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## **Combating threats connected to international arms trade**

### **Introduction**

In the result of armed conflicts there are ca. 300 000 people dead annually<sup>1</sup>. Conflicts in developing countries caused 37 billions of dollars in losses between 1980 and 2000<sup>2</sup>. Armed conflict creates extremely suitable conditions for terrorist and criminal organizations<sup>3</sup>. It is assumed that uncontrolled arms trade shall contribute to the aforementioned threats<sup>4</sup>. It was only in 2014 when the first legally binding global document to regulate international arms trade was introduced (the Arms Trade Treaty). To date the matter of arms trade had been regulated on the regional and national level. It was also very often of political nature.

This article is to demonstrate how uncontrolled international arms trade can contribute to lowering of the level of international and national security. Then, the elements of arms trade control system together with an analysis of typical problems for its functioning will be discussed. The presented findings can be used in legislative process and research work in the field of combating arms trade threats.

### **1. Arms trade and military conflict**

There is a strong correlation between a war breaking out and accelerated process of armament by conflict actors<sup>5</sup>. The sources of this dependency can be found through the theory of equilibria and the game theory. It is caused by willingness to prevent overwhelming odds by the opponent leading armament process. It inspires to develop its own potential or preventive strikes<sup>6</sup>. This kind of mechanism occurs both in internal as well as in external conflicts<sup>7</sup>. The above dependency is growing in importance within the context of growing number of internal and asymmetric conflicts, whereas

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<sup>1</sup> R. Muggah, E. Berman, *Humanitarianism under threat, The humanitarian Impact of Small Arms and light Weapons, A Study Commissioned by the Reference Group on Small Arms of the UN, Inter Agency Standing Committee, July 2001, p. VIII.*

<sup>2</sup> *Ibidem*, p. 4.

<sup>3</sup> R. Kuźniar et al., *International security*, Warsaw 2012.

<sup>4</sup> E. Kytömäki, *How Joining the Arms Trade Treaty Can Help Advance Development Goals*, London 2014, p. 4.

<sup>5</sup> M. Wallace, *Arms Races and Escalations. Some New Evidence*, „Journal of Conflict Resolution” 1979, no. 1, p. 6.

<sup>6</sup> M.A. Bas, A. Coe, *Arms Diffusion and War*, „The Journal of Conflict Resolution” 2012, no. 4, p. 652.

<sup>7</sup> See: J. Boutwell, M.T. Klare, *Light Weapons and Civil Conflict. Controlling the Tools of Violence*, New York 1999.

traditional wars must take second place<sup>8</sup>. This contemporary type of conflict influences much stronger civilian population<sup>9</sup>.

Among the crucial traits of internal conflict there are lack of marked frontline, wide geographic range and dim time limits. The last element is connected to long lasting negotiations and variable fighting intensity which take the form of partisan actions. The parts are to prolong conflict in order to overload adversaries with costs and to destabilize them in the result<sup>10</sup>. Such situation makes it a very comfortable environment for criminal and terrorist organizations<sup>11</sup>. Because of war commercialization the entities involved benefit from the war boom, and continuation of the conflict is perceived as consistent with their own businesses<sup>12</sup>. Such conflict-affected country transforms into a dysfunctional country. In the result neighboring countries can decide to take part in the conflict<sup>13</sup>. This way war shall embrace more and more territory and involve more and more entities<sup>14</sup>. Devastation and destabilization of further areas is accompanied by the phenomenon of migration. Threats connected to refugees are of humanitarian nature and they also make it possible to spread the conflict over refugees receiving country<sup>15</sup>. Mass exodus of refugees from the Middle East and North Africa to Europe shows a scale of the problem which countries remote from conflict zones could possibly face<sup>16</sup>.

Military conflict always causes effects which can be described as direct and indirect. The first group comprises expenditure on military forces, weapons delivery, costs of devastation and providing care for the injured<sup>17</sup>. It is assessed that following military conflicts with the use of SALW (small arms and light weapons) ca. 300 000 people die annually<sup>18</sup>. The second group involves such phenomena as economic activity disturbances and disruption in income redistribution, inflation, unemployment and reduction of education chances<sup>19</sup>. Military conflicts victims are, in its first phase, mostly men in their working-age and this adversely affects the production potential of a country. At a later stage the ratio of men victims to women victims equals in the result of lack of health care, rapes or infections<sup>20</sup>. And this, in turn, influences demographic potential of a country.

