



**WFSA**

The World Forum  
on the Future of  
Sport Shooting Activities

**Workshop on  
Export, Import and Brokering  
of Small Arms and Firearms:  
Identifying the Problems,  
Partnerships for Solutions**

**June 13-14, 2002, Naples, Italy**

**Sponsored by**

**World Forum on the Future of  
Sport Shooting Activities**

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## 1. Executive Summary

An international Workshop entitled “Export, Import and Brokering of Small Arms and Firearms: Identifying the Problems – Partnerships for Solutions” was held in Naples on 13-14 June, 2002.

The meeting was sponsored by the Manufacturers Advisory Group (MAG) of the World Forum on the Future of Sport Shooting Activities (WFSA). The meeting was attended by country representatives, experts, and representatives of both manufacturers’ associations and individual companies.

While numerous conferences, workshops and meetings have been held as follow-up efforts to the July 2001 UN Conference on Small Arms, the related issues of export, import and brokering of small arms and firearms have not received a great deal of direct attention. It was the judgement of the Workshop sponsors that such effort was needed.

The primary purpose of the Workshop was to produce a series of recommendations regarding industry support in preventing illicit trafficking in small arms and firearms. These recommendations follow, along with two general recommendations. In order to prevent illicit trafficking in firearms/small arms:

### General Recommendations

1. Effective control of trade is the responsibility not only of the exporting country but also of the importing country<sup>1</sup>.
2. International regulation efforts should not focus on the legal trade in firearms for legitimate hunting and lawful sporting activities.

### Recommendations for Industry and the Sport Shooting Community

1. Industry and representatives of the sport shooting community should continue to gather relevant, non-proprietary data on production, trade, economic effects and holdings of firearms, and should cooperate with other organizations in the development of relevant, reliable data.
2. Industry and representatives of the sport shooting community should continue to work with the international community and national governments in the development of more precise definitions of firearms/small arms.
3. Industry and representatives of the sport shooting community should establish and maintain a database of published national export, import and in-transit restrictions and embargoes at international and regional levels.
4. Industry and representatives of the sport shooting community should consider the development of a code of best business practices including export/import.
5. Industry and representatives of the sport shooting community should produce a report concerning their efforts against illicit trafficking in firearms/small arms.
6. Industry and representatives of the sport shooting community should assist in the development of standardized end-use documentation.
7. Industry and representatives of the sport shooting community should assist in efforts to improve relevant customs regulations and procedures.
8. Industry and representatives of the sport shooting community should continue with efforts regarding marking, and cooperate with other initiatives on marking and tracing

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<sup>1</sup> It was noted by one official that this recommendation should also apply to intransit countries.

9. Industry and representatives of the sport shooting community should assist in international efforts to develop an acceptable uniform definition of brokering.
10. Industry and representatives of the sport shooting community should continue to assist with the development of uniform and consistently applied procedures for transport of firearms and ammunition as airline baggage.

## **2. Description of the Workshop**

### **2.1 Background and purpose**

Export, import, and brokering of small arms and firearms are issues which have been discussed in general terms by numerous meetings and conferences prior to the “United Nations Conference on the Illicit Trade in Small Arms and Light Weapon in All Its Aspects” 9-20 July, 2001 in New York.

The Programme of Action,<sup>2</sup> promulgated by the conference, also makes several references to these topics. Consequently, it was the judgement of the Manufacturers Advisory Committee (MAG) of the World Forum on the Future of Sport Shooting Activities (WFSA) that these topics needed to be discussed with greater specificity and focus.

In addition, the manufacturers were keenly interested in exploring ways in which they might play an active role in the fight against illicit trafficking in small arms/firearms.

This is the fourth in a series of workshops sponsored by MAG and the WFSA. The previous three workshops were:

- ? “Technical and Manufacturing Aspects of Firearms Marking in the context of UN regulation efforts”, Brescia, Italy, 30 September-1 October, 1999.
- ? “Firearms marking: model standards and common serial number codes”, Baia Sardinia (Olbia), Island of Sardinia, Italy, 22-24 June, 2000.
- ? “Defining ‘Small Arms’ as they Pertain to ‘Firearms’ for the 2001 UN Conference on Small Arms”, Imperial War Museum, London, UK, 27 April, 2001.

The purposes of the Workshop are expressed in the title “Export, Import and Brokering of Small Arms and Firearms: Identifying the Problems, Partnerships for Solutions.” Not only were the various issues to be discussed and clarified but it was also hoped that a series of specific recommendations would be produced regarding industry support in preventing illicit trafficking in small arms and light weapons.

### **2.2 Description of WFSA and MAG**

The World Forum on the Future of Sport Shooting Activities was formed in Nuremberg, Germany, in March of 1997. The WFSA is officially incorporated under Belgian law, June 1997, and its secretariat is in Rome, Italy.

In May of 2002, the WFSA was granted official consultative (Roster) status by the Economic and Social Council of the United Nations.

The WFSA is an association of associations with approximately thirty-five members world-wide. Participants include, among others, ANPAM (Italian firearm manufacturers), AFEMS (European ammunition manufacturers), Asociacion Armera

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<sup>2</sup> United Nations, *Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, A/CONF.192/15, 2001.

(Spanish manufacturers), the British Shooting Sports Council, Forum Wafferecht (Germany), IEACS (European sporting arms manufacturers), the National Rifle Association of America, SAAMI (American manufacturers), the South African Gunowners Association, Safari Club International and the Sporting Shooters' Association of Australia.

The WFSA has four Subcommittees and one Advisory Group. The subcommittees are UN and Legislative Affairs, Statistics and Research, Image of Sport Shooting and Environment. The advisory group is the Manufacturers Advisory Group. The affairs of the WFSA are overseen by an Executive Committee that meets twice a year. The current President of the WFSA is Doctor Carlo Peroni of Italy.

Both governments and international organizations have accepted the WFSA as the spokesperson for the world's firearms community in the international arena. It has participated in numerous conferences and workshops focusing on international firearm regulation matters. In addition, the WFSA was the coordinating body for all firearm community groups attending the UN Conference on Small Arms, July 9-20, 2001, in New York.

The Manufacturers Advisory Group (MAG) of the WFSA was established by resolution at the WFSA General Assembly meeting in Nuremberg, Germany, on March 8, 2001. The purpose of the group is to advise the international community, the WFSA and the manufacturing community itself on international firearm regulation matters. Manufacturing is considered to include ammunition manufacturing and export/import activities. Both individual companies and associations may be members of the MAG.

### **2. 3. Participants**

A list of participants is attached.

Workshop participants included representatives from ten nations, six trade associations, four Non Governmental Organizations (NGOs), as well as delegates from the International Commission of Proof Houses (CIP), the Institute for Research on Small Arms and International Affairs (IRSIA), the Small Arms Survey and the Chairman of the United Nations Ad Hoc Committee on Transnational Organized Crime.

## **3. Proceedings**

### **3. 1 Welcome and opening speeches**

Dr. Carlo Peroni, President of the WFSA, opened the workshop at approximately 9:00 AM on 13 June, 2002, in the Hotel Santa Lucia, Naples. Dr. Peroni's welcoming speech is attached.

Mr. C. Edward Rowe, Chairman of the Manufacturers Advisory Group, also made an opening statement, which is attached.

Ambassador Luigi Lauriola, Chairman of the United Nations Ad Hoc Committee on Transnational Organized Crime, concluded the opening portion of the Workshop with his remarks.

### 3.2 Panel presentations

Workshop participants made presentations in four panels. Panel #1 was assigned informational and definitional questions. Participants on the remaining panels were asked to address three questions related to the specific topics assigned to the panel:

1. What is the extent and nature of the problem(s) associated with the issue?
2. What solutions do you (your country) propose?
3. What could the positive role of industry be in addressing this issue?

Panel presentations are attached where the presenter has so desired.

#### 3.2.1 Panel # 1

##### **“Outlining the Issues: Quantifying Small Arms/Firearms Commerce and Holdings – Defining What Will Be Regulated”**

###### Topics:

1. Quantitative profile of all small arms/firearms commerce and holdings
2. To what types of small arms/firearms should any regime apply?

###### Panel members:

Virginia Ezell – IRSIA, Chairperson

Glenn McDonald – Small Arms Survey

James Chambers – The Sporting Arms and Ammunition Manufacturers' Institute (SAAMI)

Henri Heidebroek – Institut Européen des Armes de Chasse et de Sport (IEACS)

Thomas Mason – WFSA

Virginia Ezell discussed the general dynamics of small arms/firearms production.<sup>3</sup> It was noted that during wartime, demand far outstrips production and, conversely, during peacetime the production capacity is much greater than demand. This has the effect of governments generally stockpiling small arms/firearms for their armed forces. It was also noted that there has been a privatization of the small arms/firearms industry. There are far fewer state owned armouries than before.

Another general observation was that small arms/firearms have extreme longevity. There are accounts of 100-year-old fully operational service rifles being used by both armed forces and insurgents.

It was also noted that actual production capacity is very hard to determine. Not only do governments not want to release this information, but companies themselves consider such data proprietary.

One manner of determining holdings by armed forces is to use an “order of battle” formula. Essentially this means taking the total number of a nation’s military personnel and multiplying it by a hypothetical number of firearms per person (i.e.,

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<sup>3</sup> See also, Virginia Hart Ezell, “Small Arms: Dominating Conflict in Early Twenty-First Century,” *The Brown Journal of World Affairs*, IX, Issue 1 (Spring 2002) 305-310.

member of the military). This latter number is known for Canada – 2.25 per member – and is frequently used for evaluating other states.

Glenn McDonald of the Small Arms Survey presented their latest figures from the *2002 Small Arms Survey*<sup>4</sup>. His paper is presented in full at the end of this document. It was initially noted that firearms comprise the vast majority of the small arms that exist. While firearms total over 600 million (see below), there are only 800 thousand mortars in existence.

The *Survey* now estimates that there are 639 million firearms in the world. While this is an increase over the number estimated in the 2001 *Survey*, it does not reflect increased production so much as better data.

Actual firearm holdings are divided into four categories: insurgent groups, police, armed forces and civilians.

Insurgent groups only hold 0.2% of the total firearms. It is asserted, however, that these groups need only a small number of firearms to make an impact.

Police hold 2.8% of the total firearms.

Armed forces hold 37.8% or 241 million. This assumes 2.25 firearms per member of the armed forces, using the “order of battle” approach.

Civilians are by far the greatest holders of firearms at 59.2% for 378 million.

Current production figures also reflect these proportions. According to the *Survey* there were nearly eight million new firearms produced in 2001. Of these, 85% were acquired by civilian buyers, i.e. 6.9 million. Only approximately 700,000 were produced for the military. It was noted that total production adds less than 1% to the total number of firearms. It follows that recirculation of old firearms should be a major policy concern.

James Chambers, of SAAMI, presented figures on American production. It was noted that while there are theoretically 1700 licensed firearm manufacturers in the United States, only 10% of these could be considered major manufacturers.

In addition there are 750 licensed importers in the US.

Three agencies administer matters having to do with firearm exports and imports:

- ? Bureau of Alcohol Tobacco and Firearms
- ? Office of Defense Trade Controls
- ? Bureau of Export Administration in the Department of Commerce

Legislation covering firearm matters in the US is extensive with over 20,000 local, state and federal laws. One of the most significant of these is the 1968 Gun Control Act.

It was also noted that of total US production of 55,737,000 firearms, between 1986 and 1999, only 7% was exported to other countries.

Henri Heidebroek, of IEACS, made a presentation. He asserted that most of the civilian firearms holdings, mentioned by the aforementioned *Small Arms Survey*, were

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<sup>4</sup> The Small Arms Survey is not an advocacy organization and takes no official position on any recommendations of the Workshop.

held by the 55-70 million hunters and sport shooters in the world and are not a threat to public safety.

Heidebroek then presented a discussion of European production figures. (This paper is attached.) Of all European firearms exported, 81% go to the US. Only 14,000 firearms were exported to a total of 39 African countries in 2000. He said the majority of European manufacturers were small companies and that export of hunting and sporting firearms is vital for their businesses. Export procedures for these firearms should be different from those for “war materials.”

It was also recommended that the firearms industry and representatives of the shooting community continue to collect relevant data and cooperate with other organizations in their data collection.

Thomas Mason relayed the presentation of Robert Glock, who was unable to attend. This discussion of the issue of definition is attached.

### **3.2.2 Panel # 2**

#### **“Focusing National and International Efforts: A Discussion of Goals and Policies”**

Topics:

1. Are there special regions of concern (Africa, etc)?
2. State to state transfers
3. National export policies
4. Codes of conduct – international law – regional solutions
5. Transparency – national reports – arms registries – information exchange – retransfer of imported small arms/firearms

Panel members:

Sola Ogunbawo – Nigeria, Chairperson

Robert Maggi – USA

Etienne de Jenlis – France

Brooke Hartigan – Australia

Marii Radu – Romania

P. Van den IJssel – The Netherlands

Yasuhito Fukui – Japan

Nicholas Marsh – International Peace Research Institute (PIRO), Norway

Robert Delfay – National Shooting Sports Federation (NSSF), USA

Sola Ogunbawo of Nigeria discussed the issue of small arms/firearms (export, imports, etc) and Africa. He argued that Africa is indeed a special case. Particularly noted was the moratorium that had been adopted by the Economic Community of Western African States (ECOWAS). He asked that UN embargoes be respected and that manufacturers play a role in this. He also asked that manufacturers consider the adoption of a code of conduct.

Ogunbawo went on further to state that marking and tracing are particularly important for Africa. He said that brokering should be regulated and that each African state should establish a national commission on small arms. He concluded by mentioning the New Partnership for African Development (NEPAD) and noted that its sub-committee on peace and security would be considering small arms/firearms.

Robert Maggi of the United States made a presentation and noted that the US is particularly concerned about the destabilizing effects of excessive accumulations of small arms, and that this concern informs U.S. export control policy. Partnership between government and industry is essential for effective export controls and curbing the illicit trade. He also suggested that a general recommendation of the workshop might be that effective control of trade is the responsibility not just of exporting countries, but of importing countries as well.

Etienne de Jenlis of France made a presentation, attached, on the French and Swiss Initiative on tracing, marking and record keeping. This initiative looks for a political agreement on tracing and especially government cooperation in uncovering lines of supply. It was also noted that the initiative does not have the objective to monitor legal sources and it is not intended to trace every arm produced.

A meeting is contemplated at the end of this year to define the process, and there will be subsequent meetings. Among the aspects of any eventual arrangement would be an "International Technical Body" including industry.

Also mentioned was the relationship with the new UN group of experts on tracing effort, which was established by the Programme of Action. The French-Swiss Initiative will use existing law and arrangements such as the United Nations Firearms Protocol and the CIP. The groups of experts will most likely contemplate a new instrument.

A representative of another country made a comment that emphasized the need for balance between on the one hand the requirement for regulation and on the other, the legitimate interests of hunters, sport shooters and legal commerce. The speaker also noted the importance of efforts in the Pacific region.

Marii Radu, of Romania, made a very extensive presentation regarding their efforts against illicit trafficking. The program was described in detail and placed in the context of both UN and regional efforts.

Paul Van den IJssel of The Netherlands made a presentation. He said that the issue is not so much one of military and security considerations, but of humanitarian and development concerns. He said that the solution would be found not in general prohibitions but in export, import and transit state controls. He advocated that the momentum be kept up through efforts in the EU and NATO.

He said that the industry could help in five areas:

1. Marking and tracing
2. Compliance – no sale without the proper licences
3. Customer control – is this a reliable customer?
4. Transparency
5. Responsible entrepreneurship

Yasuhito Fukui of Japan made a presentation and noted that his country had been extremely active on the issue of small arms for at least six years. Consultations have begun on possible future resolutions, and the agenda for the upcoming 2003 UN follow-on conference. Asia is of special concern for Japan.

There also needs to be more discussion of the questions of state-to-state transfers and transfers to non-state actors.

