including the circles that tend to speak up against arms trade. Serene debate on the matter proved impossible in this particular

¹⁷⁸ As such, listed in the 2003-2004 edition of the International Institute for Strategic Studies’ *Military Balance*, on page 177: “FARC has carried out a number of attacks both on the border and in Venezuela, leading to fears that the Colombian civil war could become an international conflict”.

¹⁷⁹ Colombia had asked Europe for such aid repeatedly. A first such call was recorded in Paris, on 3/7/2002, after the election of Alvaro Uribe, but before the start of his presidential term. Addressing a group of French businessmen, he was calling for material and technical assistance and “el compromiso de Europa para derrotar ‘definitivamente’ el lavado de dinero y el tráfico de armas”. Uribe Vélez then travelled on to Spain, where he met with Mariano Rajoy, then minister of Interior Affairs, and at that time believed to be the coming man in the Spanish Conservative Party. A new request for military aid was recorded at the European-Colombia meeting in Bogotá, May 2003.

¹⁸⁰ On quote in *Jane’s Defence Weekly*, Vol 41, 10/3/2004, p.10.

¹⁸¹ Technical information taken from the same *Jane’s Defence Weekly* issue.

¹⁸² “Esa platica se ahorró”. In: *Revista Cambio*, 1/6/2004.

case, and many in Europe urged their governments not to help arming the problematic region further, meaning: not sell or donate military material to Colombia.

Spain was discouraged to sell tanks to Colombia, irrespective of where exactly the Colombian armed forces would come to deploy them. The Spanish government received that message from the Spanish Amnesty International section that did not fail to describe the Colombian government as a 'terrorist government', thereby trespassing its own AI mandate and acclaimed neutrality. NGOs in Europe and other pressure groups concurred with the Venezuelan government, which had already informed Spain about its discomfort with the battle tanks deal.

Early 2004, the Colombian magazine *Cambio* had brought out the news that the Colombian defence ministry did in actual fact plan to use the tanks near the border with Venezuela; though not to use it against the Chávez regime, but rather to combat Colombian illegal armed groups that operate out of Venezuela. The Colombian authorities announced that the border would be guarded better.¹⁸³ A special army unit was being created by June 2004, and battle tanks from Spain were announced to become part of that army unit's equipment, sooner or later.¹⁸⁴ Apart from keeping an eye on illegal groups that make incursion into Colombia, and stop them, this particular army unit would also come to protect the indigenous Wayúu people at the northernmost part of the Colombian-Venezuelan border, in the Guajira. The Wayúu had suffered attacks and massacres from illegal groups,¹⁸⁵ and European diplomats were among those suggesting Colombian authorities better do something about it.¹⁸⁶ Controlling that problematic frontier area near Wayuu territory, however, is not an easy matter. "Dirt tracks criss-cross this lengthy section of the Venezuelan border, and fast four-wheel drives carrying contraband easily escape army patrols. The commander of the Cartagena Battalion in Riohacha says that the border is literally impossible to control without air support".¹⁸⁷ The plans to build Colombia's first border battalion in Castilletes, to be deployed in the same problematic area and to be armed with battle tanks, would eventually be put on hold as the outcome of a political process that began in Spain in March 2004.

The socialist government that replaced the Aznar administration after the March 2004 election had effectively agreed to reconsider the offer to sell tanks to Colombia that Aznar 'may have made too rapidly and not sufficiently transparent'. Spanish Foreign Relations minister Miguel Ángel Moratinos said the Spanish Parliament was to decide on the matter, while Minister of Defence José Bono stated "habrémos de llegar a acuerdos para que en Colombia los ciudadanos tengan la percepción de que España está con ellos en la defensa de la libertad, de la democracia y de la lucha contra el terrorismo".¹⁸⁸ The European Code of Conduct on Arms Exports would not prevent Spanish parliament to decide sending the tanks over, as this Code has no binding or overriding power in Spain, nor does that Code's clauses need to be interpreted as a tool to stop export to the Colombian state. And even if it did, other ways could have been possible to ship the tanks over from Spain to Colombia,

¹⁸³ "Crean primera brigada de frontera en limite con Venezuela". In: *El Tiempo*, 18/6/2004.

¹⁸⁴ Ibidem.

¹⁸⁵ These instances were explained as "Clashes between the AUC and heavily armed Wayuus over coca shipments and contraband", in ICG, *Colombia's Borders: The weak link in Uribe's Security Policy*, September 2004, p. 6.

¹⁸⁶ Interview with Dutch ambassador Teunis Kamper, "Unión Europea dice que espera que haya buena fe en el proceso". In: *El Tiempo*, 1/7/2004.

¹⁸⁷ ICG, *Colombia's Borders*, op. cit., 2004, p. 7.

¹⁸⁸ On quote in "El misterio futuro de tanques españoles adquiridos por el gobierno de Colombia". In: *El Tiempo*, 18/6/2004.

although the sheer volume of the battle tanks (3.22m-wide, and weighing 36.5 tonnes a piece)¹⁸⁹ would prevent the arrangement take place discretely under the counter.

The outcome of a Spanish parliamentary vote on the matter, and what the value of the European Code of Conduct would then prove to be, is to remain the subject of speculation. In mid-July 2004, Colombian president Uribe decided to spare the former and present Spanish government embarrassment about the case, announcing that he ‘had rather Spain would sell something more useful than tanks to Colombia’.¹⁹⁰ That something is announced to arrive early October 2004: the donation of two Spanish C-212/100 ambulance planes that had been part of the deal all along, in addition to newly agreed training in activities such as landmine eradication.¹⁹¹

In Colombia, meanwhile, former Colombian defence minister and actual senator Rafael Pardo had already pointed out that Venezuela had used the Spanish tank affair to its own benefit, to legitimate its own investment in arms, such as missiles and new armoured vehicles, as well as modernization of its fighter planes. Pardo concluded, “lo único que Colombia consiguió con todo esto fue darle al vecino país la excusa perfecta para armarse más”,¹⁹² implying that if Spain might really come to cancel the deal, it would leave Colombia without tanks but with a better armed neighbour.

