

Surplus and Illegal Small Arms, Light Weapons and their Ammunition: the consequences of failing to dispose and safely destroy them

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Table of Contents

Introduction	1
Afghanistan – stocks of arms go missing	2
Brazil – hundreds of guns stolen from police and court arsenals	3
Democratic Republic of Congo – atrocities in Kasai provinces	5
El Salvador – military officials charged with trafficking surplus weapons	7
Europe – surplus guns facilitating terrorist attacks.....	8
Libya – stocks diverted from Italian stockpile.....	10
Rwanda – financing surplus arms for genocide goes to French court.....	11
South Sudan – weapons pour in from surplus stocks and traffickers	13
Southern Africa – police and civilian firearms still poorly secured	14
Recommendations	17
Concluding Remarks.....	20

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Photo front cover

Small arms and light weapons destruction in Bosnia-Herzegovina (Photo by UNDP)

Introduction

This report documents recent failures in some countries across world regions to properly dispose of and destroy excess small arms and light weapons (SALW), and their ammunition. It illustrates the different ways that excessive, poorly secured, weapons, especially firearms and ammunition, leak out into the hands of abusers and to those unauthorised to trade and use them, and the dire consequences that result from such failures.

Careful management of stockpiles of small arms, light weapons and their ammunition as well as the destruction of surpluses undoubtedly helps to reduce the risk of the diversion of such weapons to crime, terrorism and armed conflict. Military and specialist policing weapons and ammunition are considered surplus when they exceed the requirements of the State defence and security forces. Surpluses should include obsolete and illegally manufactured items as well as unlawfully held and confiscated weapons and ammunition, including by civilians. Many governments around the world have been working diligently to secure their stockpiles of weapons and to dispose of surpluses. Though progress has been made over the past two decades, there are still many failures worldwide, as the examples show in this report.

The authors have chosen a range of examples from countries experiencing armed conflict and from countries suffering various levels of armed crime. The illustrative cases include Afghanistan, Brazil, the Democratic Republic of Congo, the European Union, El Salvador, Libya, Rwanda, South Sudan and Southern Africa (Malawi and South Africa).

All weapons and munitions go through a 'life cycle' from the point of manufacture through to deactivation and/or eventual destruction. International Gun Destruction Day is marked globally on the 9 July every year. Initiated by the United Nations in 2001, this day serves to remind politicians, officials and other decision-makers that destroying gun stocks helps to stop surplus weapons from threatening the everyday safety and security of communities and destroying lives and livelihoods.

UN Member States are required to implement four key international agreements that aim to reduce the grave impacts of small arms and light weapons on civilians. Two contain a set of politically binding commitments: the 2001 UN Programme of Action on small arms and light weapons (PoA) and the 2015 Sustainable Development Goals (SDGs). The majority of countries also have legally binding obligations under the 2001 UN Firearms Protocol and the 2013 Arms Trade Treaty.

The Biennial Meeting of States on the PoA in June 2016 welcomed the SDGs, particularly target 16.4 which reads: *"By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime."* An agreed indicator for SDG 16.4 is the *"Proportion of seized, found or surrendered arms whose illicit origin or context has been traced or established by a competent authority in line with international instruments."*

Safe disposal and destruction of illicit and surplus small arms, light weapons and their ammunition and parts is central to achieving SDG target 16.4. Most States have ratified the UN Firearms Protocol and thereby accepted an obligation to confiscate, seize and destroy illicitly manufactured and trafficked firearms, their parts and ammunition, unless some other means of disposal is officially authorized. The number of Protocol ratifications needs to be increased, as does the degree of compliance in many States. In addition, all UN Member States have agreed to implement the UN Programme of Action on Small Arms and Light Weapons, which includes collecting, identifying and disposing of surplus small arms and light weapons (SALW), preferably through destruction. The relevant provisions of these and other instruments, and guidance for the disposal and destruction of such weapons are contained in the recommendations of this report.

Afghanistan – stocks of arms go missing

In 2016, the NGO Action on Armed Violence reported that the US government had transferred at least 1,452,910 SALW to Iraq and Afghanistan since 2004, of which 503,328 were sent to Afghanistan between 2004 and 2016.

However, the US Department of Defense has records for only 484,680 SALW for Afghanistan and can only account for 22% of the weapons sent to Iraq.¹ Moreover, the US Inspector General for Afghanistan Reconstruction (SIGAR) found that no provisions were made to return or destroy the Soviet-type weapons that were no longer needed when the Afghan army began from 2010 to use only NATO standard weapons.²



A Romanian government donation of 90 tons of weapons-related equipment and supplies to the Afghan National Army is delivered in 2004. (Photo by Staff Sgt Robert R. Ramon, USA)

In a 2014 report, the Special Inspector (SIGAR) reported that since 2004, the Department of Defense had provided 465,000 SALW to the Afghan security forces. The SIGAR audit disclosed serious accountability issues with small arms provided to the Afghan National Security Forces (ANSF). A 2009 US Government Accountability Office report had already disclosed serious accountability and control problems of arms provided to the Afghan security forces. Of the 242,000 weapons shipped between 2004 and 2008, 41,000 weapons could not be located.³

On 7 October 2001, the United States and the United Kingdom launched Operation Enduring Freedom against the Taliban armed forces. In December 2001, the United Nations established by UNSC Resolution 1386 the International Security Assistance Force (ISAF) led by NATO. ISAF was quickly in need of large quantities of SALW and related ammunition to re-arm the Afghan security forces.

1 US government sent over 1.4 million guns to Iraq and Afghanistan, Action on Armed Violence, 24 August 2016, <https://aoav.org.uk/2016/us-government-sends-over-1-4-million-guns-to-iraq-and-afghanistan/>

2 Afghan National Security Forces: Actions Needed to Improve Weapons Accountability, SIGAR 14-84 Audit Report, Special Inspector General for Afghanistan Reconstruction, July 2014.

3 Lack of Systematic Tracking Raises Significant Accountability Concerns about Weapons Provided to Afghan National Security Forces, GAO-09-267, United States Government Accountability Office, January 2009.

The supply of these SALW and ammunition were sourced in the surplus stocks of Eastern European States and NATO's Partnership for Peace allies. Various countries donated supplies from their stocks of surplus SALW and ammunition, including Albania, Bulgaria, Croatia, Egypt, Hungary, Pakistan, Poland, Romania, Slovenia, and Ukraine.⁴ The US Department of Defense also employed US based arms brokers to procure arms and ammunition from Eastern European stocks⁵, and NATO standard weapons from US companies.

In January 2006, a US\$298 million contract for the supply of Soviet-type ammunition to Afghanistan was awarded to a small US company, AEY, Inc.⁶ In 20017, upon inspection by logistics officers of one of many subsequent shipments, it was discovered that the ammunition was in very bad condition. One officer noted: "Initial inspection showed that significant corrosion, rust and an oily material was evident on the ammunition; CSTC-A ammunition representatives reporting ammo is unserviceable. Munitions from this shipment are judged to be barely within limits of safe storage or transportation."⁷ A 2008 investigation by the US Army Criminal Investigation Command (CID) revealed that AEY had procured Chinese ammunition from old Albanian stockpiles.⁸ To hide the true nature of the ammunition, AEY had set up a repackaging scheme within the Albanian armouries.⁹

Brazil – hundreds of guns stolen from police and court arsenals

On 2 June 2017, the Brazilian army and Federal Police destroyed some 4,000 guns seized from criminals in police operations or handed over by people in Rio de Janeiro. An undisclosed number of the guns deemed "suitable" were kept by the security forces, which claim to constantly destroy batches of such weapons.¹⁰

However the following day a courthouse in São Paulo state was robbed by criminals who took 175 firearms related to ongoing prosecution cases. Only two weeks later, another courthouse 80 km away was also robbed. The criminals threatened and tied up three guards, then took another 391 firearms, including 294 revolvers, 87 pistols, three submachine guns and one rifle. In March, criminal groups stole 150 guns and other items from the courthouse in the city of Serra, near the state capital Vitória.¹¹

These large firearms robberies could have been avoided if the local firearms destruction regulations had been followed. The reality is that in Brazil the illicit market for guns thrives on short-term and limited public security policies and lack of public investment in implementation of regulations and investigative efforts.