Nicholas Marsh of PIRO made a presentation on the matter of transparency, a full written version of which is attached. The representative said that transparency – in the form of registries and reports, codes of conducts and embargoes to be monitored – uncovers corruption and allows for early warning of possible areas of conflict. He said an even more important function of transparency is in combating illegal trade. Transparency can assist investigators to determine whether an export was properly licensed and how the weapons might be diverted from legal trade. The representative mentioned the OSCE<sup>5</sup> mechanism and the ECOWAS<sup>6</sup> moratorium.

Brooke Hartigan, Legal Officer from the Australian Attorney-General's Department, presented a paper on the Australian experience of introducing more stringent legislation. The report is appended.

A presentation, also accompanying, was given by Robert Delfay of the National Shooting Sports Foundation. He had several suggestions for industry action (mentioned at the conclusion of his speech) and also asked for a general workshop recommendation that international firearm regulatory efforts not focus on legal trade firearms for legitimate hunting and sport shooting.

### **3.2.3 Panel #3**

#### **“When Small Arms and Firearms Cross Borders: Customs, Tracing and Trade Practices”**

Topics:

1. Embargo enforcement
2. End use assurance – uniform end use certificates
3. Facilitating legal commerce and tourism (hunting, sport shooting, etc.)
4. Harmonization of customs practices
5. Law enforcement cooperation – tracing

Panel members:

Ted Rowe – WFSA, Chairman

Antonella Bonfante – US

Greg Jenks – Numrich Gun Parts

Keith Tidswell – Sporting Shooters Association of Australia (SSAA)

The first presentation was by Antonella Bonfante of the United States State Department, and largely featured end use monitoring. The law enforcement coordination endeavors of the United States were discussed, including initiatives by the United States Government to fund and support international law enforcement training. It was suggested that the industry knows its customers and knows the origin of previously imported articles. It was also asserted that control over illicit trade of small arms facilitates legal trade and protects the reputation and integrity of the lawful commerce of small arms.

Greg Jenks of Numrich Gun Parts made a statement as an importer. He recommended the use of more uniform documents. His statement is also included in full.

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<sup>5</sup> Organizations for Security and Cooperation in Europe.

<sup>6</sup> Economic Community of West African States.

Keith Tidswell of the SSAA made a presentation on facilitating hunters and sport shooters in travelling. His comments are attached. He noted that Article 10.6 of the United Nations Firearms Protocol allows for simplified export-import procedures for hunters and sport shooters. He outlined the WFSA project with the airlines, seeking common procedures for the transport of firearms and ammunition as airline baggage. While these procedures are referred to as “uniform” he noted that term refers more to consistent application than to actual uniform wording. There was concern expressed that uniform or harmonized procedures result in the most stringent standards being adopted and not the most reasonable. This should be avoided. The need for continued industry support for this effort was mentioned.

Ted Rowe, Chairman of the MAG, made a presentation which concluded with these recommendations for industry:

1. That industry and representatives of the sport shooting community keep a database of national trade prohibitions and embargoes.
2. That industry and representatives of the sport shooting community assist in the development of a uniform end use certificate.
3. That industry and representatives of the sport shooting community assist in any possible development of harmonized customs practices.

#### **3.2.4 Panel #4**

##### **“Brokering: Defining It, Proposals for Regulation”**

###### Topics:

1. Definition of brokering
2. Brokering regulations proposals

###### Panel members:

Mark Barnes – Firearms Importers Roundtable (FAIR) Trade Group,  
Chairperson

Clive Law – Canada

Kathi Austin – Fund for Peace

Walker English – OMNI Engineering Corporation

Clive Law of Canada related his experiences as a national official concerned with export-import matters. His jurisdiction has no specific brokering regulation because only six individuals would qualify as “brokers.” He noted that this issue was controlled by the “Automatic Firearms Country Control List.”

Walker English of OMNI Engineering gave his perspective as an importer. He said that no one is sure of the definition of brokering and many countries do not control brokering.

Kathi Austin of the Fund for Peace described her organization’s efforts which included a draft convention on brokering. Her comments are included with this report. The draft convention’s definition of brokering was taken from US law. It was noted that only 13 countries have regulations on brokering. The International Action Network on Small Arms (IANSA) will also be making brokering regulations a major goal of its

efforts. It requested that any industry problems with the definition be communicated to those working on the issue.

Mark Barnes of the FAIR Trade group made a presentation, which is attached. He criticized the current US law as being too broad. He noted that the language "...facilitates an arms transfer..." is so broad as to include such activities as two business people talking to each other at a trade show. He recommended that the industry and representatives of the sport shooting community assist in drafting a workable definition of brokering.

#### **4. Workshop Recommendations**

At the concluding session on 14 June, an exchange of views was held on the possible recommendations which had been garnered from the previous day's presentations. Draft recommendations were presented and numerous revisions were made. Although these final recommendations were reached by consensus, they should not be considered binding upon participating NGOs and governments. The Workshop sponsors feel that this proviso is particularly important in order to encourage a fruitful dialogue between governments and civil society. National government representatives should not feel constrained by the threat of legalistic and diplomatic formalism, but should be encouraged in the free exchange of ideas with a view to reaching common creative solutions.

##### **4.1 General Recommendations**

It was not originally intended for the Workshop to make broad inclusive recommendations concerning the topics under consideration. Regardless, after extensive discussion, two general recommendations were adopted. Both of these, and also the recommendations for industry and the sport shooting community, are predicated upon common purpose:

##### **In order to prevent illicit trafficking in firearms/small arms:**

###### General Recommendations

1. Effective control of trade is the responsibility not only of the exporting country but also of the importing country.
2. International regulatory efforts should not focus on legal trade in firearms for legitimate hunting and lawful sporting activities.

##### **4.2 Recommendations for Industry and the Sport Shooting Community**

It was decided that while the primary focus of the Workshop was on industry, the sport shooting community in general should also be asked to participate in future efforts. Again, the recommendations are predicated upon the common purpose:

##### **In order to prevent illicit trafficking in firearms/small arms.**

###### Recommendations for Industry and the Sport Shooting Community

1. Industry and representatives of the sport shooting community should continue to gather relevant, non-proprietary data on production, trade, economic effects and holdings of firearms, and should cooperate with other organizations in the development of relevant, reliable data.

2. Industry and representatives of the sport shooting community should continue to work with the international community and national governments in the development of more precise definitions of firearms/small arms.
3. Industry and representatives of the sport shooting community should establish and maintain a database of published national export, import and in-transit restrictions and embargoes at international and regional levels.
4. Industry and representatives of the sport shooting community should consider the development of a code of best business practices including export/import.
5. Industry and representatives of the sport shooting community should produce a report concerning their efforts against illicit trafficking in firearms/small arms.
6. Industry and representatives of the sport shooting community should assist in the development of standard end-use documentation.
7. Industry and representatives of the sport shooting community should assist in efforts to improve relevant customs regulations and procedures.
8. Industry and representatives of the sport shooting community should continue with efforts regarding marking, and cooperate with other initiatives on marking and tracing.
9. Industry and representatives of the sport shooting community should assist in international efforts to develop an acceptable uniform definition of brokering.
10. Industry and representatives of the sport shooting community should continue to assist with the development of uniform and consistently applied procedures for transport of firearms and ammunition as airline baggage.

#### 4.3 Further Actions - Conclusions

It is useful to consider what further actions may be based on these ten recommendations, in light of not only the Programme of Action but other known continuing initiatives. Some of what is proposed would be solely the responsibility of industry and the sport shooting community. Other recommendations will necessitate joint efforts. The following chart illustrates these points.

	<b>New effort</b>	<b>Continuing effort</b>	<b>Industry alone</b>	<b>Joint efforts needed</b>
<b>Data collection</b>	No	Yes	No	Yes
<b>Definition</b>	No	Yes	No	Yes
<b>Database</b>	Yes	No	No	Yes
<b>Bus. practices</b>	Yes	No	Yes	No
<b>Report</b>	Yes	No	Yes	No
<b>End-use</b>	No	Yes	No	Yes
<b>Customs</b>	Unknown	Unknown	No	Yes
<b>Marking</b>	No	Yes	No	Yes
<b>Brokering def.</b>	No	Yes	No	Yes
<b>Airline bag.</b>	Yes	No	No	Yes

Four of the recommendations are new to this international discussion: database, best business practices, an industry report and firearms as airline baggage. Two of these, best business practices and an industry report, would be solely industry's

responsibility. The database and the airline baggage proposal will require joint efforts. The two definition recommendations remain problematic, but this does not diminish the need for work by all interested parties. There seemed to be substantial interest in pursuing this topic.

Further effort on the end-use matter would seem to be a particularly attractive focus. It is almost undisputed that there is a problem with end-use documentation. The development of standardized end-use documentation, although not without its difficulties, should be an achievable goal.

Finally, it is sincerely hoped that this Workshop will only be one of many to vigorously examine the issues of export, import and brokering of small arms and firearms. The firearms industry and the sport shooting community look forward to working with all members of the international community whether international institutions, governments or NGOs. We appreciate their contributions to this Workshop and we will continue to seek “partnership for solutions.”

**Welcoming Speech of  
Dr. Carlo Peroni,  
President of the WFSA**

Good morning. I am Carlo Peroni, President of the World Forum on the Future of Sport Shooting Activities. It is my privilege to open this Workshop on the export, import and brokering of small arms and firearms.

Let me start by thanking Ambassador Luigi Lauriola, Secretary General of the Wassenaar Arrangement, for his invaluable assistance in this undertaking. His advice and counsel have made these efforts possible and we all owe him a debt of gratitude.

Before introducing the Chairman of the Manufacturers Advisory Group, the World Forum body which has organized the Workshop, I would like to comment on the role of the WFSA itself. Early this May, the United Nations recognized the World Forum as an official Non-Governmental Organization. In technical terms, we are now in Roster consultative status with the Economic and Social Council. We feel that a major reason why we were given this recognition is our record of making positive contributions in the international arena.

This workshop will be the fourth such event we have organized for the international community. We held two workshops on firearms marking; the first in Brescia, Italy, in 1999 and the second in Sardinia in 2000. The WFSA hosted a further workshop on the definition of a “weapon of war” in London, in 2001 just prior to the UN Conference on Small Arms.

Ever since the WFSA was founded in 1997, we have not just reacted to the various issues, but we have offered positive solutions. We shall continue to do so. At this moment, the WFSA is the *de facto* spokesperson for most of the hunters, sport shooters and legal firearms owners in the world as well as the firearms manufacturers and those who engage in legal international trade. It is our sincere hope that we can continue to meet our responsibility not only to our own community, but also to the international community as well, by what we accomplish at this Workshop. We indeed are here to “Identify the Problems” and, let me emphasize, find “Partnerships for Solutions.”

With that, ladies and gentlemen, it is a pleasure for me to introduce Mr. Ted Rowe, Chairman of the WFSA Manufacturers Advisory Group.

**Welcome Speech**  
**C. Edward Rowe, Chairman**  
**Manufacturers Advisory Group**

As President Peroni said, I am Ted Rowe, Chairman of the WFSA Manufacturers Advisory Group. I want to thank each of you for your attendance at this Workshop and I hope we will have a productive day and a half. Just for your information, in my professional life I am employed by Sturm-Ruger, one of the larger American firearms manufacturers.

The Manufacturers Advisory Group, or MAG, was formally established by the WFSA in March of 2000 as a means for the commercial side of the firearms community to act in the international arena and especially to offer its expertise, knowledge and insights about international regulation issues. We felt that this was particularly appropriate because much of what is proposed directly involves the very businesses in which we are engaged.

The MAG counts among its members the major firearms manufacturers' associations in the United States, Europe and South America. Our own Carlo Peroni is President of ANPAM, the Italian firearms manufacturers' association, which, I might gratefully add, is our host at this Workshop. Other members that are present today include the Sporting Arms and Ammunition Manufacturing Institute or SAAMI, the FAIR Trade Group, which is composed of firearms importers, the National Shooting Sports Foundation, which represents among others the retailers, and IEACS or the European sporting arms manufacturers. Individual company members of the MAG are also here today.

I should add that since its very inception the MAG has taken a pro-active stance. It is our view, to emphasize what Carlo Peroni said, that we have to offer solutions and not just criticisms.

It is also the view of MAG that it is much better for the industry to regulate itself than to have regulation imposed upon it. We have had significant experience with this in the US. SAAMI imposes standards for firearm manufacturing. Please don't misunderstand me. We do have regulation in our industry, extensive regulation. But, we feel we have a similar positive role to play in the international arena. I will discuss this more before I conclude.

This Workshop is taking place after the conclusion of the July 2001 UN Conference on Small Arms. This is not the forum to address the politics surrounding that Conference. However, I would like to make one relevant observation: A Programme of Action was adopted and small arms issues will remain on the international agenda. That the issues have proven to be complex does not detract from the legitimacy of some of the real concerns that initiated this whole process. Please make no mistake about it. We in the industry intend to stay engaged – to have specific proposals available for the 2003 review meeting and beyond.

That is a little history. Now to the present – what we want to accomplish at this Workshop. We will be hearing from four panels. The first of these will concern itself with informational and definitional questions:

**Outlining the Issues:  
Quantifying Small Arms/Firearms Commerce and Holdings –  
Defining What Will Be Regulated**

The other three panels will address the more detailed questions. Panel Two is entitled:

**Focusing National and International Efforts:  
A Discussion of Goals and Policies**

Panel Three is:

**When Small Arms and Firearms Cross Borders:  
Customs, Tracing and Trade Practices**

And Panel Four is:

**Brokering:  
Defining It, Proposals for Regulation**

Your agenda outlines the possible issues for each of the last three panels. It is our hope that that as each of these issues is addressed three questions will be answered:

1. What is the extent and nature of the problem(s) associated with the issue?
2. What are the solutions being proposed?
3. What could the positive role of industry be in addressing the issue?

It is the last of these questions in which we are particularly interested. After a fashion, this proposition is in effect saying: “help us, in the industry, – help you, in the international community”.

We do not delude ourselves that this is a simple task, although we hope to leave here with specific recommendations. We also realize that this is just the start of the process. Proposals will have to be expanded and even more important consensus reached in both the international community and the overall firearms manufacturing community. Neither will be an easy task and future meetings and dialogues will be needed.

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**Presentation by Glenn McDonald**

**On Global Small Arms Holdings**

First, I would like to extend my thanks to the conference hosts for their invitation to participate and present a paper. I will mostly address the first part of the Panel 1 theme – the issue of quantities – with just a few words on the question of what needs to be regulated. I will present the latest findings of the *Small Arms Survey* on small arms *holdings*, leaving the question of commerce to my fellow panellists.

A brief word on definitions. When using the term "small arms and light weapons" ("small arms" for short), the *Small Arms Survey* follows the definition set out in the 1997 UN Expert Panel report, which covers both commercial firearms and military style weapons (military firearms and other military weapons). I follow this practice here. However, much of my presentation will focus on firearms, as I will indicate.

Why do we need to know how many small arms there are in the world? Quite simply because it is an important part of getting a better sense of what the problem is. What types of weapons are present where? The geographical distribution of small arms, to cite one aspect of the question, determines whether we need global measures or measures tailored to the circumstances of particular regions (or both). Base-line figures are always important because they allow us to determine whether particular policies and measures are affecting numbers of weapons where these are a problem.

Until very recently, we have faced a fairly serious information gap when it comes to total numbers of small arms. As you probably know, for several years, a figure of 500 million small arms world-wide was cited by many as the best available estimate, perhaps most prominently in the 1997 UN Expert Panel report. The first edition of the *Small Arms Survey*, published last year, came up with its own global figure of 550 million *firearms* (as opposed to small arms in general). We have revised this figure upwards in the 2002 edition of the *Survey*, to at least 639 million firearms, as a result of better information.

I will look, first, at the use of prices in developing a rough picture of the small arms situation in areas where hard data is lacking. I will follow with a brief discussion of two important types of light weapon, before discussing in some detail, global *firearms* numbers, including the distribution of firearms among different types of owners.

**Prices**

In those parts of the world where hard figures on numbers of small arms are lacking, the best guide to their availability is often price. Prices convey a general sense of supply and demand, indicating whether or not weapons can be easily obtained. Especially in situations where firearms are illegal, prices may be the only way of establishing whether they are commonplace or scarce, whether smuggling is effective or embargoes

are working. Spiking small arms prices are often a red flag, warning of situations on the verge of rapid degeneration.

