

Beyond Viktor Bout:

Why the United States needs an Arms Trade Treaty

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A discarded military tank in Sierra Leone being used for dry washing. During the civil war of 1991–2002, the country was under a UN arms embargo, which arms brokers routinely broke.

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While the high profile trial of Viktor Bout in New York will show some of the threats the world continues to face from unscrupulous private arms brokers, it only provides a glimpse into a much larger problem. Skilled at operating in the shadows and exploiting weak national arms transfer controls, arms brokers have funneled arms to almost every country under a UN arms embargoes in the last 15 years, often fueling armed conflict and serious human rights violations.

The US has worked on at least 70 US prosecutions in the last five years that have charged defendants with crimes related to illegal arms brokering. Yet, it continues to face difficulties in bringing arms brokers to justice and shutting down criminal networks. The lack of effective legal systems addressing the arms trade in many countries enables illicit arms dealers to exploit regulatory gaps and carry out their activities with impunity. The US and the world need an effective global Arms Trade Treaty to help close these gaps and stop the irresponsible trade in deadly weapons.

Summary

With the trial of Viktor Bout nearly underway and the UN negotiations on an Arms Trade Treaty (ATT) starting in the summer of 2012, this briefing paper seeks to provide the reader with a deeper understanding of the challenges the US government faces in tackling unscrupulous arms brokers abroad, and to show how the adoption of a strong and comprehensive ATT could help the United States and other governments in such efforts.

US attorneys have worked on at least 70 US prosecutions in the last five years that have charged defendants with crimes related to illegal arms brokering. While the United States has brought cases against several well-known arms traffickers, including Mr. Bout, in this period, it has faced serious challenges in halting illegal activity by arms brokers, particularly those based or operating abroad.

According to current and former US officials and available information on cases, two of the problems the US government continually encounters in enforcing its laws, and in urging governments to stop such brokers, are weak national laws related to international arms transfers, and a lack of political will. In the past few years, at least five brokers accused of violating US arms export control laws have escaped justice or had their initial US extradition requests rejected for such reasons. Over the past two decades, for instance, US officials reportedly pondered asking several countries to arrest Viktor Bout but struggled with the fact that some of these countries did not have sufficient laws related to arms trafficking, brokering, and/or transportation. As of last year, only 47 percent of the world's governments have reported that they have basic controls on the import of small arms and light weapons (SALW), a subset of conventional arms.

Oxfam and many other non-governmental organizations (NGOs) that are part of the Control Arms Coalition have called for the creation of a legally-binding ATT to address the inadequacies of the current international arms control system and prevent irresponsible arms transfers. An effective ATT could additionally help to tackle the problem of illicit brokering by imposing higher common international standards upon states to hold companies and individuals in their jurisdictions accountable for their role in international arms transfers. This should include regulating their conduct and holding them liable where breaches of domestic and international law have occurred. Practically, a comprehensive ATT could provide the framework to resolve jurisdictional issues allowing illicit brokers to avoid prosecution and encourage greater cooperation between states to stamp out such activities. To close the gaps that allow illicit brokers to operate with few constraints, the US must strongly support and work to craft an effective and robust ATT.

Abbreviations

ATT	Arms Trade Treaty
AUC	United Self-Defense Forces of Columbia
DDTC	Directorate of Defense Trade Controls
EU	European Union
EUC	End-user certificate
EXBS	Export Control and Related Border Security
FARC	Fuerzas Armadas Revolucionarias de Colombia
ICE	Immigration Customs and Enforcement
IEEPA	International Emergency Economic Powers Act
IGO	Intergovernmental organization
ISS	Implementation Support System
ITAR	International Traffic in Arms Regulations
LTTE	Liberation Tigers of Tamil Eelam
NGO	Non-government organization
OAS	Organization of American States
PACER	Public Access to Court Electronic Records
PrepComs	Preparatory Committees
PoA	Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
RUF	Revolutionary United Front
SALW	Small arms and light weapons
UAE	United Arab Emirates
UNIDIR	UN Institute for Disarmament Research
UNITA	National Union for the Total Independence of Angola

Introduction

In early October 2009, US officials received a tip about a suspicious company called Moonstorm involved in an arms deal with the government of Yemen. According to the Bulgarian government, the UN-blacklisted Serbian arms broker Slobodan Tesic was associated with Moonstorm and was engaged in discussions to sell arms worth \$95m, including sniper rifles, anti-aircraft guns, and ammunition to the Yemeni Ministry of Defense.¹ As the quantity of arms appeared more than the Yemeni military needed, US officials were particularly concerned that some of the arms shipment could be diverted to Yemen's thriving black market.²

US intelligence reports later indicated that the company, Moonstorm, was in fact a front company for Tesic, and that Tesic visited Yemen several times.³ With solid evidence of Tesic's involvement in hand, US officials raised concerns about him with the Serbian and Yemeni governments. The Yemeni government, however, said they did not know the Tesic they were working with was under a UN travel ban, because he was associated with the company Moonstorm, not Temex (the company listed on the UN travel ban).⁴ Unable or unwilling to cancel the deal, the Yemeni authorities completed the arms agreement with Tesic.⁵

Although the above example shows some of the concerns the US government continues to face from unscrupulous private arms brokers, it only provides a glimpse into a much larger problem. According to the US Department of Justice, "on a daily basis, foreign states as well as criminal and terrorist groups seek arms, technology, and other materials to advance their technological capacity, weapons systems, and, in some cases, weapons of mass destruction programs... posing threats to US allies, US troops overseas, and to Americans at home."⁶ While some arms brokers operate responsibly through legally-approved and transparent procedures, many continue to play leading roles in organizing transfers of US- and foreign-origin arms for human rights abusers and criminal networks. Skilled at operating in the shadows and exploiting weak national arms transfer controls, arms brokers have funneled arms to almost every country under a UN arms embargoes in the last 15 years, often fueling armed conflict and serious human rights violations.

In response to the above threats and challenges, the US government has encouraged foreign governments to adopt stronger and more comprehensive national laws and regulations on international arms transfers. As a way to support and reinforce US bilateral efforts, the US government has also participated in and supported regional and multilateral arms agreements covering various types of conventional arms. However, there is still no legally-binding multilateral agreement with a global scope requiring governments to adopt national controls on the international transfer of all conventional arms. The upcoming negotiations at the UN for an Arms Trade Treaty (ATT), occurring in summer 2012, offer a unique opportunity to remedy the current state of affairs and assist the US government in its bilateral efforts. If agreed to by governments at the UN, a robust ATT would require all

countries to adopt stricter controls on the transfer of all conventional arms, significantly helping the United States and other governments better tackle irresponsible or illegal arms transfers and the scourge of unscrupulous arms brokers.

With the trial of Viktor Bout nearly underway, and the UN negotiations on an ATT starting in the summer of 2012, this briefing paper seeks to provide the reader with a deeper understanding of the challenges the US government faces in tackling problematic arms brokers abroad and to show how the adoption of a strong and comprehensive ATT could help the United States in such efforts.

