

**FRENCH NON-PAPER
ON ILLICIT AIR TRANSPORT OF SALW AND THEIR AMMUNITIONS**

As an institution charged with the task of enhancing stability and security in Europe, the OSCE has a natural vocation to respond to any threat confronting it. That is why our Organisation cannot afford to ignore the chief factors contributing to the destabilisation of States, prolonging regional conflicts, feeding terrorism, facilitating organised criminal activities and endangering the security of air transportation. One of the most worrying factors, in our view, is surely the illicit trade in small arms and light weapons (SALW).

This is not a challenge to be taken lightly, for SALW are truly “weapons of mass destruction”. To understand what it means, since 1990 they have caused the deaths of nearly four million people and have forced more than 18 million others to leave their homes or countries. They stand at the intersection of four major threats: terrorism; regional conflicts; State failure; and organised crime.

Given this, participating States have several times in the past demonstrated their determination to promote and enhance efforts to combat illicit trade in SALW, whether in the document adopted in November 2000 or in the eight guides to best practice adopted in November 2003.

But today we must go further. We are not concerned here with grasping the issues surrounding the illicit accumulation and spread of these weapons in all their complexity and in the round. More appropriately, we ought to be focusing on a central factor facilitating this trade by fighting against the illicit air transport of small arms, light weapons and their ammunitions. And within this framework we ought to concentrate on the practical application of existing commitments concerning measures to control transfers of these weapons.

**1. PROBLEMATIC OF THE ILLICIT AIR TRANSPORTATION OF SALW
AND THEIR AMMUNITIONS:**

1.1 Justification: implementation in the OSCE of the arms embargoes of the United Nations

What emerges from the conclusions to the many reports on the evasion of embargoes published by the UN in recent years is that air transport is the main channel for the illicit spread of small arms and light weapons. This trafficking is carried out by private aviation companies. We are bound to admit that these operate legally, but also in a grey area. Several factors make the latter possible, including the patchwork or absence of national regulations governing air transport; the unequal capacity of States to control their airspace; the importance of these airlines in the economic development of States lacking adequate transport infrastructures; deregulation, and so forth. In response to this situation, in 1997 UN experts proposed that measures concerning this category of transport be included in the “Programme of Action” of the 2001 Conference on SALW.

This recommendation was dropped in the final document. But the persistence of regional crises in Africa and Europe demonstrates, if that were still needed, the urgency of choking off this trade by first tackling the channel through which it takes place.

1.2 The illicit traffic of salw and their ammunitions through air transport:

Many contemporary conflict zones are not accessible by land and sea, a situation that has placed a premium on the air transport of goods and supplies, including weapons. Transport agents, and their associated network of intermediaries, employ a range of techniques and strategies in order to avoid official scrutiny and legal regulations, all of which make the industry difficult to monitor and regulate. While these techniques have been honed and refined over the past decades – and thus are not a new phenomenon – the size and structure of the air cargo industry has changed significantly in recent years, including an increase in the number of companies.

Not only have the number of private companies has increased, but the industry's market liberalization has also enabled aviation companies to organize across borders and continents. The resulting strong competition among cargo companies to offer an integrate package of services and destinations has made the industry increasingly dynamic and responsive to users' needs.

At the same time, various networks of transport companies have developed a presence and expertise in particular geographic or commodity markets. While large cargo companies often establish dominance in high-volume routes, smaller operators may be drawn to peripheral areas with dubious customers. Propelled by technological innovation, regional specialization, and industry-wide economic pressures, some of these companies are literally “pushed” into illicit arms markets.

The globalisation of the civil aviation and air cargo industries over the past several years has eroded the ability of national authorities to enforce adequate security and monitoring measures on the transport of goods. In addition, the demand for black market goods has increased at the same time as the cost of their transport has decreased.

The spiralling volume of goods passing through international airports, and the integration of road, rail, and marine transport networks in highly competitive markets, create heavy burdens on security institutions. A number of countries do not have the accountability, technology, training, and resources to properly regulate the private air cargo market. Thus, arms suppliers can, and do, easily exploit this situation. While international bodies regulating air transport exist – notably the International Air Transport Association (IATA) and the International Civil Aviation Organisation (ICAO) – these have no real power to enforce their rules on national aviation authorities that retain ultimate authority over their national airports or the airlines registered within their territory.

In this context, several techniques used by transport agents can be discerned:

1. Flight routing: a few of the techniques transport agents use to conceal flight plans, routes, and destinations include unscheduled or “emergency” landings in order to load or offload cargo, and the diversion of the aircraft from authorized flight paths. Other techniques involve “relay” flights, whereby cargo is offloaded at a dispatch point and

then shipped on to its final destination by other aircraft. The more trans-shipment points there are, and the more aircraft are involved, the better the point of departure and final destination of arms shipments can be obscured, making it harder for national authorities to identify and track suspects consignments, not to mention the actors involved.

Moreover, the routing of arms shipments is made even more complex by the practice of sub-leasing international overflight permissions in which one aircraft fly over the call sign of another, the filing of fictitious flight plans, and lax enforcement or scrutiny of flight details by airport and customs officials.

While many of these strategies are technically legal, some (e.g. unauthorized diversions, landings, and cargo on- or offloading) clearly transgress national and international laws and regulations. Yet they are facilitated by the lack of international flight information sharing and the weakness of regulatory mechanisms, such as air traffic control systems.

As for the aircraft crews, they are seldom informed of the true nature of their payloads or their exact flight plans, which are conveyed to them mid-route, usually in the form of deviations from their initial destinations.