Prices are, however, no panacea for a lack of information on quantities. Prices are volatile and depend on local conditions. Every illegal market is unique; there does not appear to be a universal relationship between prices and supply. Cases covered in this year's *Survey* include Albania and Kosovo.

### **Two types of light weapon**

This year's *Survey*, for the first time, presents information on two types of light weapon, shoulder-fired rocket launchers and mortars. Though far less numerous than firearms, shoulder-fired rocket launchers have considerable military importance – as evidenced in conflicts ranging from Vietnam to Somalia and Chechnya. In addition, these weapons are now appearing among criminals. We estimate the total number of unguided, shoulder-fired rocket launchers at over 22 million in the new *Survey*.

While mortars are in decline in Western Europe and the US, they continue to feature prominently in insurgent arsenals. The total global stockpile of mortars is almost 800,000, not counting improvised versions favoured by many guerrilla groups. Mortars are in fact easily improvised from scrap as Graham Greene pointed out in his classic Vietnam war novel *The Quiet American*, where he observed that "Buicks make the best mortars".

Although far less numerous than firearms, both these light weapons are extremely important in global conflict, adding to the destructiveness of terrorism, guerrilla warfare, and state-to-state conflict. Easily overlooked in the deliberations of both governments and global civil society, they warrant more careful consideration in future discussions of small arms issues.

### **Global firearms stocks**

In our examination of global small arms stocks in the 2002 *Survey*, we continue to focus, for the most part, on firearms. These are the most common type of small arm. They also cause the most death and injury worldwide and receive the most international attention. Little surprise then that we have far more information on firearms than on other kinds of small arms and light weapons.

Please note that the *Survey* data on global firearms stocks makes no distinction between commercial firearms and military firearms. The *Survey* data refers to *all* types of firearm.

As mentioned earlier, our best estimate of the number of firearms in the world in 2001 is 639 million, *minimum*. The new figure reflects, not a growth in actual numbers over last year's 550 million figure, but instead better data and counting techniques. While the picture of global firearms stocks is significantly more complete in this year's *Survey*, we still have important gaps in our knowledge. Our new estimate therefore remains

tentative. It is also conservative. The actual global stockpile is probably greater by several tens of millions, at least.

The 2002 *Survey* looks at four categories of ownership. In order of relative size of holdings, these are:

- ? insurgent groups;
- ? police forces;
- ? national armed forces; and
- ? civilians.

I will discuss these categories in this order, devoting most of my time to the last two (military and civilian ownership).

The total number of firearms held by *insurgent groups* changed little in 2001 as far as we can tell, though their distribution did vary, growing in some regions, declining in others, depending on the particular situation. While total numbers of insurgent firearms are relatively small, the number of weapons they need to wreak havoc is not great. In terms of their impacts, even small rebel arsenals have huge importance.

As compared with the 2001 edition, the 2002 *Survey* has little new information to present on *police stocks*. These appear to constitute a relatively small part of the total number of global firearms and are changing only marginally.

I now turn to those firearms owned by *national armed forces*. In order to estimate total military stocks, we use a multiplier based on the number of firearms per uniformed airman, sailor, and soldier in the Canadian military – one of the few countries for which total military stocks are known. The Canadian ratio of 2.25 is multiplied by the number of uniformed personnel in other countries (information which we do have) to determine the number of firearms held by the armed forces of those other countries.

The stockpile chapter in this year's *Survey* estimates global military stocks based on the multiplier of 2.25, adds the approximately 700,000 military weapons produced in 2001, and makes various adjustments (normally additions) for various countries. Estimated stocks have been revised significantly upwards in countries relying on a military strategy of People's War, such as China. At the same time, there appears to be a trend in other countries towards smaller military establishments with fewer firearms per soldier. It is currently unclear how the latter trend will affect global stocks in the long term, though in the short term it could exacerbate the glut of second-hand weapons. Any decline in military ownership would, in any case, probably be offset by increases in civilian ownership, if present trends continue.

The *civilian market* continues to be the most dynamic area of firearms ownership. We estimate that civilian owners have at least 378 million firearms (as compared with the roughly 241 million firearms in military hands). Civilian buyers acquired roughly 85

percent of the nearly 8 million guns manufactured in 2001 – in other words, 6.9 million new firearms. The most prominent civilian market continues to be the US.

We still have important gaps in our knowledge of civilian firearm stocks. We have little or no information for many major countries, including Brazil, France, Indonesia, Iran, Mexico, Thailand, Turkey, and Vietnam. With limited exceptions, we lack reliable estimates for almost all of Africa and the countries of the Arabian Peninsula. The number of firearms illegally held by civilians also largely remains a mystery, though information on this is presented in this year's *Survey* for a few countries and is included in the global total.

To sum up this discussion of firearms ownership, the global total of 639 million was distributed as follows in 2001:

- ? Civilians own the largest portion of the total, with 59.2 percent.
- ? Government armed forces are next with 37.8 percent of the total.
- ? Far down on the list are the police, with only 2.8 percent ...
- ? ... and insurgents with 0.2 percent.

This year's *Survey* contains quite a lot of information on firearms numbers in various regions and countries, including south and east Asia, but in the interests of saving time I refer you to the *Survey* for more information.

I will conclude by noting that only a small proportion of the global firearms stockpile comes from new production – less than one percent a year. It is the recirculation of old firearms, rather than purchases of new ones, that accounts for the greatest proportion of global firearm movement. This has important implications for policy options like marking and tracing, which must deal with existing guns to be effective.

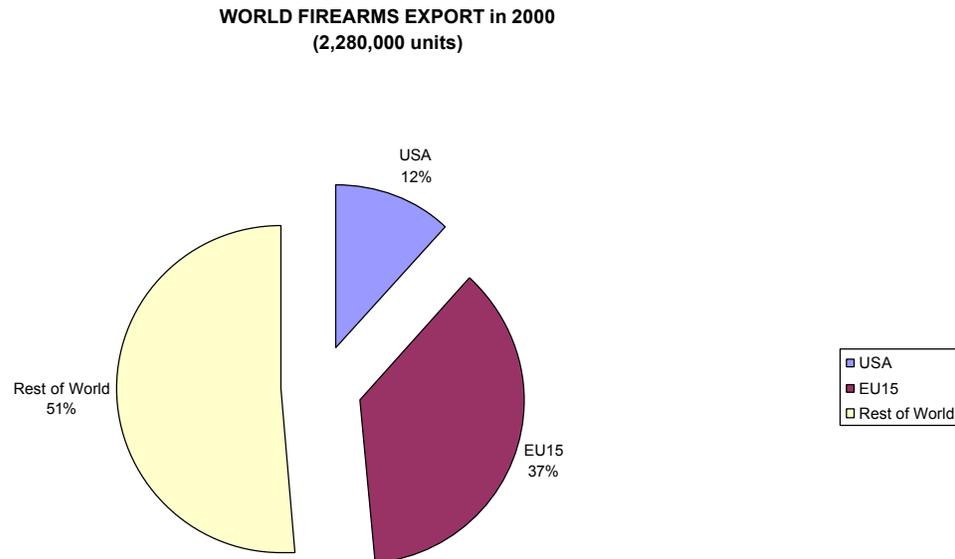
## Presentation by Henri Heidebroek

### Military vs. Non-Military Exports – the IEACS Experience

My presentation refers only to commercial firearms for which there are good, reliable statistics on the foreign trade in the USA, the European Union and in some other countries.

In the European Union, all these firearms about which I speak today were sold with the necessary governmental authorizations. In this report I am not considering transactions in military small arms for which information does exist but which are classified as “secret-defence”.

#### Export

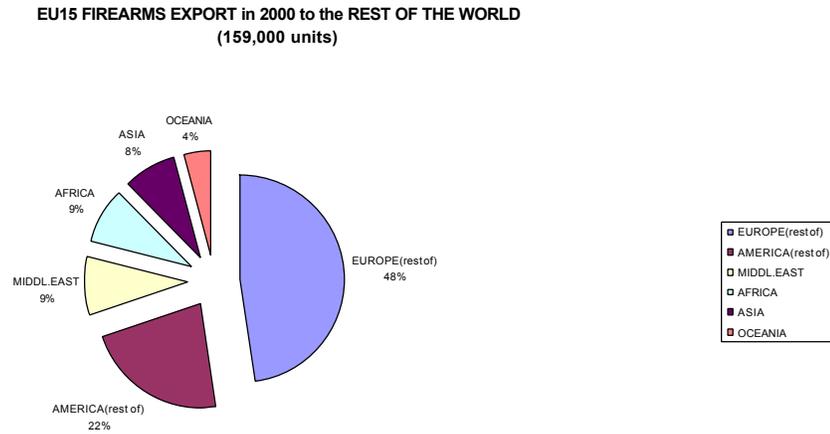


**Figure 1 – World Export**

With 839,163 sport shooting firearms exported, the European Union comes probably in the second position behind the Rest of the World but before the USA. I say probably because the export figure for the Rest of the World results from an estimate based on quantities imported into USA and EU15 and other reliable information. As I shall show later on, USA and EU are a major outlet for these countries.

By “Rest of the World” we mean countries – such as Brazil, China, the Russian Federation, Canada, Japan and other Eastern countries, Turkey, the Philippines – that are manufacturing and exporting.

We see 81% of EU exports have the United States as their destination. Where are the other 19 % going?



**Figure 2 – EU Export to the Rest of the World**

*(This section is blank by intention.)*

<b>Country</b>	<b>Units</b>
Switzerland	13848
Czech Rep.	12275
Norway	10489
Poland	10037
Argentina	8456
<i>Lebanon</i>	6685
Morocco	6376
<i>Mexico</i>	6087
<i>Honduras</i>	5500
<i>Venezuela</i>	4788
<i>Russia</i>	4709
<i>Turkey</i>	4358
Australia	4020
<i>Bulgaria</i>	3818
Thailand	3653
U.Arab.Emir.	3633
Japan	3477
Hungary	2684
Kuwait	2378
Canada	2164
Greenland	2079
New Zealand	2065
<i>Colombia</i>	1995
Cyprus	1816

*(Countries in italic are designated sensitive)*

**Table 1 – EU15 Export to the Rest of the World – Main Recipients (80%)**

This concerns 24 countries receiving 80% of the shipments. But the European Union exports to 141 countries. To 76 countries, more than half the destinations, deliveries are fewer than 240 guns per year in multiple shipments. To 34 countries, shipments are smaller than three guns per month. For each order, legal export regulations are enforced. It is not hard to imagine the administrative burden for small companies which are the most numerous in this manufacturing sector.

The European Union has already one of the most restrictive regulations concerning export. Although there is up to now no Directive for export, and each member State has its own laws, their administrative authorities already follow the Code of Conduct of the European Parliament and abide by the list of sensitive countries which is circulated among them.

Excluding countries under embargo, there are 58 countries considered sensitive, and these represent one third of EU15 exports to the Rest of the World. That makes 58 countries out of 141 for which we can expect problems. The sensitive list is continuously changing, and is secret most of the time for diplomatic reasons. For a lot of destinations, the manufacturer never knows if approval will be granted, and just has to wait. If the time becomes too long, then he makes a polite inquiry. By experience, manufacturers are aware of countries to which shipments are problematic. They then refuse the order. This is where self-regulation is possible.

Africa is a continent with problems. In the year 2000 the EU exported 13,945 guns there. The table below shows the main recipients, eighty per cent of those exports:

<b>Country</b>	<b>Units</b>
Morocco	6376
Sth Africa	1595
<i>Guinea</i>	1420
<i>Ghana</i>	720
Madagascar	451
Tanzania	339
<i>Burkina Faso</i>	305

*(In italics are countries from the Economic Community of West African States)*

**Table 2 – Main African Recipients of EU Exports in 2000**

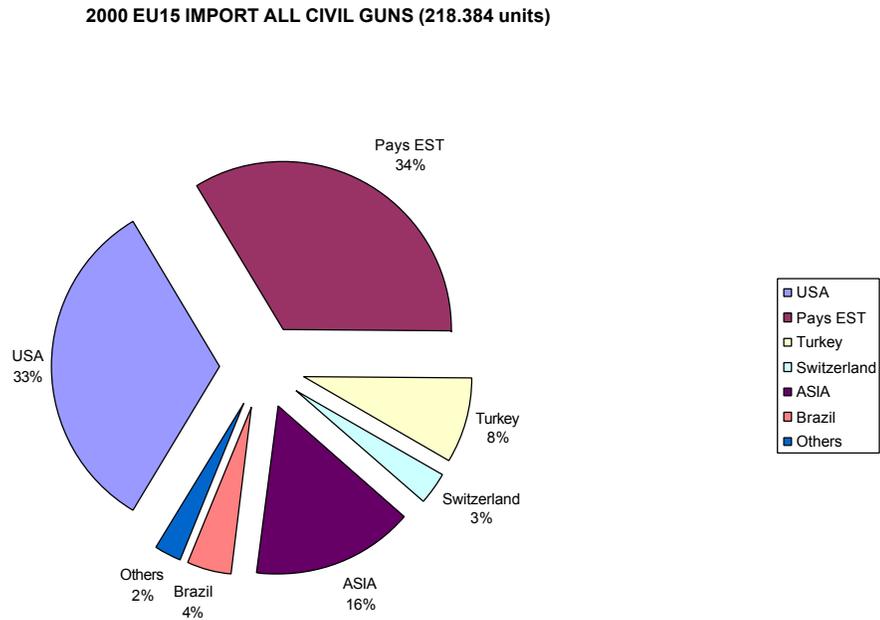
It is clear this list of approved exports has no resemblance to the millions of small arms introduced onto the African continent as described in various UN documents.

In the European Union, export of military equipment is strictly controlled. It requires not only the approval of the Minister of Foreign Affairs, but the agreement of the Council of Ministers as well. This a very long procedure with the production by the applicant of various documents such as the original order, an end-user certificate and Embassy involvement on controls at the time of arrival, all these formalities being difficult for international commercial transactions.

The evidence is that fully automatic weapons of war should not be confused with sport shooting products. Reinforcing export regulations for guns designed for sport shooting will not improve the situation. On the contrary, it would impede legal commerce and destroy a lot of small companies. It would make no sense as long as State-to-State transactions are out of control. As most of the manufacturers of military small arms are

owned or controlled by governments, the problem of proliferation of small arms lies in their hands.

## Import



**Figure 3 – Main Importations to the EU by Country, 2000**

67% of firearms imported into EU15 come from the Rest of the World. The United States and the EU represent major outlets for the Rest of the World (850,000 units). Nevertheless, exchanges between USA and Europe are estimated at one third of the world trade.

It is important to note that for years a lot of information has been available publicly on commercial transactions, whereas almost nothing is issued on military equipment. In the European Union, however, it is now beginning with the annual report to the European Parliament regarding transactions of military equipment.

Self-regulation has been the usual practice in the industry for a long time:

- SAAMI and CIP are two reputable technical organisations managed by manufacturers, the first on a voluntary basis, the second on a legal compulsory basis for 13 member countries throughout the world. They provide for regulations on :

- Proof-testing:  
This involves pressure and dimensional specifications; proof is demonstrated by official markings;
- Markings:
  - There is at least an indication identifying the producer but almost all manufacturers mark their brand name and the place of manufacture;
  - the serial number;
  - other miscellaneous information for the benefit of the customer;
- Proof Houses keep files of proved firearms;

- Even when the national law doesn't request it, manufacturers keep a register of all firearms produced.

### **How can self-regulation be practised in the foreign trade?**

There are already so many laws and such controls on foreign trade that self-regulation has no field to implement itself. Notwithstanding, the industry works only with established known dealer networks, not with brokers. Dealers are carefully selected, paying with good currency throughout regular channels, not coming to the factory with an attaché-case.

The problems that need to be addressed do not concern firearms for civilian use, nor do they concern manufacturers of this category of firearms. The problems do, however, relate to manufacturers of military small arms, essentially state manufacturers, and their brokers.