Section one - Background- provides information on why and how the US government became so concerned about private arms brokers and early attempts to address the problem. Based on a review of 70 US prosecutions of arms brokers from January 1, 2007 to June 1, 2011. Section two - Current US Efforts to Stem Unscrupulous Arms Brokers - gives the reader a more detailed understanding of the threats posed, and tactics used, by arms brokers today. Section three - US Government Challenges to Stemming Unscrupulous Arms Brokers - reviews some of the problems the US government has experienced in stopping arms brokers who attempt to violate US law or hurt US interests. Section four - Weak Foreign National Arms-Control Laws - focuses on the current weakness of national arms-control laws around the world. The last section - A Way Forward - describes how an ATT could help address these threats and challenges. While there are changes the United States can make to US law and regulations to better tackle unscrupulous arms brokers - such as eliminating the license exemption for brokers engaged in US government-led arms transfers, and removing the requirement that brokers need to know they violated the law before being prosecuted - this paper focuses on the challenges America faces in working with foreign governments.⁷

Background

US government concern about the illegal arms trade, and private arms brokers in particular, began to rise significantly after the Cold War. While US attorneys were able to prosecute private arms dealers for activities related to brokering, usually on charges related to conspiracy, some US government officials were growing more concerned about private arms traders arranging the transfer of US or foreign arms abroad that fell outside US legal and regulatory restrictions.⁸ In particular, US officials reportedly saw that US citizens and foreign persons were arranging transfers of US-origin arms to foreign entities completely abroad (i.e. not touching US territory), and also that US citizens or residents were arranging deals of foreign arms that likewise did not touch US soil.⁹ As neither of these actions involved exporting or importing arms from or to the US, both fell outside US law. As a result, one US government official reportedly said a significant, but undetermined, number of actions eluded the scope of US law.¹⁰

To address this problem, officials from the US Department of State and US congressional staff began working on an amendment to the US Arms Export Control Act to regulate such brokering activities. In 1996, US President Bill Clinton signed the amendment into law, marking the first time any government adopted a law specifically to regulate the activities of arms brokers. The US Department of State's Directorate of Defense Trade Controls (DDTC) later published regulations for the amendment that defines brokering as "any person who acts as an agent for others in negotiating or arranging contracts, purchases, sales, or transfers of defense articles or defense services in return for a fee, commission, or other consideration."¹¹ Brokering activities can include the "financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service, irrespective of its origin."¹² To close the existing legal loopholes, the amendment requires US citizens or residents located inside or outside the US, or foreign persons involved in transfers of US-origin items, to first register with DDTC, and second receive a license or approval for each brokering deal. Brokers operating within NATO countries or within Australia, Japan, or New Zealand, do not need a license.

As the US was strengthening its laws, the wider international community also became more active in addressing private arms brokers' involvement in arms trafficking to countries under UN arms embargoes or to conflict zones. Reports by journalists, nongovernmental organizations (NGOs), and intergovernmental organizations (IGOs) were able to identify ways in which arms brokers were able to navigate through the loopholes in existing laws to supply weapons around the world. In 1999, the Peace Research Organization Oslo, together with the Norwegian Initiative on Small Arms Transfers and the British American Security Information Council, published one of the first NGO studies on the issue. In Chapter 3 of that report, the authors described in some detail how private arms brokers from around the world helped arm the forces

committing genocide in Rwanda in 1994.¹³ The research showed that, by 2001, private arms brokers provided arms and military assistance to “government or rebel forces in countries engaged in conflict or otherwise under arms embargoes including: Angola, Burundi, Bosnia, Colombia, Croatia, the Democratic Republic of Congo, Eritrea, Ethiopia, Liberia, Nigeria, Papua New Guinea, the Republic of Congo (Brazzaville), Rwanda, Sierra Leone, Sri Lanka, Sudan, and Yemen.”¹⁴ Several arms brokers were regularly mentioned, especially Viktor Bout in connection with Angola and Liberia/Sierra Leone. Interestingly, it was small arms and light weapons (SALW) – assault rifles, mortars, grenades, and surface-to-air missiles – that were most often being transferred and used to fuel conflicts, and kill and maim innocent civilians.

Although their activities were highlighted by public reports, brokers involved in weapons transfers to governments or armed groups under an arms embargo have frequently been able to escape justice. Such arms brokers are particularly adept at exploiting legal loopholes in national arms control laws, and often operate in or out of countries with nonexistent or lax controls on the export, import, brokering, or transit of arms.

Experienced at deception and often motivated by greed, these brokers have taken advantage of governments that conduct few checks on the actual owners of transport companies, the intended buyers of arms, or the chance of diversion to unwanted users. They are also skilled at bribing corrupt officials to obtain fake end-user certificates (EUCs) – official documents that list the intended buyer of arms – and at gaining close allies in high places within governments (see Box 1 for information on a broker the UN said had violated the UN arms embargo on Liberia). Problematic arms brokers have also benefited from national laws created before the globalization and privatization of the arms trade, which often do not cover entities acting abroad. For example, in 2001, a Panamanian resident was arrested for his alleged deal to supply arms to the United Self-Defense Forces of Columbia (AUC), a US-designated foreign terrorist organization, but Panamanian authorities eventually had to release him because all of his illegal actions took place abroad, and he had not violated any Panamanian law.¹⁵

Box 1. Serbian arms broker Slobodan Testic

According to the UN panel of experts investigating violations of the UN arms embargo on Liberia, a Belgrade-based company, Temex, run by Slobodan Testic, helped broker six shipments of Serbian arms to Liberia between June and August 2002, in violation of the UN arms embargo.¹⁶ The former Liberian dictator Charles Taylor had ordered the arms, including thousands of assault rifles and machine guns, millions of rounds of ammunition, thousands of mines, and hundreds of missile launchers.¹⁷ Throughout 2002, Amnesty International and other human rights groups had raised concerns about the grave human rights violations of Liberian security forces, including summarily executing men and boys for failing to fight, and raping women.¹⁸ In order to avoid scrutiny and accountability, Testic employed several tactics frequently used by unscrupulous arms brokers. Panel experts said a fictitious company, called Aruna Import Company, had been created,

as well as a fake EUC from Nigeria.¹⁹ Tescic also used airplanes registered in Moldova, and later Equatorial Guinea, to fly the arms to Taylor.²⁰ After the UN panel of experts released its reports about Tescic, the Belgrade Police attempted to investigate the case. While Serbian officials may have been limited with their arms control laws at the time, it was reported that Serbian authorities failed to prosecute him because of his strong government connections.²¹ Since 2003, the UN has placed Tescic on a no-travel ban.²²

As concerns about transnational threats grew in the late 1990s and early 2000s, including the threat from foreign terrorist organizations, the second Clinton administration and the George W. Bush administration started to focus on trying to stop some foreign arms brokers operating abroad involved in transferring foreign arms illegally to countries with UN arms embargoes. Concerned about the increasing threat to UN peacekeepers in Sierra Leone by the Revolutionary United Front (RUF) in March 2000, US officials pushed for action to stop Viktor Bout.²³ Some people in the US administration suspected that Bout, in particular, was supplying many arms to the RUF, encouraging these rebel leaders to stand their ground against the UN peacekeepers.²⁴ A UN report in the spring of 2000 also indicated that Bout's airplanes were funneling arms to the abusive Angolan armed group called National Union for the Total Independence of Angola (UNITA), which at the time was reportedly involved in serious human rights violations, including arbitrary killings, forced conscription, and forced sexual services.²⁵ To shut down Bout's operation, however, the US government needed cooperation from foreign allies, which proved difficult due to a lack of strong and comprehensive arms control laws in many foreign countries.

