

Understanding and Regulating Arms Brokering in Southern Africa

15-17 March 2004, Johannesburg, South Africa

Chairperson's Summary

The Institute for Security Studies hosted the workshop "Understanding and Regulating Arms Brokering in Southern Africa" from 15-17 March 2004 at the Rosebank Hotel, Johannesburg. The meeting was attended by representatives of countries in Southern Africa, Europe and North America, representatives from the United Nations and the Secretariat of the Economic Community of West African States (ECOWAS), non-governmental organizations from South Africa and experts. The objectives of the meeting were to raise awareness on the issues surrounding the brokering of arms in Southern Africa; to learn about the concerns of countries within the region on the issue and current and anticipated responses to arms brokering; and to undertake an assessment of what type actions in Southern Africa could further international, regional and national efforts to regulate arms brokering.

A full report of the workshop will be circulated to all participants, as well as to other interested groups. This summary provides an overview of the discussions undertaken during the meeting, the issues raised and suggestions made during the workshop on ways to move forward.

Context

The workshop took as its point of departure the political framework that exists for discussions on the topic through the United Nations Programme of Action to Combat, Prevent and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, (UN PoA) and the legal framework in the SADC region through the Southern African Development Community's (SADC) Protocol on the Illicit Manufacturing, Trafficking and Use of Small Arms and Light Weapons (SADC Protocol), as well as practical illustrations of arms brokering activities that affect Africa. The recent grounding of an aircraft in Zimbabwe, with questions on the purpose of the flight and the efforts of those on the aircraft to acquire weapons, gave a 'real world' perspective to the meeting.

At the international level, there is momentum to pursue an international common approach to regulating arms brokering. The United Nations General Assembly, in December 2003, adopted resolution 58/241 on small arms, which mandates the UN to hold broad-based consultations with Member

States, interested regional and subregional organizations, international agencies and experts in the field, on further steps to enhance international cooperation to prevent, combat and eradicate illicit brokering in small arms and light weapons.¹ In addition, the governments of Norway and the Netherlands have launched an initiative (the DNI) to gather international support for national, regional and international efforts to regulate arms brokering. The first meeting under the DNI framework will take place in Abuja, Nigeria, in collaboration with ECOWAS from 22-24 March 2004.

Within the SADC region, participants noted that although the SADC Protocol and its Implementation Plan are in place, there is a need to invigorate national and subregional processes to further implementation and to raise recognition of the problems that arms brokers can pose in the region. Participants also recognized the different stages that the countries of Southern Africa have reached in terms of identifying priority areas related to small arms control and in ratifying and implementing the SADC Protocol.

The workshop reviewed a series of substantive issues that together could be developed as key elements of national and/or subregional approaches to regulating arms brokering. These elements will be prioritized according to national and subregional priorities, and are presented in no specific order.

They are:

- Providing a legislative framework for the regulation of small arms, including arms brokering. This could either be through adapting existing national laws or drafting new legislation;
- Developing criteria for licensing brokering activities. The recent model regulations on brokering adopted by the Organization of American States was noted as a possible model;
- Registration of brokers by a designated national authority;
- Identifying the scope of brokering controls and the jurisdiction of the national authority (e.g. territorial limits or extraterritorial);
- Record-keeping;
- Role of transport agents, including both air and maritime transport;
- Implementation of legislation/regulations;
- Enforcement of legislation/regulations and penalties for breaches;
- Information sharing.

A few different processes by which countries could look at move forward in their efforts to share information on challenges, progress and implement brokering regulation were discussed during the workshop. It was recognized that it is possible to move forward simultaneously at different levels. Some of the opportunities that exist include at the UN level:

¹ A copy of the UN Department for Disarmament Affairs' consultation document was provided to workshop participants.

- Providing information to the UN Secretary-General on national views on regulating brokering;
- Participating in the consultations being organized by the UN in New York and Geneva on brokering;
- Preparing national reports and participating in the UN Biennial Meeting of States in 2005 and the UN Small Arms Review Conference in 2006.
- Ratifying the UN Firearms Protocol and working for its early entry into force.

At the subregional level:

- Utilize SARPCCO as the implementing body, as mandated by SADC, for the SADC Protocol to further efforts to implement the SADC Protocol;
- Review the existing Implementation Plan for the SADC Protocol;
- Develop a focus for the work of the SARPCCO legal subcommittee to a) clarify what is needed in terms of progressing with the Implementation Plan and responding to arms brokering in the SADC Protocol and b) develop a process to take both forward;
- Look at approaches and models from other regions, e.g. the EU Common Position or the OAS Model Regulations;
- Engage the SADC Organ and the Secretariat in promoting the implementation of the SADC Protocol.

At the national level:

- Discuss and identify the challenges and opportunities that exist to implement the SADC Protocol, the UN PoA and specific responses to arms brokering;
- Identify approaches and/or models that may be applicable to national priorities;
- Look at ways to build political support for actions within national governments;
- Develop a strategic and proactive response to small arms controls, recognizing the need for implementation capacity and support.
- Sustain the sharing of information on small arms control efforts nationally and subregionally and prioritize sharing information, through Interpol, existing national focal points (NFPs) or other means, on arms brokering.

The chairperson closed by the meeting by thanking those who organized the workshop, Mr Noel Stott and Ms Agar Ngwenya of the ISS, the speakers and the participants for their attention and interest in the topic at hand.

Presented by Ms Sarah Meek, Head, Arms Management Programme, Institute for Security Studies.