It also appears that UN programs aim at increasing national regulations concerning the possession of firearms by citizens. I will not comment further on that in this debate. We estimate that there are between 55 and 70 million sport shooters in the world who cause no apprehension on the subject of public security.

## **Presentation by Robert Glock**

Good morning – or perhaps I should say *buon giorno*. It is only appropriate that an Austrian speaking English at a workshop in Naples should start in Italian.

I am Robert Glock. I am a member of the Manufacturers Advisory Group and I work for Glock Ges. m.b.H. in Austria. We produce mostly pistols for the military, police and civilian markets.

I am going to speak about the question of definition and how it affects efforts to control illicit trafficking in arms. I participated in both preparatory meetings and the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, which was held in New York in July last year.

Prior to that Conference the Manufacturers Advisory Group held a workshop in London, at the Imperial War Museum, entitled “Defining ‘Small Arms’ as they Pertain to ‘Firearms’ for the 2001 UN Conference on Small Arms.” The report of that Workshop is included with your materials.

That London report lists at least five definitions found in the two UN reports which were the foundation of the eventual UN Conference. Fundamentally, these definitions were very broad and could be interpreted to include most of the civilian firearms in the world. The London workshop also proposed that the most workable definition of firearms, which should be the subject of UN and other international efforts, be:

**“Lethal weapons of war which are capable of full automatic fire.”**

The London report has an extensive discussion of why we think this is the most workable approach and I would urge you to read it in full. We did want the definition to meet certain criteria and they are worth repeating. We believe it should be:

1. Simple.
2. Time neutral, i.e., covering firearms already produced and which will be produced in the future.
3. Objective, so that the nature of the firearm can be determined from the physical or mechanical characteristics of the firearm itself. The definition should also be user friendly in that it can be used by an ordinary customs officer or law enforcement official and not just an expert.
4. Not so broad as to include firearms which are legitimately possessed by civilians.
5. Not so narrow that it does not include those firearms which the international community has been concerned about, such as AK-47s.

The UN Conference did not resolve the definition issue. In fact, one could say that the definition issue was deliberately avoided. However, as our own report pointed out, there will eventually have to be a definition of what types of firearms are the focus of UN efforts.

This issue of definition, unfortunately, has a very political aspect to it. Parties could be divided into “hard liners” and “soft liners.” The terms may be arbitrary, but please bear with me. “Hard liners” are those who want either no definition or a very broad definition so that any future regime covers literally every gun in the world. Both states and NGOs have taken this position. Hard liners are also looking for comprehensive solutions and new binding instruments. On the other side are the soft liners. They want a limited definition and specific, targeted proposals. I am obviously among the latter, as are some of the major states.

Let me give you an example of what I have called the broad hard line approach. Professor Aaron Karp just published a fascinating article on the July UN Conference entitled “Small Arms: Back to the Future.” Professor Karp wants all firearms included in any future effort, and I quote the relevant portions:

Of the total of 638,000,000 firearms known to exist as of 2001, at least 59 percent are in public hands (he is quoting the 2002 Small Arms Survey)...The actual total – and the portion in public hands – almost certainly is far higher. In the United States, one country where data is reasonably reliable, the total in public hands is closer to 98 percent...If one is serious about small arms violence, it is not sufficient to pursue goals dealing exclusively with the state. This is not where the guns are...A better normative principle to guide international action controlling the dangers of small arms must embrace all firearms.

The odd thing is that if we are to believe Professor Karp’s and the other figures cited, the problem is with the very small portion of firearms owned by criminals and other illegal users and not legal firearms owners.

This is also a truly “hard line” approach. In fact, Professor Karp then concludes by saying that the international small arms regulation effort should be combined with domestic gun control efforts.

To be very plain, such an “unholy alliance” would be a prescription for disaster for the legitimate efforts to control illicit trafficking in small arms.

On the other hand, if a workable definition is adopted it will depoliticize the issue. The definition we have proposed would essentially separate out all of those legally held civilian firearms. Some proposed international measures such as on marking should

include all firearms, but for any extensive effort, limiting it to weapons of war is almost a necessity.

We in the industry consider the definition issue important. It is not our only issue and we will be making other proposals. But again, it is an issue that must be resolved.

At one of the preparatory meetings, before the UN Conference, I made a statement on behalf of the industry and the Manufacturers Advisory Group. I said, "Mr. Chairman, we are not the bad guys." I mentioned that we wanted to be positive and work together. We are still not the bad guys and we still have that same desire to work together. That is why we are here today. *Grazie.*

**Presentation by Etienne De Jenlis**

**The French-Swiss Initiative  
in the Area of Tracing of Illicit Small Arms and Light Weapons**

**1. General Presentation**

**Background**

France and Switzerland have launched a joint initiative in the area of small arms and light weapons dealing with the interrelated issues of tracing, marking and record keeping. The initiative is depicted in various documents that France and Switzerland circulated in the framework of the preparatory process of the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects and at the conference itself.<sup>7</sup> It was also discussed at open-ended workshops that took place in Geneva on 20 September 2000 and on 12-13 March 2001.<sup>8</sup>

In broad terms, the French-Swiss initiative aims at strengthening the ability of any affected State to find out how small arms and light weapons that it has determined to be illicit have reached its territory.

This initiative is consistent with the UN Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects adopted at the conference.

**Launch of a diplomatic process**

As a continuation of their joint initiative and to give effect to relevant paragraphs of the Program of Action, France and Switzerland propose to launch a diplomatic process leading to the elaboration of a political arrangement aimed at strengthening international cooperation in the area of tracing of illicit small arms and light weapons.

This arrangement will provide a mechanism through which to conduct tracing operations. Accordingly, it will establish as a fundamental principle the commitment for participating States to cooperate with other participating States to assist them in their efforts to identify and trace lines of supply of illicit small arms and light weapons on the basis of confidentiality. Provisions in the areas of marking, record keeping and technical assistance – among other things – are closely linked to this core commitment. They will therefore be part of the political arrangement.

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<sup>7</sup> Documents A/CONF.192/PC/7, A/CONF.192/PC/25, A/CONF.192/PC/38, and "Information paper on the French-Swiss initiative". The preparatory process of the conference started in February 2000. The conference took place in July 2001.

<sup>8</sup> The Chair's Summary of the workshop held on 12-13 March 2001 is contained in document A/CONF.192/PC/38.

The diplomatic process will be open to all States interested in being part of a political arrangement in the area of tracing of illicit small arms and light weapons along the lines described above.

France and Switzerland suggest launching this process at an intergovernmental meeting to be held in Geneva. In essence, the purpose of this meeting would be twofold:

1. Affirm the commitment of participating States to being part of a political arrangement in the area of tracing of illicit small arms and light weapons;
2. Decide on the terms of the diplomatic process.

France and Switzerland also support UN Resolution A/C.1/56/L.47 requesting the Secretary-General to carry out a study on the feasibility of developing an international instrument to enable States to identify and trace in a timely and reliable manner illicit small arms and light weapons. The study and the proposed diplomatic process are distinct and mutually reinforcing initiatives.

## **2. Basic Elements of the French-Swiss Initiative**

Unchecked flows of small arms and light weapons (SALW) pose a serious threat to peace and security, particularly in regions of conflict or tension. So do insecurely managed stocks of SALW, which are particularly vulnerable to loss through theft, corruption or neglect. To strengthen the ability of affected States to find out how such SALW of concern have reached their territory or have been lost, France and Switzerland have proposed the establishment of a tracing mechanism, which would include the following key elements:

**At the international level**, States shall cooperate in identifying and tracing lines of supply of illicit SALW. To that effect, States shall in particular:

- ? Respond promptly and accurately to requests for information from affected States to assist them in their efforts to identify and trace illicit SALW;
- ? Respond promptly and accurately to requests for information from the UN Secretary-General to assist the UN in efforts to identify and trace lines of supply of SALW to countries subject to UN arms embargoes;
- ? Ensure an appropriate level of confidentiality relating to the information provided in the context of specific identification and tracing efforts;

**At the national level**, States shall take preventive measures to strengthen their capacity to identify and trace lines of supply of illicit SALW. To that effect, States shall in particular:

- ? Ensure that all SALW are marked at the time of manufacture in such a way as to enable individual SALW to be identified and traced by relevant national authorities;
- ? Ensure that record-keeping systems are established in such a way as to ensure that accurate information can be promptly retrieved and collated by relevant authorities, eventually in cooperation with manufacturers and dealers.

To support **implementation and further development** of these cooperation and prevention measures, France and Switzerland also suggest establishing an international unpermanent technical body – which may include governmental experts and industry representatives – as well as promoting technical assistance.

It is not the objective of the French-Swiss initiative to make possible the monitoring of legal sources and trade of SALW. The proposed tracing instrument is not to be understood as a transparency mechanism, nor to be used to trace every legally traded weapon.

Identification of diversion points or unauthorized flows of SALW will however not be possible unless the legal movements of those SALW under investigation can also be considered by States involved in the tracing operation.

The French-Swiss Initiative suggests that marking and record keeping should be a national prerogative. On the other hand, certain minimum requirements on marking and record keeping are necessary for the tracing instrument to be effective. The firearms protocol recently adopted by the UN General Assembly could be referred to in this regard.

### **3. Relation with the UN Study on the Feasibility of Developing an International Instrument on Tracing SALW**

The French-Swiss initiative and the UN study recommended by the general assembly both aim at a better tracing of illicit small arms and at promoting cooperation between states to identify illicit lines of supply. If the objective is mainly the same, the first approach is different.

The French-Swiss initiative refers to existing regulations on marking and tracing or to those that the state would need in its internal law to implement the tracing process. Cooperation through exchanges of information should be based either on existing international rules or on internal law. The French-Swiss initiative is a bottom-up process whereby interested participating states try to work out a political framework to strengthen their ability to cooperate in tracing illicit SALW as requested by Article 36 Section II of the UN Program of Action. The core of this cooperation is the exchange of information.

The UN experts group will have to study the feasibility of developing an international instrument on identification and tracing of illicit SALW. This study might be conducted through a deep analysis of existing internal and international law but the conclusion might be the need for an international instrument determining new specific rules on the subject. The process is rather a top-down action whereby the group will present recommendations to elaborate a new specific international instrument.

**Program of Action to Prevent, Combat and Eradicate  
the Illicit Trade in Small Arms and Light Weapons in All Its Aspects**

Paragraphs relevant to the issues of tracing, marking and record keeping:

*Section II*

At the national level:

7. To ensure that henceforth licensed manufacturers apply an appropriate and reliable marking on each small arm and light weapon as an integral part of the production process. This marking should be unique and should identify the country of manufacture and also provide information that enables the national authorities of that country to identify the manufacturer and serial number so that the authorities concerned can identify and trace each weapon.
8. To adopt where they do not exist and enforce all the necessary measures to prevent the manufacture, stockpiling, transfer and possession of any unmarked or inadequately marked small arms and light weapons.
9. To ensure that comprehensive and accurate records are kept for as long as possible on the manufacture, holding and transfer of small arms and light weapons under their jurisdiction. These records should be organized and maintained in such a way as to ensure that accurate information can be promptly retrieved and collated by competent national authorities.
10. To ensure responsibility for all small arms and light weapons held and issued by the State and effective measures for tracing such weapons.

At the global level

36. To strengthen the ability of States to cooperate in identifying and tracing in a timely and reliable manner illicit small arms and light weapons.

*Section III*

11. States undertake to cooperate with each other, including on the basis of the relevant existing global and regional legally binding instruments as well as other agreements and arrangements, and, where appropriate, with relevant international, regional and intergovernmental organizations, in tracing illicit small arms and light weapons, in

particular by strengthening mechanisms based on the exchange of relevant information.

12. States are encouraged to exchange information on a voluntary basis on their national marking systems on small arms and light weapons.

## Presentation by Nicholas Marsh

### A Transparent Agenda for Small Arms?

The proliferation of small arms and light weapons directly enables a horrifying number of deaths and injuries around the world each year and poses a grave threat to the stability and economic development of many countries, as well as to the success and safety of UN-mandated peace operations and international aid operations.

One of the most effective and straightforward initiatives governments concerned about the humanitarian and criminal impact of small arms proliferation could undertake is to provide full transparency around the small arms shipments they are authorising for export or import. The basis for this claim is twofold.

First, many – if not most – weapons that are misused in criminal acts originate as legally manufactured and legally exported weapons. These weapons are often exported to countries with lax regulations, where they “disappear” and are illegally shipped on to conflict zones, often with the assistance of government officials.<sup>9</sup> Transparency in authorised arms exports would discourage such corruption by allowing for easier tracking of where weapons are going and where they disappear. Such information might also lead to the implementation of tighter arms control measures to prevent diversion.

Second, state-authorized weapons shipments can and do exacerbate conflict, leading to humanitarian crises just as readily as do “illegal” weapons. In fact, the international community currently does not have enough information to know whether the state-authorized or the illegal trade is a bigger part of the problem – in terms of contributing to the outbreak and sustainment of conflict and violations of humanitarian law and human rights. Transparency would allow the media, public, and parliaments to help governments safeguard against exporting weapons into war zones or places where human rights are being violated.

#### Defining Transparency

Transparency is the opposite of secrecy – that is, openness or deliberately revealing one’s actions. What does transparency mean in the context of the small arms trade? At a minimum, it would mean states producing full, accurate, comprehensible, and timely reports on their small arms shipments abroad and on the transfers they have licensed for export or import in the preceding year (or half year or quarter). Periodic

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<sup>9</sup> See Johnson-Thomas, Brian. “Anatomy of a Shady Deal”. in Lumpe, Lora, ed. *Running Guns: The Global Black Market in Small Arms*. (London: Zed Books, 2000); US Bureau of Alcohol, Tobacco and Firearms, Office of Law Enforcement. *International Traffic in Arms (ITAR): Report to Congress*. 1991.

reports are of limited value, however, if they appear after the fact. A better standard of openness would be public and parliamentary awareness before weapons are shipped, including parliamentary scrutiny of arms licensing and buying decisions.

If practised by most small arms supplier states, transparency might help protect business investments, development projects, aid workers, tourists, and local citizens from armed conflagration by providing early warning of potential escalation or imminent outbreak – as indicated by the influx of a large number of guns and other infantry weapons. In addition, transparency about exports and imports of small arms would provide a baseline for disarmament efforts that might be undertaken, for instance as part of a UN peace enforcement operation. More generally, unilateral openness about government decisions to export or import small arms and light weapons would be a hallmark of a functioning democracy. At the same time, calls for greater openness challenge business interests – both legitimate and illegitimate – that prefer to operate in secrecy. Transparency runs directly counter to the powerful force of corruption, and the arms trade is one of the most corrupt and bribery-laden endeavors in the world.

Transparency also encounters a good deal of resistance from governmental bureaucracies forced to compile data (a time- and money-consuming task) and to open up their decision-making processes to scrutiny. The latter is particularly true for governments that do not have a culture or practice of accountability to their public.

### **Emerging Norm of Openness**

Iraq's invasion of Kuwait in 1990 was largely enabled through purchases Iraq had made in the international arms market during the preceding decade. Following the war against Iraq, the UN General Assembly passed a resolution establishing an annual UN Register of Conventional Arms. In this on-going initiative, all UN member states are asked to provide information on annual imports and exports of seven categories of major conventional weaponry. While this registry does not ask for information on shipments of small arms and light weapons, it has contributed greatly to the legitimization of the idea that sharing information on arms transfers contributes to the maintenance of peace and stability.

Seven years later, in 1998, the European Union passed a Code of Conduct on Arms Transfers, which called on each of the 15 member states to provide certain information about its arms exports on an annual basis.

In addition, post-Cold War trends in democratization, humanitarian campaigning, and globalization have all contributed to greater expectation of – and in some cases willingness by – governments to present some public information about their arms exports and imports. As a result, more governments now report openly on the monetary value of weapons shipments they are authorizing or delivering, usually on a country-by-country basis. However, if a report does not contain detailed information on types of weaponry, quantity, and recipient, export reports are largely useless in providing early

warning, permitting democratic accountability, preventing diversion of weapons to the black market, or curbing corruption associated with the arms trade.