4 For example: Romanians Send Supplies to Equip Growing Afghan Army, American Forces Information Service, 19 March 2004; Assistance to Afghanistan - Donations Delivered, Department of State, <http://www.state.gov/p/sca/rls/18035.htm>, accessed 22/01/2008; ANA Equipment Support Factsheet, NATO, http://www.nato.int/isaf/topics/security/ana_equip.html, accessed 4 March 2008; NATO-Afghan National Army (ANA) Equipment Donation Support Programme June 2009, NATO Factsheet; Lack of Systematic Tracking Raises Significant Accountability Concerns about Weapons Provided to Afghan National Security Forces, GAO-09-267, United States Government Accountability Office, January 2009.

5 See for example US Contracts W91CRB-04-D-0023, W91CRB-04-D-0024, W91CRB-04-D-0025, W52P1J-06-C-0044, W52P1J-07-P-0018, W52P1J-07-D-0004, W52P1J-07-C-0042, W52P1J-07-C-0049, W52H09-07-P-0187; Improving Army Contract Award and Management for Small Arms Acquired Using Afghanistan Security Forces Funds, DODIG - 2012-093, Inspector General US Department of Defense, 30 May 2012.

6 W51P1J-07-D-0004.

7 Certificate of Conformance AFG-0001-03, 10 March 2008.

8 Memorandum dated 21 March 2008 "Suspension of Efraim Diveroli and AEY, Inc" from United States Army Legal Services Agency, Procurement Fraud Branch.

9 Indictment United States of America v. AEY, Inc. (criminal case 1-08-cr-20574-JAL)

10 'Brazilian authorities destroy 4,000 guns', World News, 3 June 2017, https://article.wn.com/view/2017/06/03/Brazilian_authorities_destroy_4000_guns/; 'Steamrolled and melted: Brazil destroys over 4,000 guns seized from criminals', India TV News, 3 June, <http://www.indiatvnews.com/news/world-steamrolled-and-melted-brazil-destroys-over-4-000-guns-seized-from-criminals-384553>

11 'Gang steals nearly 400 guns from courthouse in São Paulo', plus55 Newsletter, 19 June 2017.

It is estimated that civilians in Brazil possess around 17 million firearms¹², and less than half of those guns are in the hands of about 1.3 million licensed owners.¹³ Brazil's firearms industry has grown over the years to dominate the local market, yet it is obvious that Brazil needs to radically reduce the availability of guns. That means improving investigative capacity to identify the main trafficking sources, and expanding programs to collect and systematically destroy the seized firearms and ammunition.



Destruction of small arms in Brazil (Photo by Viva Rio)

Nearly 60,000 people were killed in homicides during 2015, the last year for which statistics are available.¹⁴ More than 70% of these tragedies involved the use of firearms, mostly made in Brazil where the arms industry is big business.¹⁵ The majority of victims are black young men. Criminal gangs and private individuals are not the only perpetrators of armed violence. During 2015, police in Rio de Janeiro were responsible for one in every five murders, and in São Paulo, one in every four murders, according to official records. Violence in rural areas has also increased in recent years.¹⁶

Firearms seized from suspected criminals should not be stored in courthouses. According to Brazilian regulations, once a firearm is seized, the police forensics reports are sent to the judge of the case who should consult the prosecution and defence lawyers and, if neither requests additional forensic evidence, promptly determine the gun's destination, which usually is destruction.

12 Juliana Chávez and Alonso Tobón García, 'Number of Civilian Firearms in Brazil' in: Regional Report on States' Capacities to Address Armed Violence - Latin America and the Caribbean, Action on Armed Violence and Seguridad Humana en Latinoamérica y el Caribe, London, 1 May 2012.

13 'Analysis of Country Responses' in United Nations International Study on Firearm Regulation. UN Crime Prevention and Criminal Justice Division, Vienna, 30 August 1999.

14 Robert Muggah and Daniel Cerqueira, 'Brazil has a murder and gun problem. Here's why both could get worse', USA Today, 30 March 2017; 'Brazil Has Nearly 60,000 Murders, And It May Relax Gun Laws', NPR parallels, 28 March 2016, <http://www.npr.org/sections/parallels/2016/03/28/472157969/brazil-has-nearly-60-000-murders-and-it-may-relax-gun-laws>

15 Robert Muggah and Ilona Szabó de Carvalho, 'There's a cure for Latin America's murder epidemic – and it doesn't involve more police or prisons', Igarapé Institute, World Economic Forum on Latin America, 4 April 2017.

16 Amnesty International, 'Brazil: Surge in killings by police sparks fear in favelas ahead of Rio Olympics', 27 April 2016.

However, this procedure for destruction of seized guns is frequently disregarded. The firearms remain forgotten by the judges, resulting in large stockpiles held in courthouses or police stations, often under precarious conditions. This situation results in frequent cases of burglary and diversion around the country, consuming public security resources in a country with major armed violence challenges.¹⁷

Democratic Republic of Congo – atrocities in Kasai provinces

Continued failure to address grievances and end fighting in the Kasai provinces of the Democratic Republic of Congo, as well as failure to ensure the destruction of surplus weapons, will result in a further escalation of atrocities in the country.

Since August 2016, the Kasai provinces have seen massive and systematic human rights violations. The atrocities committed by all sides are becoming more and more extreme. Most recently, the Congolese government has been accused of setting up and arming a militia called Bana Mura, accused of raping women and children, hacking or burning people to death, and mutilating villagers, including children.¹⁸

The Congolese government denies any involvement¹⁹ but others claim that the Bana Mura is formed from the Presidential Guard.²⁰ The United Nations has accused the Congolese army of excessive and disproportionate use of force, rape, and summary executions.

On the other side, the Kamwina Nsapu militia is accused of recruiting children, targeted killings of police and officials, and decapitating police officers. It is estimated that 1.3 million people have been displaced by the conflict.

Tensions escalated in June 2016 when customary chief Kamwina Nsapu called for the removal of all security forces from Kasai-Central, accusing them of abusing the local population. He was also provoked by the Congolese government's refusal to recognise his customary authority. This was most likely because during the last national elections, this region had predominantly supported the main opposition party. Chief Kamwina Nsapu was killed in August 2016 during a police raid on his house. His followers cried for vengeance. Since then, the Kamwina Nsapu militia has engaged in violent conflict with the Congolese army and police.

The UN Panel of Experts on the DRC estimates that the Congolese authorities have 300,000 small arms.²¹ The main suppliers of small arms and ammunition to the DRC government have been China, the United States, and South Africa. In 2010, the US supplied 5 million rounds of small arms ammunition for training purposes - ammunition the State Department claims has been kept under close supervision.

At present nothing is known about the Kamwina Nsapu militia's access to small arms. The UN Panel has repeatedly warned about the diversion of government stocks of SALW to armed groups in the country due to deficient stockpile security and management, and corruption within the Congolese security forces.

17 Isabel Figueiredo and Edson Knippel, 'Control of weapons apprehended by the police' United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (Ilanud), 2007.

18 Statement of the High Commissioner to the Interactive dialogue on the Democratic Republic of the Congo, 35th session of the Human Rights Council, 20 June 2017.

19 Human Rights Council decides to dispatch team of international experts to the Democratic Republic of the Congo, 23 June 2017, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21799&LangID=E>

20 Qui sont les "Bana Mura"? , La Libre Belgique, 25 June 2017, <https://afrique.lalibre.be/5366/kasai-qui-sont-les-bana-mura/>
See also Lundi 30 Décembre 2013 ou le début de la fin d'un régime, 20 March 2014, <http://fremonsa.blogspot.be/2014/03/lundi-30-decembre-2013-ou-le-debut-de.html>

21 Various UN Panel of Expert reports on the DRC as follows: S/2016/1102 (28 December 2016), S/2016/466 (23 May 2016), S/2015/797, S/2015/19, S/2014/42.