Alarmed at the growing threats from the illicit proliferation of SALW around the world, member states of the UN agreed to two landmark agreements in the summer of 2001 to combat the problem, which included language aimed at curbing unscrupulous arms brokers: the UN Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (Firearms Protocol); and the UN Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA).²⁶ While both agreements focus only on SALW, they encourage or require governments to adopt stronger and more comprehensive laws to address illicit or illegal arms trafficking and brokering. Around the same time, and after these agreements, governments also agreed to separate regional agreements related to appropriate national controls on SALW, which sometimes included a reference to brokering.²⁷ In 2003, for instance, the European Union (EU) agreed to a set of specific guidelines for controlling arms brokering,²⁸ and, in June 2004, the General Assembly of the Organization of American States (OAS) adopted model arms brokering regulations for the international transfer of SALW.²⁹ As of 2009, an estimated 52 governments, including 23 in the EU, have reported they have specific controls on arms brokering, up from 12 governments worldwide in 1999.³⁰

In 2007, the George W. Bush administration further boosted US efforts to tackle private arms dealers and brokers at home and abroad. On October 11, the US Department of Justice announced the creation of a counter-proliferation initiative “to combat the growing national security threat posed by illegal exports of restricted US military and dual-use technology to foreign nations and terrorist organizations.”³¹ As a part of this initiative, the administration created a national coordinator for export enforcement and some 15 new counter-proliferation task forces, provided training to more than 500 US prosecutors and investigators on US arms export laws, and established a Technology Protection Enforcement Group to enhance US law enforcement coordination with the US intelligence community. The US Congress also passed several laws to help the US government in related efforts. In 2006, for example, President Bush signed into law a narco-terrorism law, which makes it easier for US prosecutors to charge international drug and arms traffickers if a link to terrorism can be shown.³² In 2007, the US Congress also amended the International Emergency Economic Powers Act (IEEPA) by adding “conspiracy and attempt provisions”, which enhances the US government’s abilities to go after brokers, including arms brokers.³³ These improved efforts have led to an increase in US prosecutions related to illegal international arms trafficking, but they have also further shown some of the challenges to halting arms broker’s intent to break or evade arms control laws.³⁴

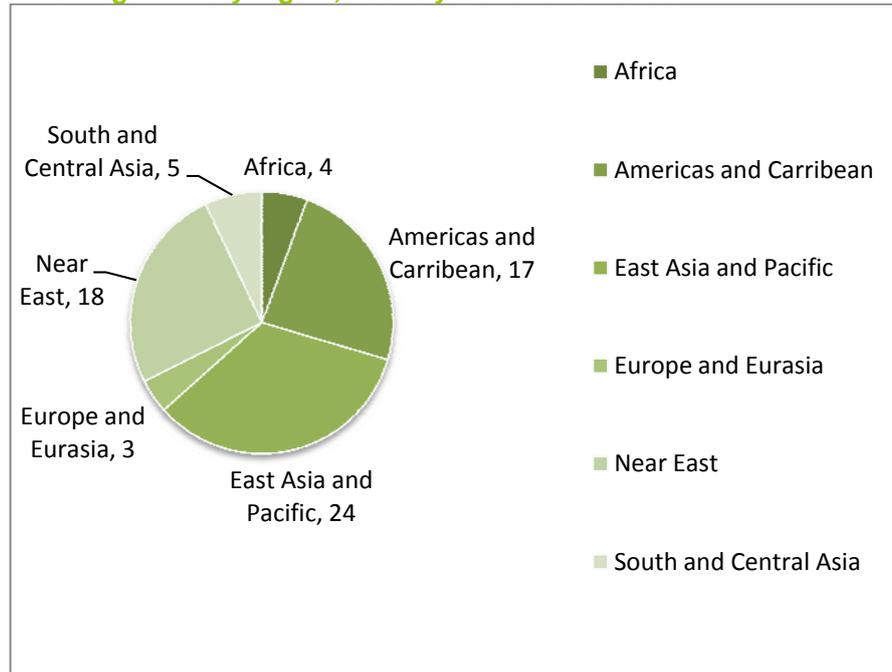
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Current US efforts to stem unscrupulous arms brokers

In connection with the US government's improved efforts to combat illegal arms trafficking and brokering, the US Department of Justice worked on at least 154 US prosecutions related to the illegal transfer of arms or dual-use items around the world from January 1, 2007, to June 1, 2011.³⁵ Of these 154 prosecutions, the US government brought charges connected with illegal arms brokering in 70 cases (either because they violated the US brokering law or they engaged in broker-like actions by conspiring to break US arms-control laws). These charges provide a picture of the threats and tactics from problematic arms brokers (see the Appendix for information on each of the cases).³⁶ Many of these arms brokering cases involved the transfer of arms that posed serious threats to US troops overseas, and civilians at home and abroad, as well as fueling armed conflict. Usually initiated by information about suspected illegal arms brokering, US law enforcement officials used undercover agents or informants to catch such brokers in 27 of the 70 cases. Outside of US prosecutions, the US government has also urged governments, such as those of Armenia and Yemen, to better tackle arms brokers.

In eight of the 70 cases, private arms brokers allegedly aimed to send, or actually sent, arms to US-designated terrorist organizations based in Afghanistan, Colombia, the Philippines, or Sri Lanka.³⁷ In five of the eight US prosecutions, foreign arms brokers operating abroad allegedly transferred, or attempted to transfer, a range of arms to Colombia's Fuerzas Armadas Revolucionarias de Colombia (FARC).³⁸ In another case involving US-designated foreign terrorists, US law enforcement officials arrested and charged Rahmat Abdhir, a US citizen, with conspiracy to provide material support to a specially-designated terrorist. From June 2006 to 2007, Rahmat and his brother Zulkifli (a US specially-designated terrorist) allegedly coordinated the shipment of Colt.45 magazines, a rifle scope, and a firearms manual to Jemaah Islamiyah, a US-designated foreign terrorist organization operating in the Philippines.³⁹ Senior members of Jemaah Islamiyah have recently admitted to the attack on civilians vacationing in Bali in 2002, which killed 202 people.⁴⁰ The other two cases involved the Taliban in Afghanistan and the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka.⁴¹

Figure 1. Destination of illegal arms transfers for US-related arms-brokering cases by region, January 2007 to June 2011

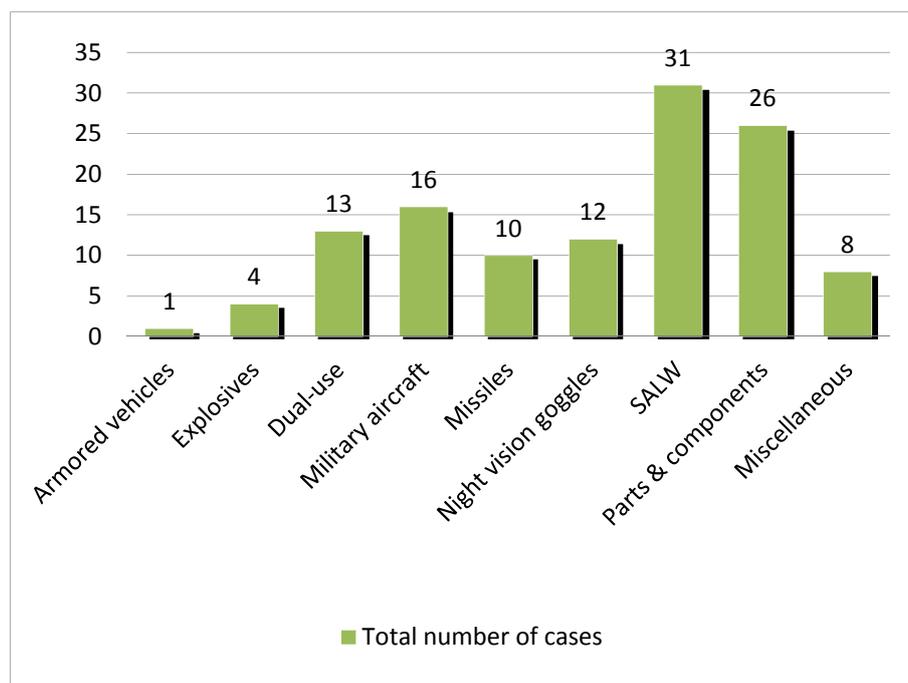


Source: US Department of Justice, "Summary of Major U.S. Export Enforcement and Embargo Prosecutions: 2007 to Present"

Similar to previous US Department of Justice analysis on US prosecutions of export violations, Iran and China continued to be top destination countries for US prosecutions of arms brokers engaged in illegal arms and dual-use transfers from January 2007 to June 2011 (see Figure 1). Arms brokers most often attempted to and actually delivered US-origin military aircraft parts, such as for F-14 fighter jets and Chinook military helicopters, and also military-grade night vision goggle sets and assault rifles, to Iran. In a total of 13 cases, arms brokers delivered or attempted to deliver arms to Iran by saying the arms were destined for the UAE or Malaysia; one included Colombia as a diversion point.⁴² While it was unclear who the intended recipient was in a few cases, ten different countries in Asia, from Indonesia to South Korea, were involved in US prosecutions related to illegal arms brokering. There were also three cases in which arms brokers allegedly attempted to transfer thousands of arms to countries under a US and/or UN arms embargo in Africa (Côte d'Ivoire, Somalia, and Zimbabwe), each of which would likely have fueled armed conflict, increased serious human rights violations, and undermined development.