At least 95 countries are believed to have industries currently manufacturing small arms or ammunition, and many more are engaged in brokering, re-exporting, transshipping, and financing small arms. *The Small Arms Survey 2001* estimated that the value of the state-authorized trade in light weapons is approximately USD 4–6 billion.

For the most part, this large-scale trade in small arms is still conducted in complete darkness. Only 22 countries produce national reports on their arms exports. Of these, only a handful provide any meaningful information on their small arms exports (see Part 4). There is even less openness on the decision-making process with regard to licensing arms exports, and only two states allow prior parliamentary scrutiny of export licenses.

### **Taking Responsibility**

In recent years more and more governments are considering initiatives to limit small arms transfers. A group of states that have backed a number of initiatives have emerged as global leaders on this issue. Among these states are Mali, Japan, Norway, Canada, Switzerland, South Africa, and Belgium.

While most of these leaders are not significant arms exporters, surprisingly few are very informative about the small arms and light weapons they are exporting or importing. Two of these states, Japan and Mali, do not report on arms transfers at all, and only Canada divulges the dollar volume of small arms and ammunition it has exported by country. None of these states provides information on the model or quantity of weapons shipped to importers.

Of the five permanent members of the UN Security Council, Russia and China do not provide any detailed information on their small arms exports, which are thought to be extensive. France now provides an annual export report that covers quantities and types of weapons exported and licensed for export, but not their monetary value. Britain provides extensive information, including the number of weapons it has licensed for export. Only the United States produces a highly detailed annual report, breaking down its exports by destination and weapon type and also providing information on quantity and value of exports.

The data that is available suggests that some of the same states expressing concern about the negative impact of the illicit trade on civilians, businesses, and aid workers continue to authorize the export of weapons into conflict zones.

### **The Case for Transparency**

Transparency in the small arms trade remains a controversial topic amongst many of the world's gun supplying and gun buying governments. The consensus Programme of

Action agreed by states at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (July 2001) barely referenced the concept. It explicitly refrained from calling on individual states to make information about their small arms transfers (or production or holdings) open to the world community, and it only mildly called on regional and sub-regional organisations to “develop, where appropriate and on a voluntary basis, measures to enhance transparency with a view to combating the illicit trade in small arms and light weapons in all its aspects.”

### **Why is transparency in this area so controversial?**

With the spread of democratic norms in the past decade, pressure for transparency and “freedom of information” has grown around many issues, including most prominently environment, trade, military acquisition and expenditure, banking, and bribery. Some societies – mainly liberal democracies – see openness in these and other realms of government activity as a public good, one that holds government, military, and corporate sectors accountable before parliaments, the public, and the media. However, this understanding is by no means universal in regard to small arms transfers, and even among the world’s liberal democracies, only about two dozen governments currently provide any public information on their small arms transfers. No illiberal governments have been open in this area. Moreover, in the immediate aftermath of the terror attacks of September 2001, governments of all types are reassessing and/or rolling back their commitment to public information.

Proponents of transparency around small arms shipments generally do not view it as an end in itself, but rather a tool for achieving one or more goals. Among these goals – many of which have been prioritized by the international community in recent years – are:

- ? diminishing the diversion of legally supplied arms into the black market;
- ? persuading governments to refrain from making transfers that contribute to human rights abuse;
- ? curbing the outbreak and escalation of armed conflict;
- ? providing some baseline of information for disarmament; and
- ? enhancing good governance by curbing corruption associated with the weapons trade.

Some states are suspicious of these goals and/or oppose them. Others cite the costs and difficulty of gathering information on small arms transfers, the negative impact on national or internal security of revealing such data, or the primacy of the business interest in keeping weapons sales information private.

### **Analysis of National Export Reports**

Despite the absence of a global or regional imperative, many governments have decided to provide public information on their firearms and light weapons exports (and in some cases imports) on a unilateral basis. Sweden set a precedent in 1985 by reporting on

its arms exports. Since then over 20 countries have followed suit, with the majority producing their first export reports in the late 1990s. Among the states publishing regular reports are some of the world's most significant exporters of small arms, including the United States, United Kingdom, Germany, Belgium, Italy, and France.

As more and more states adopt a regime of unilateral transparency, they help establish an international norm – a standard by which all states increasingly will be measured. This norm was strengthened greatly in 1998 with the adoption of the EU Code of Conduct on Arms Transfers, which requires increased transparency in arms exporting by the 15 European Union states and encourages openness by associated states. Because of their small size and ubiquity, transfers of small arms are very difficult to identify or verify independently – especially when compared to exports of major conventional weapons, such as warships, tanks, or aircraft. Orders for new fighter aircraft generally attract press interest, not least in the business press. Transfers of small arms shipments are much more frequent but usually ignored. Interest in investigating small arms shipments generally only emerges after guns turn up in the hands of terrorists or embargoed forces, or in the commission of atrocities. Even then, journalists and non-governmental research organizations do not have the resources to trace the whereabouts or movement of many of the tens of thousands of shipments of small arms moved each year.

Government data, therefore, represents a crucial source of information, and the only practical method by which people (media, policymakers, concerned citizens) can currently find out to whom governments are sending guns and grenades. There are two important caveats, however, that must be taken into account in regard to unilateral transparency. First, if states develop their own reporting formats in isolation from others, the level of detail, quantity of data, and definitions of terms will vary considerably. This variability hinders comparability and cross-checking of exports and imports.

Second, if states have decided to produce annual export reports as a consequence of external pressure, and not because of a commitment to the principle of transparency, then it is likely that they may try to publish reports that, when examined, actually contain very little meaningful information. Such deliberate efforts to create the impression of being more open than is actually the case undermine transparency.

Herbert Wulf has identified several ways that transparency initiatives can be undermined, even when a state is apparently participating. These include the provision of irrelevant data, inaccurate or false data, or low quality data, and/or unreported weapons. Unfortunately, all of these strategies can be found in the various annual export reports countries have put forward.

### **Reporting on the Reports**

The number of governments producing annual reports on strategic exports – including small arms and light weapons – has grown from a handful in 1996 to 22 during

1999. As the production of annual arms export reports appears to be becoming an international norm, more countries are expected to take up this practice in coming years.

Despite this welcome trend, not all reports are equal; some provide much more information than others. Moreover, the production of such a report does not automatically render a state's export licensing regime transparent.

To provide real transparency, an annual report must present a full and accurate picture of a state's arms exports. This requirement means that it is easy to discern which arms are being exported to particular countries, and what criteria the government is using when it authorizes an export. The first attribute allows readers to track the flow of small arms across the globe; the second is a vital prerequisite for ensuring democratic accountability.

While annual export reports purport to inform a state's citizens and the world about that state's arms sales or shipments, there is no internationally agreed standard for providing information. This reality means that it is necessary to delve into the minutiae of every report in order to discover exactly what a state is exporting – or to discover that the report does not really give you the full picture. Many reports do not include certain information that would be particularly pertinent to small arms. For example, Finland, France, and South Africa do not include exports of firearms deemed to be “civilian weapons” in their export reports.

Further confounding understanding, several states produce statistics without providing any accompanying notes on what the figures refer to. In the Australian export report, for example, data is provided – among other categories – for the number and value of “shipments” of “non-military lethal goods.” Nowhere is it explained what those two categories mean. Readers are left with the knowledge that, for instance, in 1999 an unknown quantity of something lethal was exported to Indonesia at a value of AUD 768,316 (USD 500,000). The lack of information on methodology renders the data in such a report practically useless.

In yet other cases, states appear to be providing more information than they actually are. A case in point is the Canadian export report, which omits entirely all exports to the United States – its largest customer.

### **Comparing States' Records**

The most widespread distinction in various states' reports is between displaying information on export authorizations (which comes from the licensing authority) and on deliveries of goods across national borders (which is usually obtained from customs data or returns filled in by exporting companies). This distinction is very important for a number of reasons.

First, the value and quantity of goods authorized for export is often very different from the actual trade. While companies are not usually allowed to exceed amounts stated

on an export license, it is generally permissible to export less than specified. As exports are generally licensed when the goods are ordered, the delay between ordering and delivery (which can be several years if the company has a long order book) means that contracts may be renegotiated or even cancelled. Therefore, depending upon states' licensing systems, the quantities of arms authorized for export are likely to be much greater than those actually delivered. This reality is due to companies initially seeking to obtain licenses for all the arms that the purchaser *might* be persuaded to buy under one contract, and because existing orders may be cut or reduced by the purchaser over the course of the contract.

Furthermore, arms exports often involve complex financing arrangements, including barter, credit terms, and/or transactions in numerous currencies. Therefore, the actual "value" of a given contract is likely to change over the course of a deal, even if the quantity of arms ordered has not.

Second, statistics on actual deliveries will neither contain any information on license applications that have been refused by governments, nor on exports that have been licensed but have not been delivered. Therefore significant decisions taken by national governments can be clouded by only publishing data on deliveries. Information on licenses granted and refused allows fuller analysis and praise or criticism of a government's decisions, while data on the actual deliveries permit the tracking of small arms transfers to importing states. Therefore, to be fully transparent, a state needs to publish information on both license authorizations and refusals, and on actual deliveries. Unfortunately, most export reports publish either one or the other. Notable exceptions are Belgium, Finland, Italy, the United Kingdom, and the United States, whose reports contain information on both categories.

Disaggregation of data is key to enabling meaningful comprehension and oversight of small arms flows. A total for all arms exported to the whole world, without any detail on how many weapons are going where, would do nothing to help protect against diversion or provide accountability. Rather, to enable proper scrutiny, annual reports need to show the quantity, value, and type of particular weapons being transferred to each country. States that provide reasonably disaggregated data are Belgium, Canada, Finland, Ireland, Switzerland, the United Kingdom, and the United States. The latter is of particular note. The US export report for 1999 lists out in great specificity some USD 470 million of small arms and ammunition that the State Department authorized manufacturers to export to foreign countries. It is possible from the report to quantify the value of licences granted for ammunition and ammunition manufacturing equipment, carbines, grenades and grenade launchers, machine guns, M16 assault rifles, other rifles, etc. to each recipient country.

Inclusiveness is also vital. Some states omit certain categories of weapons from their export reports completely or exempt certain types of exports. For instance, Finland, France, Ireland, the Netherlands, Norway, South Africa, and Sweden do not report on exports of "civilian" or "police" weapons. This distinction is especially important for small arms, as many rifles, pistols and revolvers are routinely classified as *not* being

“military weapons”. These weapons are, nevertheless, frequently used by insurgents, terrorists, and repressive governments. In other cases, countries such as Finland, Norway, South Africa, and Sweden report only on commercial exports and fail to mention arms transferred by the government (such as the sale of surplus military or police weapons). In yet other cases (such as in the UK and US reports), government transfers are listed, but in a different format to commercial exports, thus hampering the development of an overall picture of arms exports.

### **Best Practices**

The most striking conclusion is that individual governments have already demonstrated that all but two of the criteria are feasible. For example, the Italian arms report shows that states can publish information on the value and quantity of weapons delivered to each country.

However, no single annual report has yet come close to including *all* of the elements of a fully transparent report. France’s most recent report, released in December 2001, shows a marked improvement in transparency in small arms exported and licensed for export. It is one of the most transparent national reports to date. The challenge to states is to take the following examples of best practice and incorporate them all into their export reports.

Governments could easily improve their reporting practices by publishing information that they already hold and by producing more timely reports. For example, EU states commonly distribute information on license denials to each other but do not release this information to their citizens. The government of Austria, for example, produces a confidential report, with more detail than is included in its public report, which it only distributes to other EU governments. The Irish government, by publishing monthly updates on the Internet, is the only state that can truly be said to provide information in a timely manner.

The value of public and media scrutiny is lessened if states are reporting only on transfers that left the country already a year or more ago. While it would be impossible to devise a ranking system, it is possible to highlight examples of best practice from among the different states’ export reports.

**Netherlands:** The Dutch report includes information on the reason why an export license application was refused, stating the importing country, description of the goods, prospective purchaser, reason for refusal, refusal reference number, and date of refusal. In its public report, the Netherlands actually reproduces the communication it provides under the EU Common Code to other EU states.

**Ireland:** The Irish government produces monthly updates on arms export licenses it has granted and publishes them on the Internet.

**Portugal:** The export report of Portugal names the applicant for arms export licenses.

**UK:** The British arms export report provides detailed information on licenses awarded to each importing country, including the types of weapons covered by the licences.

**USA:** The United States' annual export report contains the highest level of disaggregation of data and the most detail. It includes recipient country, quantity of weapons, price, and detailed description of weapons. Such information is provided on deliveries of government-to-government exports and on authorizations of commercially-negotiated weapons sales.

### **Missing in Action**

While a small – but growing – number of countries provide limited – but growing – amounts of information on their arms exports, the majority of countries that export small arms provide no data at all. Of the presumed top five major small arms exporters – the United States, Germany, Russia, Italy, and Brazil – only three (the United States, Germany, and Italy) are transparent with respect to their small arms exports. In 2000, Russia and Brazil exported USD 177 million and USD 70 million respectively in small arms; however, neither country provides any meaningful report on the destination of these weapons.

The Russian government occasionally reports small arms transfers to the press, but it has done so on an *ad hoc* basis and little detailed information is actually provided. (The reports are generally giving praise to the international competitiveness of Russian arms manufacturers.) The non-governmental group Viva Rio obtained Brazilian customs data and provided a detailed analysis of Brazilian small arms exports.

The official press agencies of Ukraine and Pakistan have reported some official figures for total annual small arms exports, but no information on recipient countries is given. Additionally, data on Israel's small arms exports is available in the form of company data for Israeli Military Industries (IMI), Israel's largest small arms exporter. However, no data is available for other Israeli small arms manufacturers, and no official government report is available.

Other countries are so secretive about their small arms exports that it is impossible to estimate whether or not they are major exporters. Bulgaria is believed to be a significant exporter of small arms, yet the government provides no information to verify or disconfirm this belief. China makes its customs data on small arms exports public through the COMTRADE database (see Part 4), but the figures reported appear to be too low to reflect total Chinese small arms exports. If a half dozen presumed significant exporters of small arms – including China, Bulgaria, Israel, Russia, Ukraine, Brazil, and Pakistan – were to publish detailed data on their small arms exports, a gaping hole would be filled in terms of the picture of the global small arms trade.

## Recommendations

An important obstacle to throwing more light on the international trade in small arms is the haphazard way in which governments have released information thus far. As long as there are no international standards for reporting arms transfers, the available information will be difficult to understand and compare. Some states that are ambivalent about transparency in this regard will continue to provide as little information as possible.

In the absence of global export reporting regimes on small arms, states' national export reports have been the primary source of information. As highlighted in Part 4 and Table 2, several states have pioneered extremely good practices. These states have demonstrated that these best practices are feasible and are not accompanied by adverse consequences.

This report presents the following template for an annual export report that would combine the best practices found across the world. Ideally, the report should be available in both the state's national language(s) and in English, and be accessible via the Internet. Before providing statistics on arms exports, reports should include:

- ? summaries of national export laws and regulations;
- ? lists of the international arms control obligations and treaties to which the state is a party;
- ? summaries of the report's statistics, such as total value of small arms exports or the total number of licenses issued; and
- ? the report methodology.

It should then contain the following information on each importing state:  
Licenses issued: The total number of licenses issued, and the total value of each license.

For each licence issued:

- Weapon category
- Description
- Licence Type
- Licence Duration
- Purchaser details
- End-user
- Government/Industry transaction
- Vendor name
- Quantity
- Value

Licences refused:

The total number of licences refused, the total value of licences refused.

For each licence refusal:

Weapon category  
Description  
Prospective purchaser  
Prospective end-user  
Government/Industry transaction  
Prospective Vendor  
Quantity  
Value  
Date of refusal  
Refusal reason

Actual Deliveries:

The total value of actual deliveries, for arms deliveries associated with each licence issued, or government transfer:

Weapon category  
Description  
Date licence issued or transfer authorized  
Purchaser details  
End-user  
Government/Industry transaction  
Vendor name  
Quantity  
Value

## **Presentation by Brooke Hartigan**

### **Focusing National and International Efforts: a Discussion of Goals and Policies : The Australian Experience**

It has long been recognised that to combat the ever-present problem of illicit trafficking in small arms and light weapons, effective control over the import, export and brokering of firearms is paramount. As a consequence, however, “effective” control over the dealings in firearms should not unjustifiably impose upon their legitimate ownership, possession and use.