A stockpile of munitions discovered by MONUC in Gbadolite, Democratic Republic of Congo in 2007. (Photo by MONUC)

Destruction of captured weaponry and ordnance by the government is critical to stem leakages and dangers. Since 2002, the United States has invested more than US\$11.2 million for conventional weapons destruction in DRC. The urgent need to enhance stockpile security and accountability of arms and ammunition was emphasised in January 2015 by the UN Security Council Resolution 2198 (echoing previous resolutions), and the 2013 Peace, Security and Cooperation Framework for the DRC.²²

On landmine clearance, the Mines Advisory Group (MAG) is cautiously optimistic that DRC could become Landmine Impact Free by 2017. However, another challenge facing many communities is accidental explosions from storage sites containing old munitions. In January 2014, for example, an explosion at Camp Brigade, a military depot in Mbuji Mayi, one of the country's largest cities, killed 21 people, injured 54, and left 2,000 residents of surrounding neighbourhoods homeless. Ammunition from the blast was projected as far as 10 km from the epicentre, and included rockets, mortars, and grenades. With US government support, MAG dispatched explosive ordnance disposal specialists to help DRC authorities assess the humanitarian impact of the explosion and to plan the clean-up and recovery.²³

The threat is even graver in places like Bukavu, where FARDC storage facilities are located in the city centre, close to houses, shops and schools. Thanks to a contribution of EUR800,000 from the German Government, MAG was

22 Mines Advisory Group, DRC - see <http://www.maginternational.org/where-mag-works/where-we-work/mag-in-the-democratic-republic-of-congo/>

23 Mines Advisory Group – see <http://www.maginternational.org/our-impact/news/weapons-destruction-challenges-in-the-democratic-republic-of-the-congo/> This article by Dennis Hadrick, a Program Manager in the Office of Weapons Removal and Abatement with the State Department's Bureau of Political-Military Affairs, originally appeared on DipNote, the official blog of the US Department of State.

able to construct the depot on a 30-hectare site in the Walungu territory of South Kivu province, following a request by the Congolese Government.²⁴ However, in the DRC there is still a mountain to climb.

El Salvador – military officials charged with trafficking surplus weapons

In El Salvador, where current levels of gun violence surpass those recorded during the civil war, it is crucial that military storage sites are secure and not susceptible to ‘leakages’ of small arms and light weapons.

In 2015 a lieutenant working in the Logistics Directorate of the Armed Forces was sentenced to seven years in prison for the illegal sale of arms. In the same year, the Public Prosecutor charged a retired military officer with selling weapons and cartridges from army depots, and altering the serial numbers.²⁵ The country’s two highest officials responsible for firearms control were accused of assisting the retired officer, but those two men were not charged. The weapons were linked to judicial proceedings and had been seized, confiscated or surrendered by their owners, but not destroyed. The guns were sold to (among others) drug traffickers and money launderers. The retired officer also owns gun stores in San Salvador. In 2016 the court dismissed the case against the retired official on the basis that the evidence presented was only strong enough to ground an administrative violation but not a criminal offense. In June 2017 the Public Prosecutor brought new evidence and launched a new prosecution against him.²⁶

Another case under way involves a former colonel who was Minister for Defence and El Salvador’s ambassador to Spain and Germany. In 2016, at the request of the Public Prosecutor, the parliament lifted his official immunity to enable him to be prosecuted for leading an arms trafficking operation. The initial hearing in February 2017 was suspended because of a conflict of interest among the judges, and no new date has been set.²⁷

El Salvador is currently the world’s most violent society, in terms of homicide rates.²⁸ Contributing factors to these levels of armed violence include extreme poverty²⁹, acute inequality³⁰, widespread organised crime linked to drug trafficking, and the high availability of SALW in the aftermath of the country’s 1980-1992 civil war. Small arms and light weapons have permeated El Salvadoran culture to the extent that there are now nearly six privately owned guns per 100 people and grenades are regularly used in civil disputes and robberies. In 2016, 81 per cent of homicides were committed with firearms.³¹

In 2013, after identifying ten weapons/munitions storage facilities across the country extremely vulnerable to theft, the Mines Advisory Group implemented a project with the Salvadoran Armed Forces to upgrade the sites.³²

24 Mines Advisory Group, see <http://www.maginternational.org/our-impact/news/new-ammunition-storage-depot-protects-civilians-in-drc/>

25 ‘Retired military officer sold military weapons to organised crime’, La Prensa Gráfica, 4 January 2016, <http://www.laprensagrafica.com/2016/01/04/militar-vendio-armas-de-guerra-al-crimen-organizado>

26 ‘New accusation against military officer for arms trafficking’, La Prensa Gráfica, 15 June 2017, <http://www.laprensagrafica.com/2017/06/15/nueva-acusacion-contra-militar-por-trafico-de-armas>

27 ‘Atilio Benitez hearing suspended’, La Prensa Gráfica, 23 February 2017, <http://www.laprensagrafica.com/2017/02/23/suspenden-audiencia-contra-benitez>

28 In 2016 El Salvador recorded 5,278 murders for a homicide rate of 81.2 per 100,000, surpassing the previous leader, Honduras. See Insight Crime 2016 Homicide Round-up, 16 January 2017, <http://www.insightcrime.org/news-analysis/insight-crime-2016-homicide-round-up>

29 The World Bank’s development indicators show 42.5 per cent of El Salvador’s population to be living in poverty, <http://data.worldbank.org/country/el-salvador?display=graph>

30 The most recent figures by The World Bank’s Gini index put El Salvador as the country with the 12th highest rate of inequality, <http://data.worldbank.org/indicator/SI.POV.GINI>

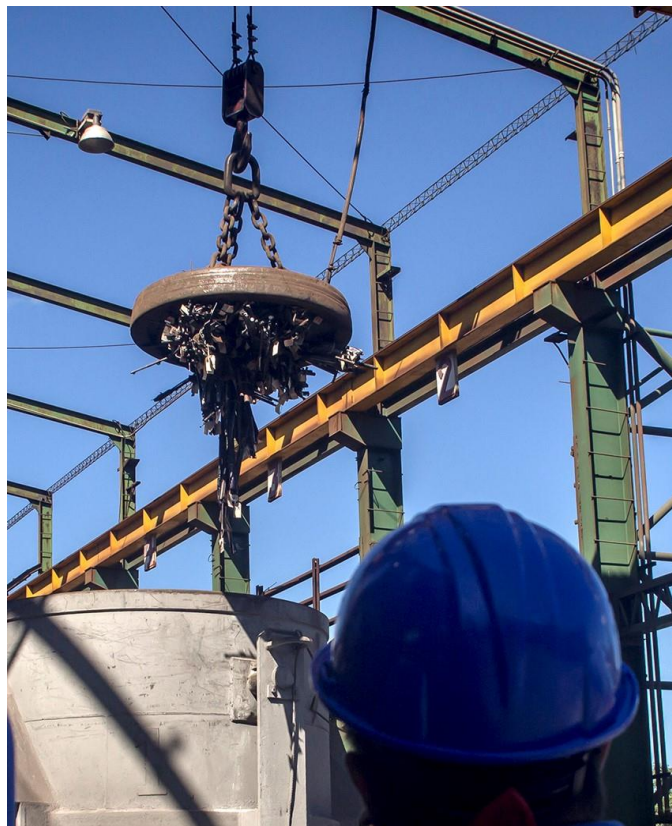
31 Institute for Forensic Medicine, Findings on persons deceased in violent incidents (homicides) in El Salvador in 2016, <https://cnnespanol2.files.wordpress.com/2017/02/homicidios-ac3b1o-2016.pdf>

32 Mines Advisory Group ‘How MAG is helping in El Salvador’,

A military construction team, installed new fencing, gates, cameras, high security locks and lighting with MAG providing technical advice and oversight, ensuring compliance with international standards. The Salvadoran military, though aware of the risks, lacks the funds and specialist knowledge to carry out the improvements itself. These measures will reduce the likelihood of weapons and ammunition falling into the wrong hands, but only if the military improves its procedures and if the justice and law enforcement systems operate effectively.