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<sup>8</sup> E. Kytömäki, *The Arms Trade Treaty and Human Security Cross-cutting Benefits of Accession and Implementation*, London 2015, p. 2.

<sup>9</sup> Ibidem.

<sup>10</sup> R. Kuźniar et al., *International security...*, p. 106.

<sup>11</sup> P. Chlebowicz, *Illegal arms trade. Criminological study*, Warsaw 2015, p. 95.

<sup>12</sup> See: R. Kuźniar et al., *International security...*

<sup>13</sup> Ibidem, p. 102.

<sup>14</sup> K. Austin, *Light Weapons and Conflict in the Great Lakes Region of Africa*, in: J. Boutwell, M.T. Klare, *Light Weapons and Civil Conflict...*, p. 30.

<sup>15</sup> R. Kuźniar et al., *International security...*, p. 102.

<sup>16</sup> *Briefing: Europe's boat people*, „The Economist”, 25 April 2015.

<sup>17</sup> D. Hillier, N. Martlew, A. Howard., *Africa's missing billions. International arms flows and the cost of conflict*, IANSA, Oxfam, Safeworld 2007, p. 3.

<sup>18</sup> R. Muggah, E. Berman, *Humanitarianism under threat...*, p. VIII.

<sup>19</sup> D. Hillier, N. Martlew, A. Howard., *Africa's missing billions...*, p. 3.

<sup>20</sup> Ibidem, p. 14.

Economically speaking, involvement into a military conflict results in 15% annual fall in GDP (in relation to projected GDP during development in ordinary peaceful conditions)<sup>21</sup>. Neighboring countries record 0,9% fall in GDP due to a lowering of the level of investments and trade flows<sup>22</sup>. Countries involved in military conflicts show the infant mortality rate higher than 50%, the amount of people suffering from malnutrition higher than 15%, life expectancy shorter than 5 years, illiteracy rate higher than 20%, number of patients per one doctor higher than two and a half times and 12,4% less food per person<sup>23</sup>. These factors shall act as catalysts for a conflict and as such they contribute to further destabilization and decrease in the level of security in the region<sup>24</sup>.

It would be a mistake to indicate armaments as the only reason for wars and thus above mentioned effects<sup>25</sup>. Though, it should be pointed out that the cited surveys show that 95% of the arms used in analyzed conflicts had come from an import<sup>26</sup>. The destabilizing impact of arms procurement is invoked both in literature as well as in official documents<sup>27</sup>. There is a general agreement that lack of adequate arms trade control is the underlying issue there<sup>28</sup>.

## 2. Arms trade and threats from terrorist and criminal organizations

Military conflict can arise from irresponsible arms procurement. Circumstances surrounding the arms procurement foster some terrorist and criminal activities. These activities can be a result of the military conflict as well as it cause<sup>29</sup>. Potential risks had already been presented above. At this point attention should be paid to weapons used by terrorists and criminals in order to carry out their activities<sup>30</sup>.

Both groups use weapons in different ways. Criminal groups use weapons to protect their interests and businesses. For terrorist organizations weapons are means to achieve their goals by (committing) acts of violence<sup>31</sup>. Both criminals and terrorists deal with illegal weapons procurement. It gives them money treated as profits or they use it to finance other further activities. Weapons are a kind of currency and a subject to exchange between those two groups. Criminals deliver weapons to terrorists receiving precious stones or drugs in exchange. What links those two groups is a “common infrastructure” which enables them to carry out their activities<sup>32</sup>. In literature there are cases of IRA receiving drugs from FARC in

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<sup>21</sup> Ibidem, p. 8-9.

<sup>22</sup> Ibidem, p. 1.

<sup>23</sup> Ibidem, p. 6.

<sup>24</sup> Ibidem, p. 7.

<sup>25</sup> R. Kuźniar et al., *International security...*, p. 103.

<sup>26</sup> D. Hillier, N. Martlew, A. Howard, *Africa's missing billions...*, p. 1.

<sup>27</sup> J. Boutwell, M.T. Klare, *Light Weapons and Civil Conflict. Controlling the Tools of Violence*, New York 1999.