Striking the ultimate balance between the legitimate players in this field so as not to leave legislative loopholes which would in turn make way for illicit trafficking, and by the same token not imposing so stringent a regime as to disallow all persons from legitimately obtaining a firearm, is somewhat of a difficult task.

The focus of the Australian government at present is directed at those who attempt to illegally possess firearms while trying best to continue to accommodate legitimate end users.

#### **Australia’s national firearms laws – a brief description**

- ? On 10 May 1996 the Australasian Police Ministers’ Council (‘APMC’) (comprising the Commonwealth Minister for Justice and Customs, State/Territory and New Zealand Police Ministers) agreed on new laws for firearm ownership and use in Australia under the National Firearms Agreement (“the Agreement”).
- ? Prior to the introduction of the Agreement, firearm laws differed greatly across the States and Territories:
  - only certain States/Territories had firearms legislation in place;
  - of those jurisdictions that had legislation, variations occurred in such areas as the requirement for a firearms licence and access to firearms.
- ? The formulation and adoption of the Agreement was a timely and necessary response to growing community concern about the use of firearms in extremely serious violent crimes in Australia:
  - Several mass shootings reinforced the need to strictly control the availability of semi-automatic, pump-action and military-style firearms;
  - the most recent, the Port Arthur massacre on 28 April 1996 in which 35 people were gunned down in Tasmania, was the catalyst for the Commonwealth, State and Territory governments agreeing to a set of national firearm controls which had been developed from several years of detailed preparation and extensive consultation.

Essentially, in creating the NFA, it was not forgotten that the key aim of the agreement was to ensure that whilst illicit trafficking in firearms had to be prevented, the legitimate possession, ownership and use of firearms in Australia was to be protected.

The legislative changes introduced in each State and Territory under the Agreement have seen:

- ? Bans on self-loading rifles and shotguns and pump action shotguns subject to narrow exceptions;
- ? compulsory licensing of firearm owners subject to a requirement that a genuine reason and need be established for owning, possession or using a firearm. People with a genuine reason include people such as sporting shooters, recreational shooters/hunters, persons with an occupational requirement (primary producers, security personnel), bona fide collectors of lawful firearms, persons with limited purposes eg film production;
- ? compulsory registration of all firearms;
- ? a requirement that first-time licence applicants undergo firearm safety training;
- ? introduction of 5 categories of firearms licences;
- ? restricting the sale of firearms by or through a licensed firearms dealer;
- ? introduction of minimum standards for security and storage of firearms.

For more information, please see [www.gun.law.gov.au/Guns/legislation/legislation.htm](http://www.gun.law.gov.au/Guns/legislation/legislation.htm), or specifically the [www.gun.law.gov.au](http://www.gun.law.gov.au) website and the link to the 10th May 1996 Australasian Police Commissioner's Resolutions.

As part of the Agreement, a National Firearms Buy-back was also conducted for twelve months to remove the most dangerous firearms from circulation. The buy-back compensated individual firearms owners who surrendered banned firearms or firearms they no longer had a genuine reason to own; and firearms dealers who surrendered prohibited firearms from stock. All in all, the buy-back removed some 660,000 prohibited firearms from circulation in the community.

A firearms safety code has also been developed to supplement the minimum standards and is aimed at reinforcing the safety message, not just to first-time shooters but to all legitimate firearms owners/users.

### **Impact of changes**

As with any change in government policy, a number of pro-gun and anti-gun lobby groups have voiced their views on the impact of the changes introduced under the Agreement.

### **Export—import policies**

In addition to Australia's national firearms laws, Australia also has in place strict and comprehensive controls and licence/approval procedures to monitor the import and export of firearms. These controls regulate and constrain the legal trade in small arms, which in turn helps to prevent illicit trafficking.

The export from Australia of firearms, firearm accessories, firearm parts, firearm magazines and ammunition, components of ammunition and replicas ('firearm articles') is controlled under the *Customs (Prohibited Exports) Regulations 1958*. A copy of the regulations can be downloaded from the *austlii* website, at [www.austlii.edu.au](http://www.austlii.edu.au) .

Briefly, all proposed exports from Australia of defence and related goods, including small arms, are subject to comprehensive, case-by-case government review and licence procedures. Licence approvals are issued only where export is consistent with Australia's international obligations and broader interests, including security and human rights considerations.

Australia's strict policy on illegal arms transfers is illustrated by the various conditions under which exports of military small arms and military goods are expressly prohibited:

- ? to countries against which the United Nations Security Council or United Nations General Assembly have imposed a mandatory arms embargo;
- ? to countries with policies or interests which are hostile to the strategic interests of Australia or its friends and allies;
- ? to governments that seriously violate their citizens' rights, unless there is no reasonable risk that the goods might be used against those citizens;
- ? where foreign and strategic policy interests outweigh export benefits; and
- ? if the export would be reasonably judged to affect adversely Australia's military capability.

Australia has also decided that in certain circumstances it may be necessary to prevent the export of non-military lethal goods (including certain types of small arms, such as hunting or sporting firearms to particular destinations on foreign policy, defence or other national interest grounds). The export of non-military lethal goods to any country is prohibited unless an export permit has been issued.

### **Import**

The importation into Australia of firearms, firearm accessories, firearm parts, firearm magazines and ammunition, components of ammunition and replicas ('firearm articles') is controlled under the *Customs (Prohibited Imports) Regulations 1956*. A copy of these Regulations can be downloaded from the *austlii* website at [www.austlii.edu.au](http://www.austlii.edu.au) .

All proposed imports to Australia of firearm articles, including small arms, are subject to comprehensive, case-by-case government review and approval procedures. Import approval is issued only where an import satisfies the requirements of one of several importation tests. Approval under those tests is provided by either the Federal Minister for Justice and Customs or the Police Commissioner (or Chief of Police) in the relevant State or Territory. Information about these tests can be found in Part 1 of Schedule 6 of the *Customs (Prohibited Imports) Regulations 1956*.

### **South Pacific Region**

Great media attention has been had recently over the firearms control in nations of the South Pacific region.

As a neighbour to this area, Australia remains committed to encouraging and positively influencing the South Pacific region with respect to the firearms issue.

An Australian organisation, AusAID (the Australian Agency for International Development), is presently assisting our South Pacific neighbours in bringing about draft model legislation which is ultimately aimed at establishing a common regional approach to weapons/firearms control, focusing on the illicit manufacture of, and trafficking in, firearms, ammunition, explosives and other related materials. Ideally, the draft model legislation is to be as consistent as possible with the principles of the Australian National Firearms Agreement.

For more information please see the AusAID website at [www.ausaid.gov.au](http://www.ausaid.gov.au).

**Presentation by Robert Delfay**  
**“A Failure to Communicate”**

Thank you Mr. Chairman.

First, some brief background.

I am Robert Delfay. For more than 30 years I have been associated with the sporting arms and ammunition industry in the United States. I am one of few people alive who have been involved in the U.S. firearms industry nearly as long as the esteemed Chairman of our Manufacturers Advisory Group, Mr. Ted Rowe.

For the past 16 years I have been the President and Chief Executive Officer of the National Shooting Sports Foundation (NSSF) and the Sporting Arms and Ammunition Manufacturers Institute (SAAMI).

The National Shooting Sports Foundation was created in 1961 to foster a better understanding of the shooting sports in America. We have nearly 2,000 members who are firearms and ammunition manufacturers, distributors and retailers as well as manufacturers of sporting optics, clothing, accessories, publications and shooting ranges.

I believe it will be helpful to you, in determining the credibility of my comments, to recognize that the objective of my organization is to be constructive and, I hope, to contribute to positive results – not to try to obstruct positive results.

Our philosophy and our priority have always been to be part of a solution.

For example, over the past half-century, the companies I represent have contributed 1.2 billion hard U.S. dollars to wildlife conservation in our nation. In addition:

- ? Olympics – we are the largest single contributor to the United States Olympic Shooting Team and to the United States Biathlon Team. We recently awarded a \$1 million grant to the International Hunter Education Association.
- ? We have invested millions and millions in firearm safety programs and are currently a partner with our government in a \$70 million safety program. As a result of these safety programs, fatal firearms accidents in the U.S. are at the lowest levels in many decades.

I say this not in a self-congratulatory way, but in the hope that you will understand our history of commitment to helping solve problems.

**General Comments:**

This afternoon, I would like to make some general observations as someone who has not been intimately involved with this international firearms regulation issue, but who has attempted to follow it for most of its duration back to 1996, and who has participated in a number of U.S. and international meetings on the subject.

Regrettably, my experience with this issue, to date, requires me to tell you how disappointed and concerned I am at how political the matter seems to be. There were comments following last July's United Nations conference on Small Arms about the "lack of progress". As some viewed it, this was because of politics. Consequently, a few groups and countries have taken a great deal of heat for that. Without doubt, politics played its part. But there were other factors which limited the success of that New York conference – factors which I hope we can rise above here in Naples over the next days.

In the United States, one of the most successful motion pictures of the past 30 years features a scene where a prisoner, played by Paul Newman, is about to be punished – yet again – for an attempted escape. Addressing the prison population, the warden proclaims with great frustration, "What we have here is a failure to communicate". I fear that commercial manufacturers of sporting firearms from the U.S. and Europe and foreign governments concerned about reducing illicit traffic in weapons of war may also be struggling with a failure to communicate.

In part, I believe, our failure to communicate – at least to date – stems from the fact that our issues and our concerns are complicated and multi-dimensional. I feel we share and understand some concerns, but not all. Again, I hope we can do better over the next two days.

Consider the figures that we heard from the first panel. It should be evident from those numbers that most of the commerce in so called "small arms" occurs in the legal civilian market and does not contribute to the problems that concern us. I would hope that this legal civilian commerce is not what our governments and certain NGOs should be concerned with. I would hope that the United Nations is not concerned with how many hunting rifles or target shotguns I have in my gun safe back in Connecticut – or how many Tom Mason has or Ted Rowe has or how we purchased them or how we might sell them or even how we might responsibly take one or more of them with us on a trip to Africa or Spain or to the Olympics in Australia, the United States or in Greece.

To the extent that the legal and responsible interests of those 60 million who buy, sell and use sporting firearms for hunting, target shooting and collecting are taken into consideration in proposed solutions and treaties, we can work together. We can be allies. We can partner for solutions.

To the extent, however, that our legitimate interests are trivialized or ignored, we shall be forced to be adversaries – failing to communicate, failing to partner in solutions to serious issues.

To date, there has been a tendency toward two things which impede our progress toward partnership.

First, there has been this lumping together of military “weapons of war” – usually fully automatic and usually manufactured by or for government – with civilian firearms usually manufactured by traditional, responsible commercial makers like Remington, Winchester, Ruger or Beretta.

Secondly, there has been a continued and erroneous assumption that the key to controlling illicit arms dealing is to increase regulation of licit commerce.

Let me now move on to the issues assigned to this panel and see if I can make some positive suggestions for what industry may be able to do to help achieve our mutual goals.

### **Specific issues:**

First, are there regions of special concern? This is an elusive issue to address from the industry perspective. At this point, at least, we have no areas (regions) of special concern of our own. Our interest would be in assisting government and NGOs in addressing their areas of special concern while asking that any proposed actions would take into consideration lawful commerce. It is obvious the concern for Africa has been one of the driving forces of the international effort to regulate small arms. There is also substantial concern about Eastern Europe. We would share those concerns and are eager to partner.

Most of the commerce involving the people I work with takes place between Europe and the United States. We would be very concerned, therefore, if any of the proposed regional solutions carried inadvertent effects.

The moratorium put in place by the economic community of western African states is one of the many areas I am not an expert in but I would hope that such arrangements didn't inadvertently prohibit law-abiding international hunters and sport shooters from crossing borders, or cripple legitimate commerce in sporting arms. I believe the local and state governments and the private citizens who benefit from this legitimate commerce would share our concerns.

Let me comment briefly on state-to-state transfers. This is clearly a governmental and political question. Should international firearm regulations cover state-to-state transfers as well as private transfers? As a political question, that it is something upon which I can't offer any technical or experiential expertise. However, I can offer that we

were disappointed when the Firearms Protocol did not cover state-to-state transfers. It is our general view that there should be no such exemptions from any possible regulatory scheme. One could argue that the real problems we are concerned with come more from transfers by states than from legal private commerce. Let us also be very frank – there is always the tendency to take the path of least resistance. It is much easier to impose regulations on the actions of individuals or individual companies than on states.

National export policies. Such policies are the rightful concerns of the various national governments. What we are most concerned with here are national prohibitions of trade with certain states. For example, industry experience has been that sometimes industry itself doesn't even know of the existence of a prohibition, much less the reason for it.

Industry would make two suggestions, therefore, in this area:

- ? The first is that when such policies are initiated, there should be consultations with affected businesses to avoid unanticipated consequences to receive suggestions and to head off unnecessary opposition.
- ? Our second suggestion – perhaps we can make it a commitment before we leave this workshop – is that industry establish a clearinghouse and database of the various national trade prohibitions. This would provide manufacturers and others with one place to determine the status of trade to a particular state. This might apply to UN and other international embargoes as well.

Comments on codes of conduct – international law – regional solutions. It goes without saying that industry has no interest in commerce with human rights abusers. Several codes of conduct have been promulgated and there seems to be substantial interest in them. These include the 1998 European Union Code of Conduct for Arms Exports.

A code of best business practices for industry is an area we are interested in pursuing.

Transparency. This is one of the most important topics. A great deal has been written on it and there are numerous specific proposals. While discussing this I would like to respond to some of what was stated in the Norwegian Initiative on Small Arms Transfers report, “Shining a Light on Small Arms Exports: The Record of State Transparency.”

At the first part of that report, there is a statement suggesting that “... calls for greater openness challenge business interests – both legitimate and illegitimate – that prefer to operate in secrecy” (page 2). I do not speak for illegitimate business, but I will speak as loudly and clearly as I can for the legitimate business concerns I have represented for 30 years. We do not need to or wish to operate in secrecy. We are proud

of our record of responsibility, safety and cooperation with law enforcement and are deeply disturbed at simplistic statements which paint illicit and legitimate commerce with the same black brush, and which lump together civilian arms and weapons of war.

Such statements and such policy do not lend themselves to true partnerships.

There is also the statement in the “Shining the Light” report, that “the international arms trade is rife with corruption” (page 6). On its surface, the generality of that statement must be challenged. Our industry is not “rife with corruption”. Nothing is to be gained by such rhetoric. I am hopeful that going forward all such misleading generalities can be erased from future discussions and reports.

And so, let me briefly review four suggestions I have put forth for industry action:

1. That industry establish a clearing house or database or listing of the various national trade prohibitions;
2. That industry consider the development of a code of best business practices;
3. That industry produce an annual or semi-annual report to national governments and the international community on efforts against illicit trafficking in small arms or firearms;
4. That this conference endorse some statement clarifying that regulation of legal commerce in sporting firearms and ammunition should not be the objective of proposed international arms regulations.

I should like to conclude my comments by referring to an introductory comment in the paper, “Shining a Light on Small Arms Exports: The Record of State Transparency”. It reads:

*This paper uses the terms ‘small arms’ and ‘small arms and light weapons’ interchangeably. Unless noted, no distinction is made between weapons designed for military or civilian use.*

I submit to you, my friends, that if we cannot make the effort to differentiate between military and civilian firearms – between shoulder-fired rocket launchers and hunting rifles – between fully automatic assault rifles and target shotguns – then we have made no effort to differentiate between the millions of responsible citizens who use firearms in legitimate recreation and those who use them for political repression, for aggression and to create political instability.

If we cannot openly and clearly differentiate between the people I represent who are offering to help you and the people whose illegal actions you are trying to control, then you have turned away an important ally.

Let us not be adversaries; let us be partners. Let us not fail at this opportunity to communicate and cooperate.

Thank you for your attention.