In late 2016, El Salvador hosted the first gun destruction organised with the Humanium Metal Initiative, which aims to turn guns into consumer products and raise funds for anti-violence programs.³³ Humanium is the name given to the metal remaining when seized and surplus guns are melted down; this metal is being sold to companies which incorporate it in the manufacture of ordinary consumer products. Humanium is an initiative of IM Swedish Development Partner, an IANSA member NGO. The 2016 destruction by the Salvadoran Armed Forces yielded one tonne of Humanium metal.

Below: Guns awaiting destruction for Humanium in El Salvador, Nov 2016 (Photo by IM Swedish Development Partner). Right: The weapons being lifted by magnet into the smelter for destruction (© Salvador Melendez)



Europe – surplus guns facilitating terrorist attacks

One consequence of the potential defeat of the ISIS (Daesh) terrorist group in its current strongholds in Syria, Iraq and the MENA region in the coming years is the heightened risk of further armed terrorist attacks in Europe. According to the European Parliament's research service, most attackers between 2004 and 2015 have used incendiary and explosive material, but the use of firearms and other materials has increased sharply since 2014.³⁴

In its Serious and Organised Crime Threat Assessment (SOCTA) published in March 2017, Europol noted that recent terror attacks in Europe had highlighted the consequences of the illicit trade in firearms, which is able to

<http://archive.maginternational.org/elsalvador#.WV33iIqQyWY>, accessed July 2017.

33 David Barraza, 'Program seeks to use seized guns for good in El Salvador', Associated Press, 9 December 2016 See also <http://humanium-metal.com/>

34 European Parliament, 'The European Union's Policies on Counter Terrorism: Relevance, Coherence and effectiveness', Directorate-General for Internal Policies, January 2017.

thrive partly as a consequence of the EU's borderless zone and the availability of a steady supply of decommissioned weapons left in Eastern Europe after the Balkans wars of the 1990s.³⁵

For example, in January 2017 Spain's counter-terror police supported by Europol seized a huge cache of 12,000 firearms, which included heavy machine guns, assault rifles and handguns capable of bringing down a passenger jet.³⁶ The police said the light weapons and small arms were "legally" purchased from a gun dealer in Slovakia as 'decommissioned weapons' so should have been destroyed. Instead the trafficking gang were transforming the weapons illegally in Spain to full operational use. The gang was found in possession of stamps and other items its members used to forge reactivation certificates.

A spokesperson for the Spanish government said: "This *modus operandi* used to purchase weapons is the same as the one used for the attacks carried out in Paris on 7 January, 2015, against employees of the satirical weekly 'Charlie Hebdo', in which 12 people were killed and another 11 injured, all with re-commissioned weapons acquired at the time from a Slovak gunsmith."³⁷ As early as 2013 though, Slovakian police had reportedly warned Europe how easy it was to reactivate such modified weapons so that they could once again exert deadly force.³⁸

Other arms are believed to have come from Croatia and Serbia, while some ammunition has been traced to the Republika Srpska, an administrative entity in Bosnia and Herzegovina, according to information collected by the European Parliament's research service in January 2017.³⁹ The EU has assisted with the disposal of surplus small arms and light weapons in the Balkans, but efforts to destroy such arms have sometimes been resisted in favour of foreign sales.⁴⁰

A coordinated EU programme to reduce unregistered civilian small arms holdings is also much needed. The limited official data available indicate that there are around 81 million licit and illicit firearms in the EU, of which an estimated 67 million are unregistered firearms and (not necessarily excluding one another) an estimated 19 million are illicit firearms – extrapolated from the data retrieved from seven Member States.⁴¹

Firearms used for terror attacks include Brussels in 2010, Liège in 2011, Oslo and Utoya Island in 2011, Toulouse in 2012, the Jewish Museum shooting in Brussels in May 2014, Copenhagen in February 2015, the failed Thalys train shooting in August 2015, the Île-de-France attacks of January 2015, Paris attacks in November 2015, to facilitate the Brussels bombings in March 2016, Paris again in 2017 and London in 2017.⁴² Guns require less expertise to use than bombs, but some attacks have involved both.

35 European Police Office (Europol), 'Serious and Organised Crime Threat Assessment' (SOCTA), March 2017; www.europol.europa.eu

36 Europe Observatory of Crime and Security, 'Counter-terror police in Spain have seized 12,000 firearms that experts fear could have been used in a major terror attack on European soil.' 16 January, 2017 (<http://eu-ocs.com/police-in-spain-seize-huge-weapons-cache-worth-e10-million/>); La Moncloa, 'Dismantling of criminal organization and seizure of 8,000 military weapons for sale'.

37 Radka Šestáková, 'Spanish Police parade huge weapons cache seized during anti-terror operation', 15 March 2017 (<https://eu-ocs.com/spanish-police-parade-huge-weapons-cache-seized-anti-terror-operation/>)

38 'The Path to Death – How EU Failures Helped Paris Terrorists Obtain Weapons' Der Spiegel, 24 March 2016 <http://www.spiegel.de/international/europe/following-the-path-of-the-paris-terror-weapons-a-1083461.html>

39 European Parliament, op cit. See also 'How Europe's Terrorists get Their Guns', Time Magazine, 7 December 2015, <http://time.com/how-europes-terrorists-get-their-guns/>; See also "Kalashnikovs Used in Paris Terror Attacks 'Were Made in Bulgaria'", OCCRP (19 November 2015), accessed at <https://www.occrp.org/en/daily/4617-kalashnikovsused-in-paris-terror-attacks-were-made-in-bulgaria>. And also "EU's freedom of goods policy opened door to Paris terror attacks" The Black Sea, 2016 accessed at <http://www.theblacksea.eu/index.php?idT=88&idC=88&idRec=1230&recType=multimedia>.

40 International Peace Information Service, 'Recent arms deliveries from the successor States of the former Yugoslavia, Antwerp, 2007; also Small Arms Survey 'Significant Surpluses: Weapons and Ammunition Stockpiles in South-east Europe, Geneva, 2011.

41 European Commission, 'Study to Support an Impact Assessment on Options for Combatting Illicit Firearms Trafficking in the European Union', 2014, pp. 16-18.

42 European Parliament, op cit.

Revisions to the EU's Firearms Directive in November 2016 include a ban on some semi-automatic weapons, but do not completely outlaw ownership of the most dangerous of these types of guns, such as AK-47s. The package of measures also includes plans to introduce stricter standards for deactivation of firearms, and the targeting of weapons traffickers in the EU and across the Western Balkans, Turkey, Ukraine, the Middle East and North Africa.