‘What was obtained by all this’ in Europe, were lucrative defence contracts with Venezuela that underwent the legal procedures to obtain export permits without raising a public stir. Venezuela quite publicly announced its intention to spend some 80 million euro on 200 new armoured and tactical vehicles, and had Austrian, British and Belgian companies competing to obtain that order.¹⁹³ The fact that the Belgian armoured vehicle provider Sabiex could participate in the bidding at all implies it had already obtained the permits to export the material, should Venezuela eventually chose to award the contract that way. The availability of a relevant export permit tends to be a condition that Venezuela, in its turn, sets in bidding procedures.

With similar smoothness, the Belgian defence aviation company Sabca obtained permits to execute a contract, worth some 45 million euro, for a Falcon Upgrade of 21 Venezuelan F-16 fighter planes.¹⁹⁴ The work started in 2004 and is to be completed by 2006.¹⁹⁵ The Belgian national public credit insurance service *Delcredere* was ready to underwrite the contract in an emergency procedure, as early as November 2003. *Delcredere* proves a diligent actor in this trade, with a long history of making public budgets available to arms exports deals so as to support the Belgian defence industry.

Venezuela is thereby encouraged to procure more military equipment, adding that material to its arsenals that also include battle tanks of a type that Spain was not to sell Colombia. None of this appears to upset public opinion, not even in Europe.

¹⁸⁹ *Jane's Defence Weekly*, Vol 41, 10/3/2004, p.10.

¹⁹⁰ “España ya no le venderá tanques de Guerra a Colombia”. In: *El Tiempo*, 15/7/2004. What exactly would be considered more useful military or other equipment that Spain can and/or is willing to sell to Colombia has not cleared out yet, but there is an obvious interest in a transaction that includes “a UH-60 Black Hawk utility helicopter simulator – much needed as Colombia has Latin America’s largest helicopter fleet thanks to Washington’s largesse, but a chronic shortage of pilots”, according to Jeremy McDermott, in *Jane's Defence Weekly*, Vol 41, 10/3/2004, p.10.

¹⁹¹ *Acuerdos de cooperación en el campo de la Defensa, entre los Ministerios de Defensa del Reino de España y de la República de Colombia*, Bogotá, 23/9/2004, via www.mindefensa.gov.co. Cf. Also “España dona dos aviones ambulancia a Colombia y cancela venta de tanques AMX-30”. In: *El Tiempo*, 23/9/2004.

¹⁹² On quote in “Esa platica se ahorró”. In: *Revista Cambio*, 1/6/2004.

¹⁹³ Andy Webb-Vidal, “Venezuela seeks arms edge over Colombia”. In: *Financial Times*, 25/5/2004.

¹⁹⁴ Venezuela was also reported to plan the purchase of 50 Russian Mig-29 fighter airplanes, a deal worth some US \$ 5000 million, cf. *The Moscow News*, October 2004.

¹⁹⁵ “Sabca mag F-16s Venezuela moderniseren”. In: *De Financieel Economische Tijd*, 13/12/2003.

After all, nearly all countries dispose of battle tanks. Actually, Colombia was seen to be the only country in Latin America that never had tanks.¹⁹⁶

In Venezuela, tanks, lighter armoured vehicles, jets and more might be deployed for guarding a problematic border that is over 2000 kilometres long, and that separates its territory from a country that European countries cannot arm easily. The availability of this Venezuelan materiel would come as a relief, since to combat trans-border traffic in arms, drugs and illegal armed actors, that border would have to be guarded better. European military support is yet to materialize for Colombian regular forces that are doing their part of the job, and Colombians in general have not perceived much European political support come their way either, after the melt-down of the Spanish tank deal, that had once been taken as an emblematic first step toward understanding the complexity of Colombia's conflicts and supporting its government.

Meanwhile, the illegal groups that the present Colombian government tries to combat and negotiate with continue to thrive on profits made in the international drug economy. The illegal narcotics markets in the United States and Europe account for the larger share of the profits that are at least in part laundered through the European banking system. Europeans try combat criminal networks, but stemming the tide of Colombian cocaine to European and other markets proves as difficult as keeping European and other arms out of an illegal circuit. That circuit does the unthinkable, such as providing Colombian illegal armed groups with large arsenals. The black market for arms continues to operate in actual fact, undeterred by Inter-American and other Conventions to combat illegal arms trafficking, nor by 'ethical' European arms export laws. These laws do not hamper the black market for arms, but stimulate that market: The more countries are excluded from participating in legal arms trade, the larger the market for what can be obtained illegally. Moreover, European countries continue to authorize exports to countries that comply with their criteria at first sight, but that can be shown to have a track record of re-exporting arms illegally to problematic spots and actors.

If European arms export regimes were not convincingly seen to have replaced (selective) popular indignation to steer the decision-making process on actual arms sales, these regulatory regimes can still be concluded to have domestic use. The mere existence of laws, a European Union Code of Conduct and Common Position, all dotted with acclaimed ethical inspiration, keeps the demons at bay so that Europeans need not lose sleep over a truly problematic side to (their) arms production and exports. They need not be afraid of, for they cannot be made to see, the global era's dark side.

¹⁹⁶ Colombian Ministry of Defence, on quote in Jeremy McDermott: In *Jane's Defence Weekly*, Vol 41, 10/3/2004, p.10.