## **Presentation by Greg Jencks**

My comments relate to the challenge of embargo enforcement and facilitating legal commerce.

Our firm is a long-standing member of the import community. Our primary business is the sale of replacement parts for both obsolete and current commercial and military firearms. A smaller segment of our business is focused on the import of surplus firearms for distribution to the collecting and shooting sports community.

There is a well-defined process in place for the import of firearms and related products into the U.S:

- ? In order to facilitate the import process we are required to obtain an approved import permit from BATF.
- ? A 5-year certificate verifying the physical location of these goods for the previous 5 years is required from the point of origin.  
This is a critical document, which is necessary to enforce and control the movement of small arms from both open and embargoed areas.
- ? In particular, in recent years the advent of emerging governments has resulted in a lack of credentials and/or valid certification regarding documents from some of these areas.

There is a need for uniform and clearly defined 5-year documentation from the point of origin. This document should include the following:

- ? Physical location of goods.
- ? Name of the individual signing the document.
- ? Position of the individual signing the document.
- ? All pertinent contact information to confirm authenticity.

The following information should also be available at the corresponding transaction point (in our case, Washington, D.C.):

- ? Physical location of goods.
- ? Name of the individual signing the document.
- ? Position of the individual signing the document.
- ? All pertinent contact information to confirm authenticity.

As commercial businessmen, we need this information to prepare clear and open documentation. This documentation may then be used by the appropriate regulatory authorities to authenticate and issue the required approvals.

As responsible businessmen it is our intention and obligation to facilitate and support compliance on this issue.

I would hope that as we move forward we are able to improve and strengthen the tools that are required to conduct legitimate business.

Thank you.

## Presentation by Keith Tidswell

We have come to this meeting with the common purpose of finding ways in which as partners we can tackle the problem of illicit trafficking. On the one hand there are the illicit traffickers supplying unlawful end users with ordnance, and, on the other hand, there are the legitimate firearm and ammunition industries supplying their product to the sports shooting community and other legal outlets. Between these two there is a massive difference. Our concern is that the affairs of the law-abiding continue to be inadvertently and unfairly affected by the activities and reputation of the illicit.

It must be kept in mind that any international regulation regarding firearms needs to include the concept outlined in the 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. This Protocol recognizes the lawful gun owner's needs. A/55/383/Add.2, *Article 10.6.* states, with reference to *General Requirements for Export, Import and Transit Licensing or Authorization*, "States Parties may adopt simplified procedures for the temporary import and export and transit of firearms, their parts and components and ammunition for verifiable lawful purposes such as hunting, sport shooting, evaluation, exhibitions or repairs."

Illicit traffickers actively bypass the legal export and import systems. Their methods are clandestine. Their shipping, transport and delivery methods are intended from the outset to avoid:

- ? Customs
- ? Import Duties
- ? Record Keeping
- ? Background Checks
- ? Licensing
- ? Approvals to Purchase
- ? Third Party End-Users' Certificates

People in the legitimate firearms trade are no friends of the illicit traffickers. By their nature, the illicit traders avoid and develop channels around the legal trade, because too much light is shone on the lawful side of the business and the illegal trafficker doesn't want to be silhouetted in its glow.

The motivation for illegal suppliers is usually short term profit of one sort or another. Their clients are those unable or unwilling to purchase through legal channels. The end user may want to take possession for reasons of maintaining or taking power, for profit or for some kind of perceived cause. All of these illegal aspects of supply are surrounded by high motivation not to be caught, and as a result considerable pains are taken to act outside the legitimate system.

On the receiving end of the supply, illicit purchases may be made with the intent of committing some act with a firearm that the buyer does not want to see the light of day.

The intent may be:

- ? War
- ? Terrorism
- ? Murder
- ? Robbery
- ? Extortion
- ? Intimidation
- ? Revenge

In addition to these, in a less harmful category worldwide, and increasing in response to legislation seen by lawful community members as over-harsh, illicit purchases on a smaller scale may also be made by individuals. I refer to people living in environments forbidding legal firearm ownership for self-protection. They feel the need to be able to protect themselves. To minimize this problem, legislation when framed needs to give adequate ear to the views of those who would be prepared to follow fair and reasonable procedural requirements and thus abide by the law. Guns are even today being dug up from the soil of homes in occupied France, concealed over half a century ago on pain of death. Over-legislating builds resentment and is inefficient. The correct legislative balance is critical.

Legislative and regulatory procedures are put in place to try to keep the illicit trade from supplying persons not lawfully able to obtain or be in possession of firearms. But illicit trafficking continues because of deeper negative aspects of the human condition:

- ? corruption
- ? the love of power
- ? greed
- ? fear

The collective objective of governments, customs, law enforcement, industry, and sportsmen, hunters and collectors all working in partnership is to keep firearms out of the hands of those who would use or traffic in them illegally or irresponsibly.

Intelligence gathering, investigation and other in-close police work are some of the ways to make an impact on the trafficking, and most especially if they are carried out in cooperation with the legitimate firearm industry and lawful firearm owners.

At the same time the objective is to see that legal traders are able to supply their legitimate clients with a minimum of restriction, and that they follow government procedures that are:

- ? secure
- ? effective
- ? efficient
- ? safe
- ? cooperative
- ? fair
- ? friendly

As in any other legitimate business, the consumer is supplied by exporters, importers, distributors, dealers and retailers, all constituting legal brokerage. Firearm brokerage is not by any stretch of the imagination always negative in connotation. At the end of the chain, the consumers, in no particular order, may be Olympians, sporting competitors at a wide variety of local, state and national levels, clubs managing gun safety courses or experiential courses for youth and other community groups, hunters of small game, hunters of big game, hunters of both feather and fur, subsistence hunters whose harvest provides a variably large part of their food intake, farmers and other land managers, conservation park and wildlife managers, fishermen, pest control managers, collectors, security industry employees, professional cullers, the police and the military.

The illicit aspects of broking exist not to service all these legitimate uses as described above, but in response to the negative aspects of supply and demand as they apply in war, insurrection and organized crime. The legal and the illegal should once again not be confused.

In the legitimate arena and its inevitable need for lawful movement of firearms by sporting people, security of goods in transit is also essential because all the record-keeping care in the world is of little avail if diversion or theft occurs before the product reaches its intended destination. Sporting teams or hunters should be entitled to expect that their equipment should travel safely and securely as baggage on the same plane as they are on, and they should be able to expect that the goods will be transferred efficiently during in-transit flights. Carelessness and lack of security by airline staff and baggage handlers are unacceptable.

Legitimate sportsmen, hunters and collectors are heavily involved in travel and tourism. They contribute to the economic wellbeing of communities that they visit and I can personally attest to the friendships that are generated as they interact with their counterparts throughout the world. The transportation of firearms as baggage on airlines

is becoming increasingly difficult. Members of the firearm community have been inconvenienced, harassed, delayed, had their guns vandalized, and, in extreme cases, have even been imprisoned. Many incidents result from over-reaction to firearms by inadequately trained airline personnel. Others are the result of anti-hunting activism, or inappropriate application of military arms embargoes to sporting firearms by government officials. Further problems may be caused by ignorance of applicable rules by passengers themselves. Increasing international regulation of firearms commerce may exacerbate this state of affairs.

These problems are especially onerous for those travelling across international borders. Shooting teams travel with their own carefully selected, delicate, expensive and finely tuned target rifles, shotguns or target pistols and they take with them ammunition that has been very carefully assessed for performance in their particular firearm. They need it to arrive safely with a minimum of fuss. Ammunition of the same brand may produce group sizes from 5mm to 50mm out of the same firearm barrel, a variation of this magnitude being the difference between success and very notable failure. Once an ammunition batch number has been identified as producing the desired results from a particular sporting arm, the shooter must have an adequate supply. Gold medals can be lost through unintended consequences following ill-advised regulation.

It should be noted that the World Forum on the Future of Sport Shooting Activities has instituted a project with a view to reaching an agreement on improving the procedures for the transport of firearms and ammunition as baggage on airlines. Airline transport continues to be an issue for some people who move around the globe in the course of their normal competitive shooting, hunting and collecting activities. We believe that this topic is especially relevant because of the increasing concern over airline security following the horrific events of September 11<sup>th</sup>, 2001.

This is an example of where we think there can be very effective cooperation between the firearms community, national governments and the business community. It is a specific problem, it needs to be addressed and it needs to be done on a cooperative basis. It is a perfect example of the partnership mentioned in the title of this workshop.

What we are hoping is that the result will be that when sporting arms cross borders, lawful firearm owners will have:

- ? access to information about customs and legal requirements for both departure and arrival
- ? information about what to expect
- ? information about travel requirements
- ? fair and respectful treatment as patrons by staff who are both trained and knowledgeable

Finally, let me say it is intended that this workshop will contribute to the efforts of the UN Small Arms and Light Weapons Program of Action in combating illicit trafficking in ways that provide practical solutions to real problems. It is not only industry that should be contributing to these efforts, but also the sporting community in partnership with government and law enforcement.

## **Presentation by Kathi Austin**

### **Brokering**

#### The Extent and Nature of the Problem

- ? In the arms trade business, brokers are uniquely unregulated.
- ? Only 12 countries in the world have domestic regulation, which varies in scope and comprehensiveness.
- ? As long as brokers remain a neglected aspect of arms trade controls and there is a lack of uniformity in the criminalization of illicit activities, it will continue to be difficult for governments to distinguish the legal from the illicit operators.
- ? Furthermore, the failure of the international community to reach agreement on a uniform arms brokering control regime hampers cooperation in investigations, extradition, and other judicial procedures that could bring offenders to justice.
- ? An international regime is important because arms brokering is a transnational activity that requires a transnational approach to its regulation.
- ? Unregulated brokers account for most of the diversion of arms from the legal to the illicit trade as well as arms to conflict zones, pariah clients and human rights abusers. Unregulated brokers are also the key violators of UN arms embargoes. They also undercut the legal trade and are often the ones responsible for giving the arms industry a bad name.
- ? Illicit arms brokers are also associated with other transnational crime activities such as (1) money laundering; (2) corruption, bribery and embezzlement; (3) the smuggling of other contraband; and (4) the fraudulent use of humanitarian vectors.

#### The Advantage to Regulating Arms Brokers

- ? Regulation of arms brokers is key for public accountability and consumer protection.
- ? Regulation also ensures that national authorities will be able to assess proposed deals that may be improper or contrary either to national or international law and policy.
- ? For the benefit of the industry, regulation allows legitimate brokers to carry on their trade with the approval of national authorities. Such regulation should also enable the national authorities to conduct investigations into potential illicit activities and provide the means for swift prosecution.
- ? Once domestic and international regulations are in place, the industry will benefit from the disclosure of brokers who meet legal requirements, and thus be able to readily identify illicit operators. This will permit a clampdown on the type of illicit sales to controversial areas, which often gives the legal trade a bad name, and may provide the opportunity for brokering higher-end market prices.

### Technical Issues

- ? The definition of arms “broker” and “brokering” as well as type of arms to be regulated can be found in The Fund for Peace *Model Convention on the Registration of Arms Brokers and the Suppression of Unlicensed Arms Brokering* at our website, [www.fundforpeace.org](http://www.fundforpeace.org).
- ? Included in the FfP model convention are the terms of reference for a registration and licensing scheme as well as applicable jurisdictional scope.
- ? The FfP has also proposed a complementary means of deterring illicit brokering by recommending other parties inadvertently involved in an illicit transaction, such as banks, insurance agents, and/or lending establishments, cease business, cancel contracts and recover payments.
- ? Penalties for illicit brokering need to be duly prescribed in the formulation of domestic and international regulations.
- ? The FfP maintains that transparency is key for the regulation and enforcement of arms brokering statutes. We recommend transparent national and international registries as well as the publication of lists of violators of arms brokering laws.
- ? The FfP also maintains that national authorities should prohibit brokering activities that breach international and human rights law as well as codes of conduct and other national and international priorities.
- ? An international regulation scheme must also encompass procedures for international cooperation, information exchange, mutual legal assistance and extradition.
- ? Lastly, systems of monitoring and implementing national and international regimes are necessary to ensure appropriate enforcement.

### What Progress Has Been Made Towards Regulation

- ? Currently, a number of governments are reviewing their domestic legislation and closing loopholes on unregulated activity. For example, Belgium and France have passed brokering legislation and the UK is currently revising its exports laws.
- ? Brokering is covered under the Firearms Protocol of the Convention on Transnational Organized Crime. However, the Firearms Protocol only encourages states to consider brokering regimes, and needs to be amended in order to create a binding regime.
- ? Regional approaches towards the regulation of brokering have also been instituted by regional institutions such as the Southern African Development Community (SADC) and the Organization of American States through its treaty on firearms.
- ? The Europe Union Parliament passed a resolution calling for the drafting of a treaty on arms brokering prior to the UN review conference in 2006.
- ? National and international authorities have improved efforts aimed at enforcement of UN arms embargoes.
- ? A group of like-minded governments, non-government organizations and international coalitions are currently campaigning for an arms brokering convention.

What the Industry Can Do to Help Alleviate the Problem of Illicit Arms Brokers

- ? Support the formulation and implementation of domestic legislation to license and regulate arms brokers.
- ? Formulate industry model regulations.
- ? Communicate with governments, NGOs, and international agencies campaigning for an international convention in order to address industry concerns as well as support efforts to achieve an international regime.
- ? Publish a report detailing industry concerns and recommendations for domestic and international regulations of arms brokers.
- ? Provide information to law enforcement regarding illicit contractors.
- ? Work to create market disincentives for industry players engaged in illicit activities.

**Presentation by Mark Barnes**

**U.S. Brokering Activities  
and Select Provisions of U.S. law**

**U.S. CODE**

Section 38 of the Arms Export Control Act (hereinafter “AECA”) authorizes the President of the United States to control the export and import of defense articles and defense services. The AECA provides that the President shall designate defense articles and defense services; such designated items constitute the United States Munitions List.

Section 151 of Public Law 104-164 requires every person who engages in the business of brokering activities with respect to the manufacture, export, import, or transfer of any defense article or defense service, *including foreign defense articles or services*, to obtain a registration and a license, effective 120 days from the new law’s effective date of July 21, 1996. Select provisions of the law read as follows:

**Sec. 151. Brokering Activities Relating to Commercial Sales of Defense Articles and Services**

*(a) In General — Section 38(B)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778(B)(1)(A)) is amended —*

- (1) in the first sentence, by striking “As prescribed in regulations” and inserting “(i) As prescribed in regulations”; and
- (2) by adding at the end the following new clause:

“(ii)(I) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in official capacity) who engages in the business of brokering activities with respect to the manufacture, export, import, or transfer of any defense articles or defense service designated by the President under subsection (a)(1), or in the business of brokering activities with respect to the manufacture, export, import, or transfer of any foreign defense article or defense service (as defined in subclass (IV)), shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations.

“(II) Such brokering activities shall 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.

“(III) No person may engage in the business of brokering activities

described in subclause (I) without a license, issued in accordance with this Act, except that no license shall be required for such activities undertaken by or for an agency of the United States Government ---

“(aa) for use by an agency of the United States Government; or

“(bb) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

“(IV) For purposes of this clause, the term ‘foreign defense article or defense service’ includes any non-United States defense articles or defense service of a nature described on the United States Munitions List regardless of whether such articles or service is of United States origin or whether such article or service contains United States origin components.”.

## **CODE OF FEDERAL REGULATIONS**

### **Title 22—*Foreign Relations***

#### **Chapter I—*Department of State***

#### **Part 129—*Registration and Licensing of Brokers***

##### **Sec. 129.2 Definitions.**

(a) Broker means 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.

(b) Brokering activities means acting as a broker as defined in Sec. 129.2(a), and includes 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. For example, this includes, but is not limited to, activities by U.S. persons who are located inside or outside of the United States or foreign persons subject to U.S. jurisdiction involving defense articles or defense services of U.S. or foreign origin which are located inside or outside of the United States. But, this does not include activities by U.S. persons that are limited exclusively to U.S. domestic sales or transfers (e.g., not for export or re-transfer in the United States or a foreign person).

(c) The term “foreign defense article or defense service” includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.