Libya – stocks diverted from Italian stockpile

Libya remains an important hub for illicit arms flows to neighbouring countries. In its June 2017 report, the UN Panel of Experts on Libya reported the absence of stockpile management and destruction in the country. Therefore the risk of arms and ammunition diversion remains a major problem.⁴³

Since the war in Libya (February – September 2011), arms have continued to be illicitly transferred to and from Libya on a regular basis. This has resulted in armed groups engaging in arms trafficking both within the country and across its borders. The UN Panel has documented arms trade within Libya as a source of income for armed groups,⁴⁴ and has identified seizures of arms from Libya in Algeria, Egypt, Mali, Niger, and Tunisia.⁴⁵

One such illicit transfer still being investigated by the Panel involves a transfer of arms from Italy in 2011.⁴⁶ The UN Panel was investigating this transfer because the arms were suspected to be in violation of the UN arms embargo on Libya. On the 18 and 19 of May 2011, four 40ft military containers were transported by the Italian military from Santo Stefano through La Maddalena onto a ferry with an unknown destination. An Italian judicial inquiry into the matter was thwarted when the Italian military authorities invoked "state security".⁴⁷

The military containers were believed to be weapons and munitions that may be going to the Libyan armed forces or to armed groups in Libya. In 1994 a NATO naval patrol enforcing the UN arms embargo against the former Yugoslavia intercepted the Jadran Express in the Strait of Otranto. The armed forces in the former Yugoslavia were embroiled in a bloody civil war. The vessel was sailing from Ukraine to Croatia and on board NATO discovered 400 anti-tank missiles, 30,000 AK-47 rifles, 5,000 Katyusha rockets, 11,000 anti-tank rockets and 32 million rounds of AK-47 ammunition from Soviet stockpiles in Ukraine.⁴⁸

Two Italian courts ordered the destruction of these weapons and munitions in 2004 and 2005, but instead the Italian authorities stockpiled the arms for future use. The first stockpile location was in the port of Taranto, and in 2001 Italian authorities moved the arms to a submarine base on the island of Santo Stefano. In 2014 the government approved the transfer of some of these seized weapons towards NATO efforts to support the Iraqi Peshmerga in their fight against the Islamic State (Daesh) armed group. No other information has been revealed about where and to whom the Italian authorities have supplied weapons and munitions from this stockpile.⁴⁹

43 UN Panel of Experts on Libya report, S/2017/466, 1 June 2017.

44 Ibid, para 264-265.

45 Ibid, para 171-182.

46 Ibid, para 118; and UN Panel of Experts on Libya report, 23 February 2015 S/2015/128: annex 17.

47 'Four Hundred Missiles Mysteriously Disappear from La Maddalena', Corriere Della Sera, 19 July 2011 http://www.corriere.it/english/11_luglio_19/disappeared-missiles-maddalena_8ffbc63a-b1f3-11e0-962d-4929506ed0a9.shtml; Sergio Finardi, Le armi segrete dal Belpaese ai conflitti, *altreconomia*, 29 September 2011; Sergio Finardi, Il fantasma della Libia, *Il Manifesto*, 28 August 2014; UN Panel of Experts on Libya report, S/2015/128: annex 17.

48 Ukraine could have been one of the main sources of arms shipments to the Balkans during the war, despite the embargo, *Ukrainian Week*, 5 June 2012, <http://ukrainianweek.com/Investigation/52033>

49 Italy to arm Iraqis with weapons seized during Yugoslavia's break-up, 21 August 2014 <http://www.smh.com.au/action/printArticle?id=60769366>; UN Panel of Experts on Libya report, S/2015/128: annex 17; Sergio Finardi, Le armi da inviare non esistono e nemmeno il decreto legge, *Il Manifesto*, 6 September 2014.



Above: In the aftermath of the revolution in Libya, large quantities of munitions of war were exposed. (Photo: Iason Founten, UN)

Rwanda – financing surplus arms for genocide goes to French court

On 29 June 2017 three non-governmental organisations in France filed a lawsuit against the French bank BNP Paribas, alleging that the bank knowingly accepted the transfer of US\$1.3 million from the Rwanda central bank to an arms dealer during the height of the genocide perpetrated by the Rwanda government forces and their militia.⁵⁰ The funds were payments to enable the purchase of small arms, light weapons and ammunition that had been impounded from a ship in Seychelles instead of being destroyed.

Referring to records obtained by the UN, the NGOs claim two bank transfers were authorised by the National Bank of Paris (BNP in French, now BNP Paribas) from the National Rwanda Bank to a South African arms dealer's Swiss bank account on 14 and 16 June 1994. This was during the genocide and one month after the UN Security Council approved an arms embargo.

The three NGOs are Sherpa, the Collectif des Parties Civiles pour le Rwanda (CPCR) and Ibuka France. They allege that by making these money transfers during the ongoing genocide, BNP Paribas was complicit in genocide, crimes against humanity and war crimes. They claim the Brussels Lambert Bank (BBL in French) had refused the request to use the funds of the Commercial Bank of Rwanda (BCR in French) because that would have violated the UN embargo. This is the first time a complaint has been initiated against a bank in France on such a legal basis. If the facts were to be proven, it would highlight the potential responsibility of investors in armed conflicts and more generally in serious violation of human rights.

The UN International Investigation Commission for Rwanda reported that on 17 June 1994 the South African arms dealer who allegedly received the funds went to the Seychelles with Colonel Mr Théoneste Bagosora. He was

⁵⁰ Reuters, 'NGOs File Suit Alleging BNP Paribas Complicity in Rwandan Genocide', 29 June 2017.

coordinating arms supplies to the Rwanda government forces which were committing atrocities as they retreated across the border into the DRC (then Zaire).⁵¹ The UN Commissioners who interviewed Colonel Bagosora as well as the South African arms dealer reported that the two men had travelled to the Seychelles in order to negotiate the purchase of 80 tons of arms. The weapons had been impounded by the Seychelles authorities from a ship headed for Somalia in violation of the UN embargo on that country.

Once purchased using a false end user certificate, the 80 tons of weapons and munitions were flown to Goma (a Zaire border town next to Rwanda) in two planeloads on 16 and 18 June. Arms were then trucked to Gisenyi (inside Rwanda) to aid the government forces and their ethnic Hutu *Interahamwe* militia.⁵²



Arms flown to the Interahamwe armed militia in Goma, Democratic Republic of the Congo (then Zaire) in 1994 as they were committing acts of genocide, displayed in November 1995 after their capture. (© Brian Johnson-Thomas)

The two consignments of previously impounded materiel consisted of 2500 AK-47 rifles, 500,220 rounds of 7.62-mm ammunition, 38,769 rounds of 12.7-mm ammunition, 2560 hand grenades, 5,600 anti-personnel rifle grenades, 5,440 37-mm grenades (for light grenade launchers), 7,600 rounds of 14.5-mm ammunition, 6,000 60-mm mortar and 624 82-mm mortar shells.

Colonel Bagosora is serving a 35-year sentence for crimes against humanity in connection with the Rwandan genocide. During questioning at the International Criminal Tribunal for Rwanda (ICTR), he confirmed that weapons coming from the Seychelles via Goma “were distributed to the militia” who left to “give a hand to Kigali”:

‘At this time, there was a group of militia who had gathered in the Gisenyi stadium (...) according to the officers who were with me at the camp, [in the stadium] there were

51 Reports of the International Commission of Inquiry established under UN Security Council resolution 1013 (1995) to investigate reports relating to the sale or supply of arms and related material to former Rwandese Government Forces in the Great Lakes region in violation of Security Council resolutions. For this particular arms delivery see especially UN Document S/1996/195, 14 March 1996, para 21–39. Also relevant are the reports of the Commission de la Défense Nationale et des Forces Armées et de la Commission des Affaires Etrangères, sur les Opérations Militaires menées par la France, d’autres pays et l’ONU au Rwanda entre 1990 et 1994.

52 Human Rights Watch, *Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide*, May 1995, vol. 7, no. 4, <http://www.hrw.org/reports/1995/Rwanda1.htm>; See also Brian Wood and Johan Peleman, Chapter 3 ‘Brokering arms for genocide’, *The Arms Fixers: Controlling the Brokers and Shipping Agents* (PRIO: Oslo, 2000), <http://www.nisat.org/publications/armsfixers/Chapter3.html>

*weapons that had come from the Seychelles. And the plane had landed in Goma. The military trucks had gone to the Goma airport and they brought back boxes, brought back cases and in the cases there was ammunition, there were weapons and these weapons were distributed to the militia who had stayed in the Gisenyi stadium, and then they left to give a hand to Kigali.*⁵³

In the United States, BNP Paribas has already been condemned to pay a fine of almost 9 billion dollars for having violated a US embargo on Sudan during the Darfur massacres.⁵⁴ If the Seychelles government had destroyed the arms impounded from the ship, those 80 tons would not have been delivered to the perpetrators of the genocide.