In two of the cases in the Americas, US attorneys convicted private arms brokers for conspiring to import surface-to-air missiles into the US, raising concerns that such arms could be brought into the US undetected for attacks on US civilian airplanes. On May 9, 2011, for example, Yi Qing Chen of Rosemead, California, received a sentence of 25 years in prison for schemes to smuggle Chinese-made QW-2 shoulder-fired missiles into the US to shoot down aircraft, as well as various other types of offenses. An undercover Federal Bureau of Investigation had targeted Chen and others as part of Operation Smoking Dragon, which was created to stop smuggling operations in Southern California.⁴³ In a similar case, Artur Solomonyan, the reported leader of an international arms trafficking operation, was sentenced to 22 years in prison on March 6, 2009, for plotting to broker a deal to import rocket-propelled grenades, Stinger anti-aircraft missiles, and AK-47s located in Armenia into the US.⁴⁴

Figure 2: Number of arms and dual-use items in US prosecutions related to arms brokering by type, January 2007 to June 2011



In 31 of the 70 US prosecutions, arms brokers allegedly chose or did choose to illegally transfer SALW or related ammunition and components, making it the most popular type of arms involved in such US prosecutions (see Figure 2). On September 10, 2010, for example, Immigration Customs and Enforcement (ICE) arrested Nguessan Yao, an Ivorian citizen, on suspicion of conspiracy to export “4,000 handguns, 200,000 rounds of ammunition, and 50,000 tear gas grenades” from the US to Côte d’Ivoire, which is under a UN arms embargo.⁴⁵ At the time, Côte d’Ivoire was in a delicate ceasefire between opposition groups; such a transfer could have been enough to encourage one of the fighting forces to break the agreement. Parts and components for all types of arms, but particularly for military jet and helicopter aircraft, ranked second in such US prosecutions. In a total of four of the 26 cases associated with parts and components or dual-use items, the defendants allegedly or actually aimed to export components related to the creation of weapons of mass destruction. In one such example, on October 20, 2010, the US Department of Justice sentenced Juwhan Yun to 57 months in prison for illegally brokering components for a number of items, including a propulsion system for long-range missiles on the Missile Technology Control Regime control list to South Korea.⁴⁶ Yun had previously been convicted in US courts for an attempt to export Sarin gas.⁴⁷

In the last decade, the US has also increasingly sought to arrest or stop certain foreign arms brokers (usually dealing in foreign arms), such as Viktor Bout, who are generally considered outside the jurisdiction of US arms control laws. For instance, the US government has had at least six such brokers arrested related to arms transfers to the FARC, Iran, or Somalia since January 2007 using undercover agents or informants.⁴⁸ The Syrian arms dealer Monzar Al-Kassar, for example,

was reportedly responsible for being a source of arms for various armed factions engaged in violent conflicts around the world since the 1970s.⁴⁹ Al-Kassar and his partner, Tareq Mousa al-Ghazi, were sentenced to 30 and 25 years in prison, respectively, on July 1, 2009, for conspiring to sell foreign-origin surface-to-air missiles, grenades, and assault rifles to a US-designated foreign terrorist organization (FARC).⁵⁰ After another such broker, Paul Mardirossian, was extradited from Panama to New York, the US Drug Enforcement Administration special agent in charge, Derek Maltz, said "Mardirossian commanded a global empire of weaponry and sought to arm and fund insurgents and terrorists around the world. With [Mardirossian] out of business and in a US courtroom, the world is a safer place."⁵¹

Outside of US prosecutions, the US government has also been urging foreign governments to stem arms brokers involved in illegal arms transfers against US interests. In the past few months, US military and diplomatic leaders have raised serious concerns about arms trafficking into Iraq from Iran; US Defense Secretary Leon E. Panetta reportedly called it a "tremendous concern" and said that "they're [arms] really hurting us" in July 2011.⁵² In one case, US officials determined an Armenian front company was involved in brokering Bulgarian rocket-propelled grenades to Iraq, which were later used by Iraqi insurgents to kill US soldiers and injure others.⁵³ As a result, US diplomats have been pressuring the government of Armenia to improve its regulatory efforts on arms brokers as well as other arms controls.⁵⁴

US government challenges to stemming unscrupulous arms brokers

While the US government has been able to bring several well-known arms traffickers to trial in the last few years, such as Viktor Bout and Monzar Al-Kassar, the government has faced some challenges in stopping individuals and companies involved in such crimes abroad. According to current and former US officials and other available information, weak foreign arms control laws and lax political will have consistently caused the US government serious problems in stopping several unscrupulous arms brokers abroad.⁵⁵ Such problems have occurred while the US government has tried to enforce US arms control laws, and when urging foreign governments to stop problematic arms brokers. In the past few years, at least five brokers accused of violating US arms control laws have escaped justice or had their initial US extradition requests rejected for similar reasons.⁵⁶ Of the 70 US prosecutions of arms brokers, some 16 individuals are listed as fugitives or “at large” in US court documents (see Table 1). Narrowly-crafted foreign arms control laws – or lax enforcement – also appear to have contributed to the prevention of the United States from extraditing a dealer who allegedly trafficked US-origin ammunition magazines to Guatemala, as well as to foreign countries’ abilities to stop or hold accountable brokers trafficking weapons against UN arms embargoes.

During early efforts to stop Viktor Bout, US and foreign law enforcement organizations continually encountered difficulties charging him because foreign national laws often failed to control his activities. From early to mid-1997, Belgian law enforcement officials discovered that many of Bout’s airplanes at Ostend Airport, Belgium, were reportedly flying out empty, picking up arms in Bulgaria or Romania, and then flying these to Rwanda, in violation of the UN arms embargo on Rwanda.⁵⁷ However, Belgian officials could not arrest Bout because the planes were registered in Liberia, and Belgium did not have jurisdiction over foreign-registered planes when they left Belgium.