<sup>28</sup> E. Kytömäki, *How Joining the Arms Trade...*, p. 4.

<sup>29</sup> See: R. Kuźniar et al., *International security...*

<sup>30</sup> D. Sagramoso, *The proliferation of illegal small arms and light weapons in and around the European Union: Instability, organized crime and terrorist group*, London 2001, p. 6.

<sup>31</sup> P. Chlebowicz, *Illegal arms trade...*, p. 145.

<sup>32</sup> Ibidem, pp. 148–167.

exchange for training. Then, the drugs were exchanged for weapons by Italian mafia families. Profits from drugs were invested in weapons deliveries from the Middle East regimes<sup>33</sup>.

It should be stressed that, to a large extent, procured weapons come from military conflicts areas<sup>34</sup>. During the Afghan war mujahidin fighters were receiving 600 millions of dollars worth in arms annually. Much of the arms was in the hands of Talib fighters and Pakistani criminal groups. It is also the Balkan region where much of illegal arms come from<sup>35</sup>. Some of recent cases of weapons procured by the Islamic State, IS (from military forces) demonstrate how weapons overtaken by inappropriate entities in the result of military activities<sup>36</sup> creates up-to-date threats.

A particular risk presents weapons procurement to non-state actors (NSA). Their activities very often tend to contribute to security destabilization<sup>37</sup>. The notion of “non-state actors” has not been defined in official documents yet. It comprises also such groups as rebels or insurgents, paramilitary organizations, criminal organizations, terrorist organizations as well as security organizations, hunters organizations, individuals possessing guns<sup>38</sup>. The idea of prohibition on the supply to such kind of actors seems to arouse much controversy. Its opponents argue that opposition to a criminal regime should be supported. Some openly admit that such ban would deprive them of important instruments of international politics<sup>39</sup>. However, the possibility of losing control over arms supplies should be noted. The Amnesty International Report of 2015 gives numerous cases of the IS weapons overtake which had previously belonged to other groups fighting with Assad’s regime<sup>40</sup>.

### 3. Supervision of international arms procurement

There are numerous legal acts at the international level containing a definition of “weaponry”. The Arms Trade Treaty<sup>41</sup> and the EU Common Military List<sup>42</sup> are among the most important acts. At the national level there is the *Act on foreign trade in goods*,

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<sup>33</sup> G.E. Curtis, T. Karacan, *The nexus Among Terrorists, Narcotics Traffickers, Weapons Proliferators, And Organized Crime Networks in Western Europe. A study prepared by the Federal Research Division, Library of congress under Interagency Agreement with the United States Government*, December 2002, pp. 4–10.

<sup>34</sup> D. Sagramoso, *The proliferation of illegal small arms...*, p. 32.

<sup>35</sup> A. Biggs, *Lawmakers, guns & money: how the proposed arms trade treaty can target armed violence by reducing small arms & light weapons transfers to non - state groups*, „Creighton Law Review” 2011, no. 44, p. 1323.

<sup>36</sup> *Iraq: 'Islamic State' atrocities fuelled by decades of reckless arms trading* [online], <http://amnesty.org>. [access: 8 XII 2015].

<sup>37</sup> P. Holtom, *Prohibiting Arms Transfers to Non-State Actors and the Arms Trade Treaty*, Geneva 2012, p. 1.

<sup>38</sup> *Ibidem*, pp. 1–2.

<sup>39</sup> *Ibidem*.

<sup>40</sup> See: *Taking Stock The arming of Islamic State*, Amnesty International, London 2015.

<sup>41</sup> The Arms Trade Treaty, A/RES/70/58.

<sup>42</sup> The EU Common Military List adopted by the Council on 11 March 2013, OJ UEC 90/1.

*technologies and services of strategic importance to the security of the State and to maintaining international peace and security of 29 November 2000* (Official Journal 2000 number 119 item 1250). Analysis of the definition frames goes beyond the terms of this study. The same refers to arms trade definitions from the indicated legal acts. This study is to focus on a model presentation of those types of activities which form the international arms trade.