South Sudan – weapons pour in from surplus stocks and traffickers

In April 2017 the United Nations Panel of Experts on South Sudan reported that weapons continue to flow into South Sudan, and most often from surplus stocks and traffickers.⁵⁵

In a 2016 report the Panel had established the diversion of Israeli-made small arms from stocks in Uganda to South Sudan. These small arms had been sold to Uganda in 2007⁵⁶ - so presumably were surplus to requirements. The UN report also details a 2014 shipment of 4,000 rifles and ammunition from Bulgaria to the Ugandan Ministry of Defence. The shipment was subsequently diverted to South Sudan.⁵⁷

Systematic atrocities were committed especially in 2016 and 2017 by the South Sudan government armed forces⁵⁸ and the armed Sudan People's Liberation Movement and Army (SPLM/A) when in opposition after 2013.⁵⁹ An estimated 1.83 million people were displaced within the country and 4.8 million people were affected by food insecurity. The UN, some of its member states, the African Union, and the regional Intergovernmental Authority on Development (IGAD) all condemned the fighting especially in Unity state.

After urgent calls by the African Union to stop the arms flows, the UN Security Council has threatened an arms embargo on South Sudan. However, in July 2016 the President of Uganda, supported by Egypt and other Security Council members, opposed the imposition of a UN arms embargo on South Sudan.⁶⁰ In a 2014 report, the Small Arms Survey noted that South Sudan was saturated with SALW. Researchers found that the destruction of such arms was non-existent, and moreover the management of surplus arms was severely lacking.⁶¹

Despite the evident saturation of small arms and light weapons, the Panel of Experts established that, in 2014, the South Sudanese government tried to acquire a further 20 million rounds of AK-47 ammunition, 50,000 AK-47 rifles, 12,000 rocket-propelled grenade rockets and whole load of heavier equipment.⁶² On the other hand, the SPLM/A during its opposition in 2014 tried to acquire 40,000 AK-47 rifles, 200,000 boxes of AK-47 ammunition,

53 United Nations International Tribunal for Rwanda, Testimony of Colonel Bagosora, accessed in French: <http://francegenocidetutsi.org/BagosoraTranscript28novembre2002.pdf>

54 Reuters – <http://www.reuters.com/article/us-bnp-paribas-settlement-sentencing-idUSKBN0NM41K20150501>.

55 UN Panel of Expert Report on South Sudan, S/2017/326, 13 April 2017: para 112.

56 UN Panel of Expert Report on South Sudan, S/2016/963, 15 November 2016: para 51.

57 UN Panel of Expert Report on South Sudan, *ibid*, para 53.

58 Human Rights Watch, 'They burned it all: destruction of villages, killings and sexual violence in Unity State South Sudan', 22 July 2017.

59 Human Rights Watch, World Report, 2017, and Amnesty International Annual Report 2016/2017.

60 'Museveni Opposes Arms Embargo On South Sudan' The Independent (Kampala), 16 July 2016 <http://allafrica.com/stories/201607160047.html>. Also Jonathan Pedneault, 'Starving Under the Bullets in South Sudan' Newsweek, April 2017.

61 Small Arms Survey, 'Excess Arms in South Sudan: Security Forces and Surplus Management', Issue Brief 6, Geneva, April 2014.

62 UN Panel of Expert Report on South Sudan, S/2017/326, 13 April 2017: para128.

30,000 PKM machine guns, 180,000 boxes of PKM ammunition, 3,000 anti-tank rounds, 8,000 rocket-propelled grenade rockets, 10,000 rocket-propelled grenade launchers, 3,000 pistols, and 3,000 hand grenades.⁶³ Unless other States impose an effective UN and regional arms embargo on the warring parties in South Sudan, the massive loss of civilian lives and livelihoods looks set to continue.



Destruction of 134 small arms and light weapons by the UN Mission in South Sudan (Photo by JC McIlwaine, UN)

Southern Africa – police and civilian firearms still poorly secured

Thousands of South Africans die every year because of gun violence. A study published in the *South African Medical Journal* in July 2017 revealed that as many as 20 people are killed in gun-related incidents every single day.⁶⁴ The findings are the result of collaboration between researchers at the University of Cape Town and the University of Texas. It put the cost of treating gunshot wounds at well over R1 billion a year.

South African Police Service (SAPS) interventions have seized thousands of illegal guns and many South Africans have handed in their firearms to the police. According to SAPS, over 1.2 million guns have been destroyed since 2000, an average of 70,600 guns a year.⁶⁵ According to the SAPS annual report for 2015/2016: *“It remains a priority for the SAPS to ensure that firearms that legal firearm owners voluntarily surrendered to the SAPS, confiscated firearms that could not be linked to owners and firearms which were confiscated or recovered without serial numbers do not return to the illegal pool for use by criminals. From 1 April 2015 to 31 March 2016 a total*

63 UN Panel of Expert Report on South Sudan, *ibid*, para 122.

64 Case Martin, Gerhard Thiar, Graham McCollum, Stephen Roche, Sithombo Maqungo, ‘Burden of gunshot injuries on orthopaedic resources’, *South African Medical Journal*, Vol 107, No 7 (2017).

65 Figures cited by Gun Free South Africa, Media Statement ‘Scrap the Surplus! July 9 International Gun Destruction Day, Johannesburg 9 July 2017, and based upon the Annual Reports of the South African Police Service for the years 200/2001 to the present.

*number of 14,382 firearms were destroyed compared to 9,477 firearms which were destroyed in the 2014/2015 financial year. Firearms without serial numbers were etched and given a new weapon number before they were destroyed.”*⁶⁶

The importance of an effective destruction process was highlighted in June 2016 when an ex SAPS colonel was sentenced to 18 years prison after admitting he stole 2,400 guns and ammunition from police stocks to sell them to a trafficking network that was supplying Western Cape and other gangsters. The weapons had been confiscated by or surrendered to SAPS and marked for destruction.⁶⁷ A veteran police officer with almost 35 years’ service, he was in charge of Gauteng Province’s firearm licensing authority. Ballistic testing linked 888 of the police colonel’s guns to 1,066 murders in the Western Cape between February 2010 and 31 May 2016. Amongst these victims, 261 children, (between the ages of one and 18) were shot with the stolen guns including 89 who were killed between February 2010 and December 2015. Of the 2,400 guns that the police colonel admitted to stealing, more than 1,100 had not been recovered.⁶⁸

Gun Free South Africa, a prominent national NGO, has urged the South African Government and SAPS to build safer communities by destroying surplus guns and to put in place an auditing process to build public trust. The NGO points out that gun violence is preventable but in South Africa is spiralling out of control and in the Western Cape guns have overtaken knives as leading cause of murder.⁶⁹

The problem of violent gun crime and illegal proliferation of small arms in South Africa also cross borders and negatively affects people’s lives in the surrounding region. For instance, in Malawi the levels of gun possession, proliferation and violence are estimated as much lower per capita than in South Africa, and the official number of privately registered firearms in Malawi was about 10,000 in 2010 compared to around 3 million in South Africa.⁷⁰

Nevertheless, there is an ongoing threat from the illegal trade and possession of unregistered firearms. Given Malawi’s porous borders, pistols originating from South Africa - and assault rifles and pistols smuggled from neighbouring countries that are affected by armed conflicts, namely Burundi, the Democratic Republic of Congo and especially Mozambique – are used in a low level pattern of armed robberies mostly by gangs.⁷¹ Thus, a regional approach to tackling illegal firearms is encouraged by the Malawi government, including through cross border operations and implementation of the SADC Firearms Protocol.⁷²