By early 2001, when the United States was ramping up efforts to stop Bout, the US government again struggled with foreign national laws. According to an in-depth book about Viktor Bout, Richard A. Clarke, then with the US National Security Council, thought it made sense to arrest Bout in South Africa or the UAE, but was not sure what, if any, laws would work to prosecute Bout.⁵⁸ In the UAE, for instance, the US government had been pushing the government to adopt stronger laws on arms trafficking, but it had so few regulations related to weapons trafficking and aircraft registration that Clarke did not think it would be possible.⁵⁹ Even when the US government finally had Bout arrested in Thailand, the Thai courts initially rejected the US government’s extradition request, saying they did not recognize the FARC as a terrorist organization.⁶⁰ Other recent US extradition requests of arms brokers appear to have been initially rejected for similar reasons.⁶¹

In the last few years, the US government has continued to encounter similar challenges with arresting and extraditing private arms brokers alleged to have violated US arms control laws, but with poorer results. In 2007, for instance, the US government sought the arrest of Yousef Boushvash, allegedly responsible for conspiring to illegally transfer F-14 fighter jet parts from the United States to Iran via UAE and Thailand.⁶² However, soon after he was arrested by the Hong Kong authorities in October of that year, pursuant to a US arrest warrant, the Hong Kong authorities released him, reportedly because of pressure from the government of Iran.⁶³ Boushvash is now a fugitive, and is included on Interpol's list of wanted suspects.⁶⁴ In another case involving the US export of 3,500 US military-grade night vision goggles from the United States to Iran via Austria, Shahrazad Mir Gholikhan and her husband, Mahmoud Seif, pleaded guilty to an Austrian arms export violation.⁶⁵ However, the two only spent 28 days in jail, and Mahmoud Seif remains a fugitive. A former Austrian arms control official said the light sentence was because of Austria's relatively weak penalties associated with such arms control violations at the time.⁶⁶

Table 1. Selected fugitives accused of US crimes related to arms brokering from January 2007 through June 2011

Name	Types of Arms	Intended Destination
<i>Akn Prasad Sampath Sundar</i>	US-controlled microprocessors and other electronic components, for use in ballistic missiles, space launch vehicles, and combat fighter jets	Iran
<i>Ali Akbar Yahya Farshid Gillardian</i>	US electronics and improvised explosive device (IED) components	Iran
<i>Amir Hosein Atabaki Abbas Haider</i>	US-made military aircraft parts for the F-5 fighter jet, the Bell AH-1 attack helicopter, the CH-53 military helicopter, the F-14 fighter jet, and the UH-1 military helicopter	Iran
<i>Brian Woodford</i>	US military and commercial aircraft components	Iran
<i>Dara Fatouhi</i>	US F-5 fighter jet engines and parts	Iran
<i>George Ngoc Bui</i>	US night vision goggles	Vietnam
<i>Mahmoud Seif Hamid Reza Kargar</i>	US night vision goggle units	Iran
<i>Romolo Reclusado</i>	Assault weapons parts and gun sights	Philippines
<i>Ronnell Rivera</i>	US firearms parts	Philippines
<i>Syed Majid Mousavi</i>	US missile components	Iran
<i>Yusef Boushvash</i>	US F-14 fighter jet components	Iran
<i>Zulkifli Abdhir</i>	Colt.45 magazines, rifle scopes, and other materials	Philippines

According to interviews with a US ICE agent who regularly investigates arms export violations, the US government sometimes also experiences difficulties arresting or extraditing individuals charged with violating US arms control laws in a foreign country when that country does not regulate ammunition, firearm parts and components, or dual-use goods.⁶⁷ Of the 70 US prosecutions cited above, arms brokers allegedly attempted to traffic, or successfully trafficked, ammunition, firearms parts, or dual-use items in 27 cases, highlighting the need to include ammunition, parts, and components in an agreed ATT. According to the ICE agent, he investigated a case in which an individual allegedly transferred firearm magazine cartridges illegally to Guatemala, but Guatemala would not arrest the broker because they did not have specific controls on magazine cartridges.⁶⁸

The US government has also faced challenges when pushing governments to stop working with arms dealers that the UN has said violated UN arms embargoes, and when US officials tipoff a government about an illegal arms transfer transiting through their territory. As mentioned in the case regarding Slobodan Tesic above, Yemeni authorities did not stop working with Tesic even after US authorities presented solid evidence to them that the Tesic with whom they were working was under a UN travel ban. A US government official said that, if Yemen had maintained a list of individuals with which to avoid doing arms deals, they could have avoided working with Tesic. Since then, it has been reported that Tesic was involved in an illegal diversion of 150,000 82 millimeter mortar rounds from Albania to the Libyan military in January 2010, shortly before the uprising began in the latter state.⁶⁹ In April, Libyan government forces reportedly fired mortars in Misrata, Libya, killing and injuring some 20 people, including US and UK photojournalists.⁷⁰ According to a US official, the US government has also sometimes encountered problems when countries do not have the legal authority to inspect or seize arms after US authorities have informed them about a particular illegal arms transfer transiting their territory.⁷¹ In a related example, New Zealand authorities were not able to prosecute a New Zealand-registered transport company for violations of a UN arms embargo despite the company's clear involvement in the deal (see Box 2 below for details).

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Weak national arms-control laws

While there have been some improvements in the last 10 years in addressing weak foreign arms-control laws, particularly throughout Eurasia, many countries still lack the necessary controls to effectively curb unscrupulous arms brokers or extradite brokers who violate US law. According to the US Department of Justice, the US government can usually work with a foreign government to arrest and extradite arms brokers who violate US law as long as the foreign country has some sort of basic arms control laws.⁷² However, out of a total 154 countries that have reported to the UN on their implementation of the UN Program of Action on SALW, only 73 countries said they have controls on the export of SALW (see Figure 3).⁷³ Only 56 governments have indicated they have specific crimes related to the illegal international transfer or illegal manufacturing of SALW, a necessary component for extradition.⁷⁴ In some cases, countries reportedly do not have specific crimes associated with violating UN arms embargoes.⁷⁵ As of 2006, Asia, particularly Pacific Asia, accounts for a large portion of the countries without export controls, but countries in the Americas, Africa, and the Middle East also are missing such controls.⁷⁶ In most cases, however, countries need more than just basic controls to stop problematic arms brokers.

Figure 3: Number of countries reporting key types of international arms transfer controls



As evidence in the example at the end of the preceding section regarding Slobodan Tescic, foreign countries can sometimes identify whether a particular arms transfer has the potential to be diverted to an unintended end-user by evaluating the specifics of the transfer. In the case in which Albanian arms went to Libya, the transfer of such a large quantity of mortars to a rather small population should have raised some suspicion among Albanian government officials, as well as the fact that Tescic was involved in the deal. An estimated 150 countries, however, did not officially make such a risk assessment, as of 2006.⁷⁷

Similarly, governments can require official documentation or EUCs from the importing state before approving an arms export license to assess the chance of diversion or misuse. As there have been many cases in which unscrupulous arms brokers have obtained forged EUCs, governments also sometimes verify the order with the importing state. However, only about 50 governments have indicated that they require some sort of end-user certification before approving an arms export.⁷⁸

As many problematic international arms transfers pass through third countries before reaching their final destination, these transit countries present an opportunity to stop arms from reaching undesired end-users or entities under UN arms embargoes. In at least 20 of the 70 cases of US prosecutions related to illegal arms brokering mentioned in the preceding section, the brokers allegedly or actually aimed to transport arms through one or more countries or have them diverted at a third country before reaching the final destination. However, only 60 countries have reported that they have specific controls on the transit or trans-shipment of SALW.⁷⁹ At the basic level, governments need the legal ability to physically inspect cargo traveling through their territories by sea, air, or land when they have information about a problematic or illegal arms transfer, as well as the authority to seize and dispose of the arms, but some countries do not even have these critical authorities.⁸⁰ Other countries do not have the appropriate laws or abilities to prosecute perpetrators (see Box 2 below for an example).