**Sec. 129.3 Requirement to Register.**

(a) Any U.S. person, wherever located, and any foreign person located in the United States or otherwise subject to the jurisdiction of the United States (notwithstanding Sec. 120.1(c)), who engages in the business of brokering activities (as defined in this part) with respect to the manufacture, export, import, or transfer of any defense article or defense service subject to the controls of this subchapter (see Sec. 121) or any "foreign defense article or defense service" (as defined in Sec. 129.2) is required to register with the Office of Defense Trade Controls.

(b) Exemptions. Registration under this section is not required for:

(1) Employees of the United States Government acting in official capacity.

(2) Employees of foreign governments or international organizations acting in official capacity.

(3) Persons exclusively in the business of financing, transporting, or freight forwarding, whose business activities do not also include brokering defense articles or defense services. For example, air carriers and freight forwarders who merely transport or arrange transportation for licensed United States Munitions List items are not required to register, nor are banks or credit companies who merely provide commercially available lines or letters of credit to persons registered in accordance with Part 122 of this subchapter required to register. However, banks, firms, or other persons providing financing for defense articles or defense services would be required to register under certain circumstances, such as where the bank or its employees are directly involved in arranging arms deals as defined in Sec. 129.2(a) or hold title to defense articles, even when no physical custody of defense articles is involved.

**Sec. 129.7 Prior Approval (License).**

(a) The following brokering activities require the prior written approval of the Office of Defense Trade Controls:

(1) Brokering activities pertaining to certain defense articles (or associated defense services) covered by or of a nature described by Part 121, to or from any country, as follows:

(i) Fully automatic firearms and components and parts therefor;

(ii) Nuclear weapons strategic delivery systems and all components, parts, accessories, attachments specifically designed for such systems and associated equipment;

(iii) Nuclear weapons design and test equipment of a nature described by Category XVI of Part 121;

(iv) Naval nuclear propulsion equipment of a nature described by Category VI(e);

(v) Missile Technology Control Regime Category I items (Sec. 121.16)

(vi) Classified defense articles, services and technical data;

(vii) Foreign defense articles or defense services (other than those that are arranged wholly within and destined exclusively for the North Atlantic Treaty Organization, Japan, Australia, or New Zealand (see Secs. 129.6(b)(2) and 129.7(a)).

(2) Brokering activities involving defense articles or defense services covered by, or of a nature described by, Part 121, in addition to those specified in Sec. 129.7(a), that are designated as significant military equipment under this subchapter, for or from any country not a member of the North Atlantic Treaty Organization, Australia, New Zealand, or Japan whenever any of the following factors are present:

(i) The value of the significant military equipment is \$1,000,000 or more;

(ii) The identical significant military equipment has not been previously licensed for export to the armed forces of the country concerned under this subchapter or approved for sale under the Foreign Military Sales Program of the Department of Defense;

(iii) Significant military equipment would be manufactured abroad as a result of the articles or services being brokered; or

(iv) The recipient or end user is not a foreign government or international organization.

(b) The requirements of this section for prior written approval are met by any of the following:

(1) A license or other written approval issued under parts 123, 124, or 125 of this subchapter for the permanent or temporary export or temporary import of the particular defense article, defense service or technical data subject to prior approval under this section, provided the names of all brokers have been identified in an attachment accompanying submission of the initial application; or

(2) A written statement from the Office of Defense Trade Controls approving the proposed activity or the making of a proposal or presentation.

(c) Requests for approval of brokering activities shall be submitted in writing to the Office of Defense Trade Controls by an empowered official of the registered broker; the letter shall also meet the requirements of Sec. 126.13 of this subchapter.

(d) The request shall identify all parties involved in the proposed transaction and their roles, as well as outline in detail the defense article and related technical data (including manufacturer, military designation and model number), quantity and value, the security classification, if any, of the articles and related technical data, the country or countries involved, and the specific end use and end user(s).

(e) The procedures outlined in Sec. 126.8(c) through (g) are equally applicable with respect to this section.

### **Department of State Questions**

#### **Brokering under Part 129 of the International Traffic in Arms Regulations: Questions Submitted to U.S. Persons by the Office of Defense Trade Controls (DTC)**

DTC requires a description of the work performed and intended to be performed for the manufacturer, exporter or importer of U.S. defense articles or defense services (the firm). A copy of the contract with the firm is requested and answers to the following questions:

1. Do you promote the sale of the firm's defense products or defense services?
2. Do you communicate with any foreign person about the firm's defense articles or defense services? If so, explain your communications.
3. Are you involved in making introductions between foreign persons and the U.S. company?
4. Are you involved in making introductions between foreign persons?
5. Are you using your influence with foreign persons to persuade them to purchase the firm's defense articles or defense articles?
6. Are you given data on the negotiations of the purchase, sale, or transfer of defense articles or defense services?
7. Do you participate in the negotiations of the purchase, sale or transfer of defense articles or defense services?
8. Are you involved in arranging contracts, purchases, sales or transfer of defense articles or defense services?
9. Are you involved in the financing of the manufacture, export or import of a defense article or defense service?
10. Are you involved in the transportation of the manufacture, export or import of a defense article or defense service?
11. Do you in any way facilitate the manufacture, export or import of a defense article or defense service?
12. Do you have a web page, and if so, what is the web cite?
13. Inform DTC whether or not you are registered as a foreign agent with the Department of Justice or registered as a lobbyist for a foreign entity with the Clerk of the U.S. House of Representatives?

**Brokering under Part 129 of the International Traffic in Arms Regulations: Questions Submitted to Foreign Persons under Contract with a U.S. Firm**

The Office of Defense Trade Controls (DTC) requires a description of the work performed and intended to be performed for the manufacturer, exporter or importer of U.S. defense articles or defense services (U.S. firm). A copy of the contract with the firm is requested and answers to the following questions:

1. Do you promote the sale of the firm's defense products or defense services?
2. Do you market the firm's defense articles or defense services?
3. Are you involved in making introductions between non-U.S. persons and the U.S. firm's personnel?
4. Are you using your influence with non-U.S. persons to persuade them to purchase the U.S. firm's defense articles or defense articles?
5. Are you given data on the negotiations of the purchase, sale, or transfer of defense articles or defense services?
6. Do you participate in the negotiations of the purchase, sale or transfer of defense articles or defense services?
7. Are you involved in arranging contracts, purchases, sales or transfer of defense articles or defense services?

8. Are you involved in the financing of the manufacture, export or import of a defense article or defense service?
9. Are you involved in the transportation of the manufacture, export or import of a defense article or defense service?
10. Do you in any way facilitate the manufacture, export or import of a defense article or defense service?
11. Are you owned or controlled by an entity in the United States?
12. Are you owned or controlled by a United States citizen?

## Participant List

### **Richard Alexander**

National Rifle Association of America  
11250 Waples Mill Road  
Fairfax VA 22030  
USA  
Ph +1 703 267 1492  
Fax +1 703 267 3992  
Email: [ralexander@nrahq.org](mailto:ralexander@nrahq.org)

### **Kathi Austin**

Director, Arms and Conflict Program  
The Fund for Peace  
665 Chestnut St. 3rd Fl.  
San Francisco,  
CA 94133  
USA  
Ph +1 415 749 1409  
Fax +1 415 749 1402  
Email: [kathiaustin@cs.com](mailto:kathiaustin@cs.com)

### **Mark Barnes**

Attorney at Law  
Firearms Importers Roundtable (FAIR) Trade Group  
1350 Eye Street, N.W. - Suite 1255  
Washington D.C. 20005  
USA  
Ph +1 202 6260089  
Fax +1 202 6260088  
Email: [markb17@aol.com](mailto:markb17@aol.com)

### **Antonella Bonfante**

United States Department of State  
2201 C. Street NW Room 5827  
Washington DC 20520  
USA  
Ph +1 202 647 8155  
Fax +1 202 647 9779  
Email: [bonfantean@t.state.gov](mailto:bonfantean@t.state.gov)

**Vincenzo Celeste**

Ministry of Foreign Affairs  
Piazzale della Farnesina, 1  
00194 Roma  
Italy  
Ph +39 06 3691 2205  
Fax +39 06 323 5927  
Email: vincenzo.celeste@esteri.it

**Mario Centi**

Commission Internationale Permanente (CIP)  
Rue Fond-des-Tawes 45  
4000 Liège  
Belgium  
Ph +32 422 71455  
Fax +32 4227 8178  
Email: mario.centi.CIP@skynet.be  
Email: cip@proximedia.be

**James Chambers**

Sporting Arms and Ammunition Manufacturers' Institute (SAAMI)  
2987 Westhurst Lane, Suite 110  
Oakton  
VA 22124-1739  
USA  
Ph +1 703 242 1690  
Fax +1 703 242 1691  
Email: chambear@aol.com

**Etienne De Jenlis**

Ministère de la Défense  
Contrôle générale des armées  
14 Rue St. Dominique  
00450 Armées  
France  
Ph +33 1 42 19 38 44  
Fax +33 1 42 19 65 40  
Email: sia-md@cga.defense.gouv.fr

**Robert Delfay**

National Shooting Sports Foundation, Inc. (NSSF)  
11 Mile Hill Road  
Newtown  
CT 06470-2359  
USA  
Ph +1 203 4261320  
Fax +1 203 4261087  
Email: rdelfay@nssf.org

**Walker English**

OMNI Engineering Corp., Inc.  
4124-C Dayco Street Bid. "C"  
Houston TX 77092  
USA  
Ph + 1 713 462 2772  
Fax +1 713 690 7274  
Email: omniusa@ev1.net

**Virginia Ezell**

Institute for Research on Small Arms  
6320 Olde Towne Ct  
Alexandria, VA  
USA  
Ph +1 703 765 9771  
Fax +1 703 765 9773  
Email: historicoz@msn.com

**Yasuhito Fukui**

Delegation of Japan to the Conference on Disarmament  
3 Chemin des Fins - P.O. Box 131  
1211 Geneva  
Switzerland  
Ph +41 22 717 3415  
Fax +41 22 788 3818  
Email: yasuhito.fukui@mofa.go.jp

**Vito Genco**

WFSA - European Executive Secretary  
Via Flaminia, 342/B  
I - 00196 Rome  
Italy  
Ph +39 06 3220016  
Fax +39 06 3220018  
Email: vgeno@tin.it

**Brooke Hartigan**

Legal Officer, Law Enforcement Branch  
Criminal Division  
Robert Garran Offices  
National Circuit,  
Barton  
ACT 2600  
Australia  
Ph +61 2 6250 6727  
Fax +61 2 6273 0914  
Email: brooke.hartigan@ag.gov.au

**Henri Heidebroek**

Institut Europeen des Armes de Chasse et de Sport (IEACS)  
6, Cap de Bos  
F - 33430 Gajac  
Ph +33 556 252446  
Fax +33 556 252449  
Email: eldwynn@aol.com

**Mary Jo Hughes**

Bureau ATF  
Massachusetts Av, N.W.  
Washington D.C. 20226  
USA  
Ph +1 202 927 8045  
Fax +1 202 927 7488  
Email: mjhughes@atfhq.atftreas.gov

**Gregory M. Jenks**

Numrich Gun Parts Corp.  
P.O Box 299, West Hurley  
NY 12491  
USA  
Ph +1 845 679 3513  
Fax +1 845 679 5849  
Email: gregj@gunpartscorp.com

**Fabienne Juillard**

State Secretariat for Economic Affairs, Export Control Policy and Sanctions  
Effingerstrasse 1,  
3003 Berne  
Switzerland  
Ph +41 31 323 23 87  
Fax +41 31 324 09 58  
Email: fabienne.juillard@seco.admin.ch

**Luigi A. Lauriola**

Former The Head of the Secretariat Wassenaar Arrangement - Chairman of Committee on the Ad Hoc on T.O.C. (UN)

Via Bevagna

00191 Rome

Italy

Ph +39 06 3337299

Fax +39 06 3337299

**Clive M. Law**

Department of Foreign Affairs & International Trade

Export Control Division

125 Sussex Drive, Ottawa ON

K1A 0G2

Canada

Ph +1 613 992 0478

Fax +1 613 996 9933

Email: [clive.law@dfait-maeci.gc.ca](mailto:clive.law@dfait-maeci.gc.ca)

**Robert W. Maggi**

United States Department of State

2202 C Street, NW - room 6212

Washington DC 20520

USA

Ph +1 202 647 9023

Fax +1 202 736 4779

Email: [maggirw@t.state.gov](mailto:maggirw@t.state.gov)

**Nicholas Marsh**

Association PRIO

Fuglehauggata 11

NO-0260 Oslo

Norway

Ph +47 2245 7700

Fax +47 2254 7701

Email: [nic@prio.no](mailto:nic@prio.no)

**Thomas Mason**

WFSA - American Executive Secretary

7618 Oak Leaf Dr.

Santa Rosa, CA

USA

Ph +1 707 539 3371

Fax +1 707 538 2737

Email: [tlmorusa@aol.com](mailto:tlmorusa@aol.com)

**Glenn McDonald**

Small Arms Survey  
12, Ave. de Sécheron, 1202  
Geneva  
Switzerland  
Ph +41 22 908 5780  
Fax +41 22 732 2738  
Email: mcdonald@hei.unige.ch

**Sola Ogunbanwo**

Nigeria  
7, Ch. Pre-Cornillons  
Chambesy 1292  
Switzerland  
Ph +41 22 758 2345  
Fax +41 22 758 2351

**C. Edward Peartree**

United States Department of State  
2202 C Street, NW  
Washington DC 20520  
USA  
Ph +1 202 647 7774  
Fax +1 202 647 8998  
Email: peartreece@t.state.gov

**Carlo Peroni**

WFSA President  
c/o ANPAM  
V.le dell'Astronomia, 30  
00144 Rome  
Italy  
Ph +39 06 5903510  
Fax +39 06 5925972  
Email: anpam@tin.it

**Radu Marin**

Arms Control and Verification Section  
13-15, Izvor St.  
5, Bucharest  
Romania  
Ph +40 1 410 7145  
Fax +40 1 312 2648  
Email: miadu@mapn.ro

**Ted Rowe**

Manufacturers Advisory Group (MAG)  
Sturm, Ruger & Company, Inc.  
411 Sunapee Street  
Newport  
NH 03773  
USA  
Ph +1 603 865 2212  
Fax +1 603 863 0535  
Email: tedrowe1@aol.com

**Mauro Silvis**

WFSA Secretariat  
c/o ANPAM  
V.le dell'Astronomia, 30  
00144 Rome  
Italy  
Ph +39 06 5903510  
Fax +39 06 5925972  
Email: wfsa.secretariat@anpam.org

**Keith Tidswell**

Sporting Shooters Association of Australia (SSAA)  
P.O. Box 762  
Kent Town  
SA 5071  
Australia  
Ph +61 8 8272 0600  
Fax +61 8 8272 3499  
Email: kt@ssaa.org.au

**Paul Van den IJssel**

Netherlands Ministry of Foreign Affairs  
Beruidenhoutseweg 67  
P.O. Box 20061 - 2500 The Hague  
Holland  
Ph +31 70 3485239  
Fax +31 70 3485479  
Email: paul-vanden.ijssel@minbuza.nl

**Othmar Wyss**

State Secretariat for Economic Affairs, Export Control Policy and Sanctions

Effingerstrasse 1,

3003 Berne

Switzerland

Ph +41 31 324 09 16

Fax +41 31 324 09 58

Email: [othmar.wyss@seco.admin.ch](mailto:othmar.wyss@seco.admin.ch)

---

For further information contact:

**WFSA Secretariat – Europe**

c/o ANPAM – Viale dell’Astronomia 30,

1-00144 Rome, Italy

Tel. +39 06 5903510

Fax +39 06 5925972

Email: [wfsa.secretariat@anpam.org](mailto:wfsa.secretariat@anpam.org)

**WFSA Secretariat – America**

7618 Oak Leaf Drive

Santa Rosa, CA USA

Tel. +1 707 539 3371

Fax +1 707 538 2737

Email: [tlmorusa@aol.com](mailto:tlmorusa@aol.com)

**Website: [www.wfsa.net](http://www.wfsa.net)**