66 South African Police Service, Annual Report for 2015/2016, page 113

67 Cape Times, ‘Former top cop gets 18 years for illegal gun trade’, Siyavuya Mzantsi, 21 June 2016; News24 ‘Ex-cop gets 18 years for stealing, reselling guns to Cape gangsters’, Tammy Petersen, 21 June 2016; Daily Maverick, ‘When Hell is Not Enough: A top cop who supplied weapons to country’s gangsters and right wingers,’ Marianne Thamm 4 July 2016

68 Gun Free South Africa, Firearms Control Briefing 5 of 2017: Protecting Children from Armed Violence. 8 June 2017; information cited from the Labour Court Papers in Cape Town, December 2016, http://www.saferspaces.org.za/uploads/files/Gun_Free_South_Africa_two.pdf; and from Network 24, 89 children killed with weapons stolen by ex police colonel, by Maygene de Wee, 21 December. 2016, <http://www.news24.com/SouthAfrica/News/89-children-killed-with-weapons-stolen-by-ex-police-colonel-20161221>

69 Gun Free South Africa Media Statement ‘Scrap the Surplus! July 9 International Gun Destruction Day’, Johannesburg, 9 July 2017, reproduced in the Cape Times, 9 July 2017, <http://www.iol.co.za/capetimes/opinion/get-guns-off-streets-and-destroy-them-10208258>

70 Permanent Mission of Malawi to the United Nations, ‘Stockpile Management, Collection and Disposal.’ National Report of Malawi on its Implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, New York 18 June 2010; and estimates for South Africa are calculated by Aaron Karp in ‘Completing the Count: Civilian firearms - Annexe online.’ Small Arms Survey 2007: Guns and the City. Cambridge University Press 27 August 2007.

71 Gugu Dube and Noel Stott, Chapter 5: Malawi’ in ‘Arms brokering in Southern Africa’, edited by Nelson Alusala and Mothepa Shadung, Institute for Security Studies, 2017; see also The Times (Malawi), ‘MYP guns not properly accounted for’, 29 January 2016; Permanent Mission of Malawi, 2010, *ibid*.

72 Southern African Development Community, Protocol on Control of Firearms, Ammunition and Other Related Materials, August 2001.

The Malawi authorities have been concerned about legally owned firearms being reportedly lent out by civilians to other individuals without a permit. Civilians, if eligible, can obtain an annual licence to possess only one firearm, whether it is a pistol, revolver, rifle, airgun or shotgun, the latter being the most numerous. The amount of ammunition supposedly is restricted, but police capacity to ensure this is limited. A related problem is that firearms belonging to deceased civilian owners are not always handed in to the police authorities as required by law.⁷³ Under the Firearms Act of 1967 and minor subsidiary legislation, a gun and its ammunition must be handed in within one month of the death of the licensee, so that a permit for the transfer of ownership can be assessed and granted by the Registrar if the applicant has good reason to possess the firearm and does not pose a danger. However, the Act has no provisions to control pawning or pledging, nor any requirements for the standardized marking of state-owned firearms.



Using specialist saws and shears, a team from the Swazi Defence Forces trained and assisted by the Mines Advisory Group, sponsored by the UK government, destroyed an average of 90 weapons a day for two weeks: 1,004 in total. To ensure the remains could not be re-used, they were buried in concrete in a military controlled area. The team is now able to continue destroying any further identified weapons to prevent their diversion. (Photo by Mines Advisory Group, November 2016)

The number of firearms destroyed in Malawi after voluntary collection and seizure was reported to be 3,000 in 2014.⁷⁴ According to the government, the only disarmament exercise that Malawi conducted prior to 2010 was in 1993 but then most of the arms collected during that exercise went un-accounted for, and that it is not clear how the arms collected from the former paramilitary Young Pioneers were disposed of.⁷⁵ The department of Parks and Wild Life routinely collected illegal firearms in particular Muzzle Loaders. In 2010 the government said there were 'scores of muzzle loaders at various Wild Life Conservations centres that await destruction.'⁷⁶ One analysis

73 Gugu Dube and Noel Stott, Chapter 5: Malawi', 2017, op cit.

74 Star Africa 'Malawi Police Destroys Illegal Firearms,' 13 June 2014.

75 Permanent Mission of Malawi, 2010, op cit.

76 Permanent Mission of Malawi, 2010, ibid.

concluded that the 1967 law, which the government admits is out-dated, does not fully incorporate provisions of the 2001 SADC Firearms Protocol regarding destruction.⁷⁷ Articles 10 and 11 of the SADC Protocol recommend that confiscated, seized and collected small arms and light weapons are destroyed, provided that such weapons have been duly marked and registered. Article 9 of the Protocol requires SADC Member States to make it an offence to reactivate previously deactivated firearms.

Police deny renting out their guns and claim thefts from police stocks are extremely rare. Yet in early 2016, a crime researcher reported that 300 rounds of ammunition and firearms recovered in Blantyre were from a stock of equipment used in police training, and that an officer in the Mangochi police had been arrested for allegedly assisting a violent gang.⁷⁸ In June 2017 the child of a Malawi Police Service officer, playing with his father's gun, caused injury and death. A police spokesperson told media that the officer faced a charge of negligence, but defended the right of police officers to take their guns home when off duty "depending on the circumstances".⁷⁹

The previous police law, the Malawi Police Act of 1982, was criticised for not imposing criminal penalties on police officers who lost or rented their firearms, and only providing lenient sanctions. For example, Article 51 stated that *"if any police officer below the rank of inspector pawns, sells, loses by neglect, makes away with or wilfully damages any arms, ammunition...he may, in addition to or in lieu of any other [administrative] punishment, be ordered to make good the amount of such loss or damage, and such amount may be recovered by stoppage from his pay."*⁸⁰ The penalty for civilians guilty of unlawful possession of a firearm is similarly weak. However, with the Police Act of 2012, penalties have been clarified and made somewhat more proportionate.⁸¹ Civil society advocates hope that the 2013 National Action Plan on control and management of firearms and ammunition will be effectively implemented.⁸²

Recommendations

All States should implement the agreed measures to *comply with their international obligations* and to *fulfill their commitments concerning the disposal and destruction* of small arms, light weapons and their ammunition, taking fully into account the guidance of the United Nations Secretary General, as follows:

United Nations Firearms Protocol: (2001)⁸³

Article 6(1) - States Parties shall adopt, to the greatest extent possible within their domestic legal systems, such measures as may be necessary to enable confiscation of firearms, their parts and components, and ammunition, that have been illicitly manufactured or trafficked.

Article 6(2) - States Parties shall adopt, within their domestic legal systems, such measures as may be necessary to prevent illicitly manufactured and trafficked firearms, parts and components and ammunition from falling into the hands of unauthorized persons by seizing and destroying such firearms, their parts and components and

77 SaferAfrica and Saferworld, The Law of the Gun: an audit of firearms control legislation in the SADC region: Malawi', June 2003.

78 The Times (Malawi), 29 January 2016, op cit.

79 The Times of Malawi, Muting gun sounds, finding refuge in jungles of peace, 10 June 2017.

80 Malawi Police Act (1982), Laws of Malawi Chapter 13-01.

81 Malawi Police Service Act (2012), <http://malawilaws.com/p/64-CHAPTER%2013-01POLICE.html>

82 Gugu Dube and Noel Stott, Chapter 5: Malawi' in 'Arms brokering in Southern Africa', 2017, op cit; and Republic of Malawi, Report of June 2010, op cit.

83 Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Supplementing the United Nations Convention against Transnational Organized Crime ('Firearms Protocol'). Adopted by the UN General Assembly in resolution A/RES/55/255 of 8 June 2001, the Protocol came into force on 3 July 2005. <http://www.unodc.org/documents/treaties/UNTOC/Publications/A-RES%2055-255/55r255e.pdf>

ammunition unless other disposal has been officially authorized, provided that the firearms have been marked and the methods of disposal of those firearms and ammunition have been recorded.

The Arms Trade Treaty (2013)⁸⁴

Article 11 – (1) Each State Party involved in the transfer of conventional arms covered under Article 2(1) [which includes small arms and light weapons] shall take measures to prevent their diversion.