Box 2. New Zealand-registered plane involved in arms deal from North Korea

Reportedly acting on a tip from US intelligence about a possible arms deal from North Korea, the Thai authorities intercepted an air cargo plane that stopped in Bangkok to refuel on December 12, 2009.⁸¹ Inside the Ilyushin-76 aircraft, Thai authorities discovered a “39 ton haul of North Korean weaponry, including rocket-propelled grenades, missile and rocket launchers, missile tubes, surface-to-air missile launchers, spare parts, and other heavy weapons at an estimated value of \$18 million” bound for an Iranian user.⁸² Among the many companies reportedly involved in the deal was a New Zealand-registered company, SP Trading, whose role was investigated by the New Zealand authorities.⁸³ While New Zealand officials were able to bring charges against the “nominee director” of SP Trading for a minor technical error, they were not able to charge the director or anyone else for crimes related to violations of UN sanctions on North Korea or Iran because of gaps in New Zealand law. None of the other foreign-based companies reportedly involved in the deal have been held accountable for violating UN sanctions as well, as of late 2010.⁸⁴ In light of SP Trading’s involvement in the deal, New Zealand has been considering adding new provisions to its laws to address related problems, including the ability to cancel the registration of transportation companies where there are concerns about the “bona fides” of the people involved.⁸⁵

To effectively curb problematic arms brokers, countries must also establish national laws and regulations that specifically cover a range of arms brokering activities. As was seen in Viktor Bout’s actions at

Ostend Airport, his planes operated out of one country but the arms involved in the transfers never touched that country, avoiding Belgian laws at the time. As of 2010, an estimated 52 governments have indicated that they have specific controls on arms brokering; only 25 have indicated that they have penalties associated with such controls.⁸⁶ Unlike the US law on arms brokering, however, many of these brokering laws are also fairly narrow in scope. For instance, “only 14 states had reported to the UN that they had legal provisions to regulate arms brokering carried out in foreign countries by their citizens, legal residents and registered or incorporated companies.”⁸⁷ Other governments have also failed to include activities such as financing, transportation, and freight forwarding in their definitions of arms brokering activities, making it difficult to catch arms brokers who frequently engage in such activities.⁸⁸

A way forward

In response to the serious threats and challenges posed by unscrupulous arms brokers, the US government has been active in urging other governments to adopt stronger and more comprehensive national arms control laws through both bilateral and multilateral efforts. While US bilateral efforts have had some successes, Department of State officials say they sometimes experience challenges convincing some governments to adopt stronger arms control laws solely through bilateral US efforts for a variety of reasons, ranging from concern that it would appear they are too close to the US, through to a lack of political will to reform. The challenge in convincing countries to strengthen laws bilaterally is especially high in some countries formerly associated with the Soviet Union, and in the Middle East.⁸⁹ As a result, the US government has supported some regional and multilateral agreements in the last few years on the international transfer of SALW to build a broader consensus on the need to combat related problems, and to obtain leverage points to encourage reform. However, the US is limited by the lack of a legally-binding global agreement that requires governments to adopt national controls on the international transfer of all conventional arms.

Thus, the proposed ATT presents a unique opportunity to help create a global mechanism to address unscrupulous arms brokers. Initially inspired by Nobel Peace Laureates, and human rights and humanitarian NGOs that have seen and studied the devastating effects of the uncontrolled proliferation of arms, the ATT aims to create a legally-binding treaty requiring states to regulate the transfer of all conventional arms, ammunition, parts and components against rigorous criteria.⁹⁰ Following the lead of Argentina, Australia, Costa Rica, Finland, Japan, Kenya, and the United Kingdom, the UN General Assembly adopted Resolution 61/89 in December 2006, which mandated the UN to begin work on the ATT. The UN Secretary General conducted a consultation with member states during 2007, followed by the establishment of a Group of Government Experts (GGE) in 2008, and an Open-Ended Working Group in 2009. During the UN General Assembly First Committee in October 2009, a negotiating mandate was proposed in a resolution, which saw the United States formally support the ATT initiative.⁹¹ During 2010 and 2011, Preparatory Committees (PrepComs) have taken place in the run-up to a final Diplomatic Conference in July 2012, during which states will aim to conclude negotiations.

During the PrepComs, states have discussed and proposed items that could be included in the eventual ATT, encompassing a broad number of requirements for countries that, if agreed to and effectively implemented, would curb unscrupulous private arms brokers and therefore assist US government efforts in prosecuting brokers who violate US laws. The July 2011 Chair's paper, for example, calls upon governments to regulate the international transfer of a broad range of conventional arms,⁹² including parts, components, and ammunition related to conventional arms, that could help address specific problems the United States has encountered in its attempts to arrest

arms brokers who violate US law. The Chair's draft paper also includes requirements for states to establish effective national control systems for authorizing and licensing exports, and to take necessary measures to control brokering activities taking place within their territories and by their nationals abroad, such as by requiring the registration of brokers.⁹³ Importantly, it also calls on governments to establish effective penalties for violations of national arms control laws and to provide the "widest measure of mutual legal assistance in investigations, prosecutions, and judicial proceedings in relation to violations of the provisions of this Treaty."⁹⁴

To push governments to help prevent problematic or illegal arms transfers, or stop them en route, governments need to decide whether or not to authorize a transfer against a rigorous set of criteria. For instance, states should not authorize a transfer if it would violate any UN Security Council measures, including UN arms embargoes and travel bans. Governments also must not authorize an arms transfer if there is a "substantial risk" that those arms would be used to undermine peace and security, commit or facilitate serious human rights violations, seriously undermine poverty reduction efforts, or support or encourage terrorist acts. The criteria could help the US and other governments in efforts to persuade states to refrain from arms transfers where there is a strong likelihood they would be diverted to areas where the weapons are likely to be used for unlawful acts. To help decrease the chances of diversion, the draft paper addresses how importing states should provide appropriate documentation to exporting states, such as EUCs, as well as verification of the proposed delivery. In addition, there has been discussion at the UN preparatory meetings on the ATT about requiring countries to ensure that they have the national authorities needed to inspect and seize shipments that are being transferred in violation of the treaty.⁹⁵

As a way to assist governments in need of technical and financial resources to implement the treaty, as well as to reinforce the obligations of the treaty, some governments have proposed the creation of an implementation support unit. This unit would serve as a repository for annual reports submitted by countries on their treaty obligations, act as a clearing house for offers and requests for assistance, and conduct outreach to increase awareness of the treaty and its obligations, among other items. Such a unit could also play a strong role in creating user guides or best practice guides on how to effectively implement the obligations of the treaty. For instance, governments may need direction on how to conduct evaluations of all the parties engaged in an arms deal to help identify individuals such as Slobodan Tesic, who have been named in UN reports for violating arms embargoes, or who have been indicted or convicted for illegal arms transfers abroad. Best practices could also be developed to help create model transit and trans-shipment controls that are effective in assisting governments to identify and stop unsavory actors in a way that does not seriously impede international commerce. In addition, the implementation unit could also help ensure that governments adopt laws on arms brokering that cover brokers extraterritorially and include activities regarding transportation, freight forwarding, and financing.

The July 2011 Chair's papers therefore provide a strong basis for the July 2012 negotiations. While the chair's draft paper on the ATT only represents his views on what governments have stated they want in an eventual treaty, and official negotiations have yet to commence, the draft paper provides several requirements that could significantly assist US efforts to address the scourge of unscrupulous arms brokers and help protect civilians around the world. As governments continue to prepare for negotiations, US officials will need to ensure that the strong provisions included in the Chair's drafts on export authorizations, brokering, EUCs, enforcement, mutual legal assistance, and an effective implementation support unit are included in the final treaty. The US government will also need to work hard to keep a broad range of conventional arms in the treaty, including parts, components, and SALW, and to include requirements on transit controls. The US should also reconsider its current opposition to the inclusion of ammunition for small arms in the scope of the treaty, as the trafficking in such ammunition regularly fuels entities under US and UN arms embargoes, war criminals, and human rights abusers.