2. Cargo and transport documentation: transport agents involved in illicit transfers of weaponry exploit weak cargo verification and inspection mechanisms by falsifying transport documentation. This involves transgressing laws and regulations that require cargo manifests and airway bills to accurately describe the contents of a given payload, and identify the consignor and consignee. Often weapons are described as harmless equipment in order to conceal illicit payloads. In addition, transport documents often disguise the true entities involved in a given arms transaction by entering only the names of front or holding companies, the sales agents, or other intermediaries – or simply the aircraft operators, who are often conveniently incorporated or registered in distant “ tax havens”. The falsification of transport documents is intended to deceive not only government officials but also, in certain cases, the owners or the operators of the aircraft themselves.

3. Aircraft registration: another common practice, particularly in Africa, is the falsification of aircraft registration, or the placing of an aircraft on multiple registers, in order to allow its operators to change its identities at will. With regard to the former, there have been many instances of aircraft changing registration numbers in mid-flight, or simply falsifying them. Other aircraft have utilized operating licenses that have been either entirely fictitious or long expired or revoked. Together, these techniques allow transport agents to conceal both the history and the identity of an aircraft, making it very difficult to trace its flight path or, in cases where they have been stopped by national authorities, to track down the original owners.

Many air cargo companies transporting weapons and other potentially illicit shipments are registered in countries that serve of “flags of convenience” due to the lax implementation, or non-existence, of laws regulating aircraft licensing and registration, corporate activity, and reporting. While the companies and aircraft are registered in such countries, their actual bases of operation might be located in one or more countries. According to one source, “a cargo aircraft might typically be registered in one country, then leased and chartered by companies registered in another, while their crew can be hired in yet other countries. In addition, the plan might be serviced and based for

practical purposes somewhere else, with the main operating offices of the airline or the handling agency based in yet another country or countries”.

4. Flying techniques: in order to avoid detection by airport and other radar systems, air cargo pilots use a variety of flying techniques. The typical profile of such pilots and their contract crew is that of war veterans specialized in the risky jobs of supplying remote bases and bush strips or flying search-and-rescue missions behind enemy lines. The high level of expertise required for these operations automatically creates a niche market for pilots, crews, mechanics, or loadmasters with a military background and, preferably, expertise in the region. Unlike commercial flying, where the relevant manuals for aircraft type operations are strictly adhered to, this small number who practice the black art of clandestine flying have to know exactly how far they can push the parameters of safety.

In order to avoid fixed and mobile radar systems, pilots transporting arms payloads intentionally fly devious routes and vary their altitudes. In high-risk areas, flights often take place at night, and most electronic navigational and radio systems are de-activated, forcing the pilot to rely on global positioning system (GPS), a satellite-based navigational system independent of any terrestrial aids and ground landmarks like major rivers.

Most illicit arms flights land in airports and on unilluminated bush strips that are beyond the reach of national authorities, usually in rebel-held areas. In order to avoid enemy surface-to-air missile systems (SAMs), pilots approach the runways at extremely steep angles, usually by spiralling down. Thus, large aircraft like a Boeing 707 or a DC-8 manage to land on small airstrips with only half the recommended landing distance – and on runways that are often very narrow and potholed or without a proper surface. Even on these airstrips, it is quite possible to land with up to fourteen metric “tonnes” over the book maximum landing weight.

2. STATE OF PLAY OF THE INTERNATIONAL LAW:

The question of illicit air transport of SALW and their ammunitions. International norms of the ICAO

The air transport of SALW and their ammunitions is only partially taken into account by ICAO specific rules, referring to applicable norms about air transport of dangerous substances (annex 18 to the Chicago convention on « safety of air transport of dangerous goods »). The measures promoted in this annex would constitute, if strictly implemented by States and private actors of the air transport, a base of « best practices » on this subject, who would hinder consistently illicit activities of smugglers. ICAO measures regarding air safety, that are already implemented and will be reinforced on the basis of the guidelines defined at the recent conference of the directors general of the civil aviation, can also contribute to prevent, or at least limit, certain practices of the transportators, especially by improving conditions of identification of airplanes and persons in charge of the flights.

3. PROPOSITION OF A FOLLOW-UP PROCESS IN THE OSCE :

3.1 Modus operandi:

The initiative on illicit air transport of SALW and their ammunitions would be based on a specifically OSCE triptych:

- **The first stage** would naturally be devoted to an exchange of information between States on their national legislative and regulatory arrangements, which could lead to the development of co-operation mechanisms, and the definition of a national point of contact.

- **Stage two** would seek mainly to create a climate of confidence in which to establish a public-private partnership based on responsible dialogue between the industry of air cargo transportation, whether in the participating States or between the competent international or regional organisation (WCO, ICAO, IATA) to determine the types of measures to promote, in regard with the existing regulations and the economic demands belonging to the air transport of goods.

- **Stage three** ought to lead to the establishment of a best practice guide, with all of us collectively defining their aims and content, on the basis of the dialogue conducted with

3.2 2006 Agenda:

1. *Inside the OSCE*

The multidimensional nature of this issue should spur us to deal with it across the OSCE's three dimensions:

- **economic and environmental:** the Prague Economic Forum at the end of May will provide an opportunity to place this issue durably on this dimension's agenda with respect to its work on transport security.

- **political and military:** the Annual Implementation Assessment Meeting (AIAM) in early March served as an initial opportunity to provide information on the subject. The Annual Security Review Conference (ASRC) to be held in June will review progress on this initiative.

- **the human dimension:** the annual Human Dimension Implementation Meeting in Warsaw in October 2006 will provide an opportunity to build both State and civil society awareness of this issue.

The final aim is to obtain, at the Ministerial Council in Brussels in December 2006, the adoption of a decision drawing together the results of the work carried out in these three dimensions and setting policy goals for the next stage we could work on in this area.