Article 16(1) - In implementing this Treaty, each State Party may seek assistance including legal or legislative assistance, institutional capacity building, and technical, material or financial assistance. Such assistance may include stockpile management, disarmament, demobilization and reintegration programmes, model legislation, and effective practices for implementation. Each State Party in a position to do so shall provide such assistance, upon request.

United Nations Programme of Action on Small Arms and Light Weapons (2001)⁸⁵

States undertake to:

Section II Paragraph 16 - Ensure that all confiscated, seized or collected small arms and light weapons are destroyed, subject to any legal constraints associated with the preparation of criminal prosecutions, unless another form of disposition or use has been officially authorized and provided that such weapons have been duly marked and registered.

Section II Paragraph 18 - Regularly review, as appropriate, subject to the respective constitutional and legal systems of States, the stocks of small arms and light weapons held by armed forces, police and other authorized bodies and to ensure that such stocks declared by competent national authorities to be surplus to requirements are clearly identified, that programmes for the responsible disposal, preferably through destruction, of such stocks are established and implemented and that such stocks are adequately safeguarded until disposal.

Section II Paragraph 19 - To destroy surplus small arms and light weapons designated for destruction, taking into account, inter alia, the report of the Secretary-General of the United Nations on methods of destruction of small arms, light weapons, ammunition and explosives (S/2000/1092) of 15 November 2000.

Section II Paragraph 20 - To develop and implement, including in conflict and post-conflict situations, public awareness and confidence-building programmes on the problems and consequences of the illicit trade in small arms and light weapons in all its aspects, including, where appropriate, the public destruction of surplus weapons and the voluntary surrender of small arms and light weapons, if possible, in cooperation with civil society and non-governmental organizations, with a view to eradicating the illicit trade in small arms and light weapons.

Section II Paragraph 21 - To develop and implement, where possible, effective disarmament, demobilization and reintegration programmes, including the effective collection, control, storage and destruction of small arms and light weapons, particularly in post-conflict situations, unless another form of disposition or use has been duly authorized and such weapons have been marked and the alternate form of disposition or use has been recorded, and to include, where applicable, specific provisions for these programmes in peace agreements.

84 Arms Trade Treaty adopted by the General Assembly on 2 April 2013 in resolution A/RES/67/234B, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/67/234%20B

85 Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects ('UN Programme of Action'). A/CONF.192/15 of 20 July 2001, <http://www.poa-iss.org/poa/poahtml.aspx>

Section II Paragraph 23 - To make public national laws, regulations and procedures that impact on the prevention, combating and eradicating of the illicit trade in small arms and light weapons in all its aspects and to submit, on a voluntary basis, to relevant regional and international organizations and in accordance with their national practices, information on, inter alia, (a) small arms and light weapons confiscated or destroyed within their jurisdiction; and (b) other relevant information such as illicit trade routes and techniques of acquisition that can contribute to the eradication of the illicit trade in small arms and light weapons in all its aspects.

International Tracing Instrument (2002)⁸⁶

Paragraph 9 - States will ensure that all illicit small arms and light weapons that are found on their territory are uniquely marked and recorded, or destroyed, as soon as possible. Pending such marking, and recording in accordance with section IV of this instrument, or destruction, these small arms and light weapons will be securely stored.

Sustainable Development Goals (2015)⁸⁷

SDGs target 16.4: By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime.

SDG indicator 16.4.2: Proportion of seized, found or surrendered arms whose illicit origin or context has been traced or established by a competent authority in line with international instruments.

Regional Instruments⁸⁸

Many regional instruments address the illicit trade, transfer, and possession of small arms and light weapons, including marking, record-keeping, securing stockpiles and destroying surplus stocks, and implementing amnesties and weapon collection programmes.

United Nations Secretary General's Reports to the Security Council:

Report of the Secretary General to the UN Security Council on Methods of Destruction of Small Arms, Light Weapons, Ammunition and Explosives (2000)⁸⁹

This report discusses a wide range of methods of destruction and makes general recommendations, including:

Paragraph 13 - The primary principle is that safe destruction should be the overriding objective in operations designed to reduce or eliminate weapons, ammunition and explosives collected or rendered surplus for whatever reason. The overall objective is to ensure that weapons can never be used to fire again and that ammunition and explosives are rendered completely inoperable and present no hazard to personnel engaged in the destruction

86 International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons ('International Tracing Instrument'). A/60/88 of 27 June 2005 (annex), [http://www.un.org/events/smallarms2006/pdf/A.60.88%20\(E\).pdf](http://www.un.org/events/smallarms2006/pdf/A.60.88%20(E).pdf)

87 United Nations General Assembly, resolution A/RES/70/1 The 2030 Agenda for Sustainable Development adopted at the United Nations Sustainable Development Summit on 25 September 2015 For Sustainable Development Goals, see <https://sustainabledevelopment.un.org/sdgs>

88 See the following website of the UN Office of Disarmament Affairs with links to relevant regional organizations: <http://www.poa-iss.org/RegionalOrganizations/RegionalOrganizations.aspx>

89 United Nations Security Council 'Report of the Secretary-General on Methods of Destruction of Small Arms, Light Weapons, Ammunition and Explosives' S/2000/1092 of 15 November 2000 <http://www.poa-iss.org/CASAUUpload/ELibrary/S-2000-1092.pdf>

process, the population at large and, to the extent possible, the environment. In designing a destruction programme, planners, managers and operators must bear in mind the following principles...[regarding (a) Equipment, (b) Cost, (c) Security, (d) Simplicity of operation, (e) Safety, (f) Environmental impact (g) Accounting and (h) Transparency. Each principle is elaborated.]

Paragraph 58 - It is important that the collected weapons, ammunition and explosives be stored safely...

Paragraph 59 - The storage area should be secured by a locking system and the physical presence of guards. By doing this, irregularities and pilferage can be prevented.

Paragraph 68 – Sets out the conclusions, including (d): Destruction options must be part of operational planning for disarmament, demobilization and reintegration programmes from the very beginning. Methods, manning and equipment, along with the necessary financing, must be considered.

Report of the Secretary General to the UN Security Council on Small Arms (2015)⁹⁰

This report examines ways of addressing the risk of misuse, diversion, and illicit circulation of arms and ammunition, focusing on governments' responsibility to ensure the proper use and storage of small arms as well as adequate legislation and procedures for the tracing and destruction of weapons.

United Nations Destruction Handbook: small arms, light weapons, ammunition and explosives⁹¹

This handbook builds upon the Secretary-General's Report on "Methods of destruction of small arms, light weapons, ammunition and explosives" (S/2000/1092) of 15 November 2000. It is an expanded version of that report, drawing upon the material contained therein as well as incorporating additional material, particularly with regard to the destruction of ammunition and explosives associated with small arms and light weapons.

Concluding Remarks

The illustrative cases in this report show a range of shortcomings by States to safely dispose of and destroy surplus small arms, light weapons and their ammunition held in police and military stockpiles, and illegally in civilian possession. The negative consequences have been the diversion of such weapons and ammunition for illicit purposes in all world regions.

The cases show how the illicit trade and abuse of such poorly controlled stocks and unauthorised holdings has contributed in various ways to episodes of mass killing, crimes against humanity, genocide, acts of political terror and patterns of common crime. Such armed crime has resulted in serious violations of human rights including the destruction of livelihoods, sometimes on a massive scale.

IANSA is appealing to its member organizations and friends to work throughout the year – not only on International Gun Destruction Day every 9 July – to raise awareness of the importance of preventing the proliferation of guns and ammunition, and destroying surplus guns to help reduce the gun crime, human trafficking, poaching, and armed conflict that undermines peace and development.

90 United Nations Security Council 'Small Arms: Report of the Secretary-General' S/2015/289 of 27 April 2015.

91 United Nations Department for Disarmament Affairs, 'A Destruction Handbook: small arms, light weapons, ammunition and explosives', July 2001.