Recommendations

For an Arms Trade Treaty to be an effective tool assisting the US and other governments stop illegal arms brokering it must:

- Be comprehensive in scope – covering all types of conventional weapons, all types of transfers, and all types of transactions. This would include provisions on brokering and transfer controls on small arms, parts and components, and small arms ammunition;
- Include transfer control criteria that would prohibit states from authorizing an international transfer of arms or ammunition where there is a substantial risk that they will be used for serious violations of international human rights or humanitarian law, seriously impair poverty reduction or socio-economic development, or facilitate terrorist acts or organized crime;
- Include a mechanism, like the proposed Implementation Support Unit, for information sharing between states about weapons, transfers, transactions, and aircraft that harmonizes the many different information-sharing tools that currently exist in the international system;
- Include provisions covering the multi-jurisdictional nature of arms brokering and the procedures for prosecution in such cases;
- Require national implementation measures, including legislation, to ensure the Treaty's full, clear implementation. Such legislation should include:
 - the criminalization of illegal brokering activities, and the establishment of penalties, such as fines or imprisonment for violations;
 - a clear legal definition on persons, entities, and activities

subject to national controls;

- a system of registration able to screen those wishing to engage in the trade of military equipment, including brokering activities;
- a system of licensing brokering transactions, in which decisions should be taken according to explicit and comprehensive criteria;
- an adequate system of state monitoring, including, *inter alia*, mandatory record-keeping and reporting on the part of the broker and post-delivery verification mechanisms;
- Be supported by an international assistance mechanism to help smaller states to develop their national legislation and practices in line with the Treaty;
- Include transparency measures, including regular national reporting on national arms transfers.

As seen by the many prosecutions, and the challenges the US government has in stemming unscrupulous arms brokers (mentioned in previous sections), these brokers pose serious threats to US and global security, including that of US troops overseas and civilians at home. Without improved national arms control laws around the world, and greater national attention to these issues, however, these unscrupulous arms brokers will continue to easily find ways to escape justice.

A strong and comprehensive ATT could go a long way towards improving this serious and complex problem.

Appendix

Selected US Prosecutions Related to Illegal Arms Brokering, January 2007 through June 2011 (Source: US Department of Justice, up-to-date as of June 1, 2011)				
	<u>Date of Legal Action</u>	<u>Lead Defendant</u>	<u>Military or Dual-Use Item(s)</u>	<u>Destination Country / End User</u>
1	Pled guilty on June 1, 2011	Hong Wei Xian	Radiation-hardened aerospace technology	China
2	Pled guilty on May 11, 2011	Hector Antonio Guillen-Martinez	Automatic rifles and plastic explosives	Colombia / FARC
3	Extradited on May 9, 2011	Paul Mardirossian	Military-grade weapons, AK-47s and grenade launchers	Colombia / FARC
4	Sentenced on May 9, 2011	Yi Quing Cheng	Surface-to-air missiles	US
5	Pled guilty on May 5, 2011	John Dennis Tan Ong	M4 rifle parts	Philippines
6	Extradited on April 29, 2011	Alwar Pouryan	Surface-to-air missiles	Afghanistan / Taliban
7	Pled guilty on April 19, 2011	David Diaz-Sosa	Anti-aircraft missile and machine guns	Mexico / Drug Cartel
8	Pled guilty on March 24, 2011	Lian Yang	Radiation-hardened defense and aerospace technology	China
9	Sentenced on March 22, 2011	Yanny Aguila Urbay	Assault rifles and explosives	?
10	Indicted on March 10, 2011	Angelo Vega	Firearms and ammunition	Mexico
11	Arrested on March 8, 2011	Nadeem Akhtar	Nuclear-related dual-use commodities	Pakistan
12	Charged on Feb. 10, 2011	Henson Chua	Unmanned aerial vehicle	Sold via Internet / eBay
13	Indicted on Feb. 8, 2011	Guy Savage	Firearm components	UK
14	Sentenced on Feb. 4, 2011	Ruslan Gilchenko	Tactical SUVs armed with M134 mini guns	Turkmenistan
15	Indicted on Jan. 25, 2011	Avila	AK-47s and other firearms	Mexico
16	Pled guilty on Jan. 7, 2011	Dario Rodriguez-Gomez	Semi-automatic assault rifles	Mexico
17	Sentenced on Jan. 7, 2011	Amen Ahmed Ali	Bulletproof vests and chemical protective suits	Yemen
18	Sentenced on Jan. 3, 2011	Emenike Charles Nwankwoala	Weapons and ammunition	Nigeria
19	Pled guilty on Dec. 14, 2010	Sergey Korznikov	Rifle scopes, firearm magazines, and other military equipment	Russia
20	Sentenced on Nov. 9, 2010	Julian Garcia-Penalzoza	Fully-automatic AK-47s	Mexico / drug cartel

21	Indicted on Nov. 5, 2010	Flyod Stilwell	Military aircraft engines	Venezuela
22	Convicted on Oct. 18, 2010	Balraj Naidu	Missiles, grenade launchers, and other weapons	Sri Lanka / LTTE
23	Pled guilty on Oct. 5, 2010	Joseph O'Toole	Bosnian- and US-origin AK-47 assault rifles	Somalia
24	Complaint filed on Sept. 9, 2010	Nguessan Yao	Handguns, ammunition, and teargas grenades	Ivory Coast
25	Pled guilty on May 14, 2010	Sam Ching Sheng Lee	Thermal- imaging cameras	China
26	Indicted on March 25, 2010	Hok Shek Chan	Military flight-simulation technology	?
27	Indicted on Feb. 24, 2010	Romulo Reclusado	Assault weapons parts and gun Sights	Philippines
28	Indicted on Feb. 23, 2010	Junior Estiven	Semi-automatic pistols	Cayman Islands
29	Indicted on Feb. 17, 2010	Viktor Bout	Foreign-origin anti-aircraft missiles, rifle parts, ammunition, and landmines	Colombia/FARC
30	Pled guilty on Jan. 7, 2010	Ioannis Papathanassiou	Foreign- or domestic-origin night vision goggles, M4 rifles, and armored vehicles	Purchasers in Yemen, Libya, Chile, and Vietnam
31	Indicted on Dec. 2, 2009	David Baniameri	Missile components	Iran
32	Indicted on Dec. 2, 2009	Amir Hossein Ardebili	Military electronics for radar, fighter jets, and missiles	Iran
33	Indicted on Nov. 24, 2009	Dani Nemr Tarraf	Anti-aircraft missiles and machine guns	Syria
34	Pled guilty on Nov. 23, 2009	Jacques Monsieur	US fighter jet engines and parts	Iran
35	Sentenced on Nov. 5, 2009	Laura Wang-Woodford	Military and commercial aircraft components	Iran
36	Sentenced on Oct. 8, 2009	Jian Wei Ding	Carbon-fiber material with rocket and spacecraft applications	China
37	Sentenced on Oct. 1, 2009	Zhen Zhou Wu	Military and restricted dual-use electronic components	China
38	Indicted on July 7, 2009	Chi Tong Kuok	Sensitive military-encryption technology	China
39	Sentenced on July 1, 2009	John Reece Roth	Military technical data on unmanned aerial vehicles	China
40	Sentenced on July 1, 2009	Tareq Mousa al-Ghazi and Monzer Al-Kassar	Missiles and other arms	Colombia / FARC
41	Sentenced on July 1, 2009	Bing Xu	Military night vision technology	China
42	Sentenced on July 1, 2009	Timothy and Joseph Oldani	Military optics	Sold via Internet (eBay)
43	Sentenced on June 11, 2009	Traian Bujduveanu	Fighter jet and military helicopter components	Iran
44	Sentenced on May 14, 2009	Joseph Piquet	Missile target-acquisition technology	China
45	Arrested on April 15, 2009	Juwhan Yun	Rocket propulsion systems, engines, and technology	South Korea

46	Indicted on April 2, 2009	Baktash Fattahi	Military aircraft components	Iran
47	Arrested on March 14, 2009	Hossein Ali Khoshnevisrad	Aircraft engines and advanced surveillance cameras	Iran
48	Sentenced on March 6, 2009	Arthur Solomonyan	Surface-to-air missiles	US
49	Sentenced on March 6, 2009	Shahrazad Mir Gholikhan	Military night vision goggles	Iran
50	Arrested on Dec. 30, 2008	Sam Ching Sheng Lee	Thermal-imaging cameras	China
51	Arrested on Dec. 3, 2008	Liem Duc Huynh	Military night vision systems	Vietnam
52	Complaint filed on Oct. 29, 2008	Ryan Mathers	Military night vision systems	Hong Kong via eBay
53	Sentenced on Sept. 26, 2008	Qing Li	Military accelerometers	China
54	Indicted on Sept. 18, 2008	Ali Akbar Yahya	IED components and electronics	Iran
55	Indicted on Sept. 9, 2008	Siddabasappa Suresh	Controlled technology, including complex electronic instruments	India
56	Pled guilty on Sept. 5, 2008	George Frank Myles, Jr.	Fighter jet components	Iran
57	Sentenced on Aug. 28, 2008	Desmond Dinesh Frank	Military aircraft components	China and Iran
58	Sentenced on Aug. 11, 2008	Mythili Gopal	Missile technology	India
59	Pled guilty on July 28, 2008	Tomoaki Ishiba	Night vision firearm sights	Japan
60	Pled guilty on June 19, 2008	Jilani Humayun	F-5 and F-14 fighter jet components	?
61	Indicted on June 6, 2008	Sergey Korznikov	Rifle scopes, firearm magazines, and other military equipment	Russia
62	Charged on May 12, 2008	Lance Brooks	Ammunition and defense training	Jamaica / UAE
63	Ruling to extradite on April 10, 2008	Nosratollah Tajik	Military night vision systems	Iran
64	Arrested on April 8, 2008	Peter Spitz	Russian attack helicopters	Zimbabwe
65	Sentenced on March 24, 2008	Chi Mak	Naval warship data	China
66	Sentenced on Dec. 3, 2007	Philip Cheng	Military night vision technology	China
67	Indicted on Nov. 20, 2007	Yousef Boushvas	F-14 fighter jet components and other military items	Iran
68	Indicted in Sept. 2007	Luz Mery Gutierrez Vergara	Weapons, ammunition, and high-technology devices	Colombia / FARC
69	Indicted on Aug. 1, 2007	Rahmat Abdhir	Ammunition magazines, rifle scopes, and radios	Philippines / Jemaah Islamiyah
70	Pled guilty on Jan. 18, 2007	Hadianto Djuliarso	Machine guns, sniper rifles, and other arms	Indonesia

Notes

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- ² Author interview with US government official in Washington, DC in April 2011. The Guardian, "US Embassy Cables: US fears Yemen arms purchases could end up on the black market," December 6, 2010, online at <http://www.guardian.co.uk/world/us-embassy-cables-documents/241318?intcmp=239>
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- ⁴ Author interview with US government official in Washington, DC in April 2011.
- ⁵ Ibid. According to this U.S. government official, after Tescic delivered the arms to the Yemeni authorities, they were not happy with them saying some of them were faulty and that they paid way too much money for them.
- ⁶ US Department of Justice, National Security Division, "More than 145 Defendants Charged in National Export Initiative During Past Fiscal Year," press release (October 28, 2008), <http://www.justice.gov/opa/pr/2008/October/08-nsd-958.html>
- ⁷ For more information on these issues, see: Loretta Bondi and Elise Keppler, "Casting the Net? The Implications of the U.S. Law on Arms Brokering" (The Fund for Peace, 2001), <http://www.fundforpeace.org/web/images/pdf/thenet.pdf>, and Colby Goodman, "Dealing with Arms Intermediaries: The Pentagon's Missing Controls on Contractors Engaged in Arms Transfers," Policy Briefing (Amnesty International USA, September 2009), <http://66.151.110.207/pdf/DealingWithArmsIntermediariesPolicyBriefing.pdf>
- ⁸ Bondi and Keppler, "Casting the Net?" (2001).
- ⁹ Ibid.
- ¹⁰ Ibid.
- ¹¹ Ibid. US Department of State DDTC, Consolidated ITAR 2011, International Traffic in Arms Regulations (ITAR), Section 129.2, http://www.pmdtc.state.gov/regulations_laws/documents/consolidated_itar/Part_129.pdf
- ¹² US Department of State DDTC, Consolidated ITAR 2011, Section 129.2.
- ¹³ Brian Wood and Johann Peleman, "Brokering Arms for Genocide," *The Arms Fixers: Controlling the Brokers and Shipping Agents* (Norway, PRIO/NISAT/BASIC, 1999) <http://www.prio.no/upload/957/Chapter3.html>. Another good source on arms trafficking to Rwanda: Stephen D. Goose and Frank Smyth, "Arming Genocide in Rwanda," *Foreign Affairs* (September/October 1994), <http://www.foreignaffairs.com/articles/50333/stephen-d-goose-and-frank-smyth/arming-genocide-in-rwanda-the-high-cost-of-small-arms-transfers>
- ¹⁴ Bondi and Keppler, "Casting the Net?" (2001), 16.
- ¹⁵ Brian Wood, "The Prevention of Illicit Brokering of Small Arms and Light Weapons: Framing the Issue," *Developing a Mechanism to Prevent Illicit Brokering in Small Arms and Light Weapons* (UNIDIR, 2006), 34-35, <http://www.unidir.org/pdf/ouvrages/pdf-1-978-92-9045-188-4-en.pdf>.
- ¹⁶ Holger Anders and Alex Vines, "Sanctions and Enforcement," *Developing a Mechanism to Prevent Illicit Brokering in Small Arms and Light Weapons* UNIDIR, 2006), UNIDIR/2006/23, 113, <http://www.unidir.org/pdf/ouvrages/pdf-1-978-92-9045-188-4-en.pdf>
- ¹⁷ UN Security Council, "Report of the Panel of Experts Appointed Pursuant to Paragraph 4 of Security Resolution 1458 (2003), Concerning Liberia" (April 24, 2003), S/2003/498, 21-25 <http://reliefweb.int/sites/reliefweb.int/files/resources/F483E4C2B60EC20AC1256D260048C102-unsclib-24apr.pdf>.
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- ¹⁹ Anders and Vines, "Sanctions and Enforcement" *Developing a Mechanism to Prevent Illicit Brokering in Small Arms and Light Weapons* (2006), 113.
- ²⁰ Ibid.
- ²¹ Ibid. Paul Holtom, "Implementation of the EU Common Position on the Control of Arms Brokering," (UN Development Program and the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, 2009), 50, <http://www.seesac.org/news/recent-news/1-50/>
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- ²³ Farah and Braun, *Merchant of Death* (2007), 170-172.
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35 See Appendix and US Department of Justice, "Summary of Major U.S. Export Enforcement and Embargo Prosecutions: 2007 to Present."

36 Ibid. Six additional cases were added to the US Department of Justice "Summary of Major U.S. Export Enforcement and Embargo Prosecutions: 2007 to Present," from US Department of State press releases, because of their added value. The lead defendants in these cases are Yi Qing Chen, John Dennis, Tan Ong, Paul Mardirossian, Arthur Solomonyan, and Luz Mery Gutierrez Vergara. In eight of the 70 cases, the US government charged the defendants specifically with violating the US arms brokering law. According to the US Department of Justice, there have been about 24 cases in which the US government has charged defendants with the brokering law since 1996.

37 See Appendix. The lead defendants in these eight cases are Rahmat Abdhir (Jemaah Islamiyah), Tareq Mousa al-Ghazi (FARC), Viktor Bout (FARC), Hector Antonio Guillen-Martinez (FARC), Paul Mardirossian (FARC), Alwar Poryan (Taliban), Balraj Naidu (LTTE), and Luz Mery Gutierrez Vergara (FARC).

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