Physical movement of goods within state borders is described as a transfer<sup>43</sup>. If the weaponry crosses the border it is described as an export<sup>44</sup>. There are two types of export: permanent and temporary. Permanent export is a commercial sale, inter governmental sale and donation. In the framework of commercial sale a producer sells arms to a private or a state entity in a state of import. If governments are parties to a transaction and weapons are intended for military forces or for security purposes it is inter governmental sale then. In this case arms can come from accumulated surplus, procurement from a private company (resale) or from a state company production. Donation is a transfer of arms to importing state authorities<sup>45</sup> free of charge. Temporary export is when weaponry goes back to a state of its origin after some time. This may be related to a military presence within a peacekeeping mission, arms fair or the necessity of repairs. Because the arms do not change their owner such export is not treated as international arms trade<sup>46</sup>.

Import supervision allows a country to decide which arms deliveries get to their territory. It means for a country of export that the authorities of the country of import are aware of the transaction and accept it. This way they assume part of responsibility for the arms destiny and lower risk of arms being taken over by unauthorized entities. Exchange of information between the two countries is crucial during such transactions<sup>47</sup>. A supervision over arms import can be performed by the obligation of getting import permits for any kinds of arms, import permits for some kinds of arms, import permits for arms by non state entities and controls of imports performed by border services<sup>48</sup>.

If the arms are transferred through territory of a third country (transit country) and the way of its movement had not been changed, then the procedure is called transit. If the way of movement has been changed then such activity is regarded as reloading<sup>49</sup>. Transit control enables monitoring and verification of transports moving across a transit country. Certain transactions can be banned or shipment of arms can be taken over, what matters in countering redirection of arms<sup>50</sup>. Transit control can be performed by the ob-

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<sup>43</sup> S. Parker, *Devils in diversity: Export controls for military small arms*, Small Arms Survey 2009, p. 64.

<sup>44</sup> *Ibidem*.

<sup>45</sup> *Ibidem*, p. 65.

<sup>46</sup> *Ibidem*, p. 66.

<sup>47</sup> M. Bromley, P. Holtom, *Import controls and arms trade treaty*, „SIPRI Background Paper” 2011, no. 6, p. 2.

<sup>48</sup> *Ibidem*, p. 5.

<sup>49</sup> S. Parker, *Devils in diversity...*, p. 64.

<sup>50</sup> M. Bromley, P. Holtom, *Transit and trans shipments controls in an arms trade treaty*, „SIPRI

ligation of notification of time and place the arms abandons a country border. It is only a verification of documents without physical transport checks. This method does not slow down the transaction and is not excessively burdensome either for controlling body or controlled entities. The controlling state, however, is deprived of the possibility to verify transactions according to its own criteria and information which are not disclosed to authorities of the state of import and the state of export<sup>51</sup>. The problem could have been prevented by providing transit permissions on the basis of the same procedure as export permission. Nevertheless, it would mean recurrent process of issuing permission. Simplified procedures can be a solution. They oblige exporting producers to inform transit country about transactions planned and providing full documentation via organs issuing export permissions. In this case permission is not necessary but transit country reserves the right to verify transactions on the basis of its own export regulations and to stop the transaction in case it is needed and the goods are on its territory<sup>52</sup>.

Brokering activities should be supervised and should be based on certificates, registers and permissions system. The two elements shall enable determination whether brokers fulfill certain requirements. But it is permissions system that shall provide the possibility to obtain full information on planned transactions and to take proper counter measures. Permission for brokering ensures that such activity is known and accepted by the country. It also gives the country the right to impose criminal sanctions on entities which act without permission or with a violation of its conditions. Therefore it is not necessary to prove other arms trade offences although it does not rule out their prosecution<sup>53</sup>. A significant restriction of brokering supervision are borders of the state's jurisdiction. The optimum solution is to require brokers to abide national law wherever the business activities are. The supervision over brokering in countries with low legal standards is possible then<sup>54</sup>. In this context the cooperation between countries is crucial<sup>55</sup>. Different legal regimes and inconsistent control systems in different countries make it easier to avoid controls. Lack of proper control of transportation companies and entities financing transactions are also pointed out<sup>56</sup>.

#### 4. Elements of arms trade control system and problems with their functioning

Countering threats in the field of international arms trade requires introducing stringent control of the trade. The biggest arms exporters have adequate legal regulations. Nevertheless, they differ to a large extent as far as the range of control and its

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Background Paper" 2011, no. 6, p. 2.

<sup>51</sup> Ibidem, pp. 5–6.

<sup>52</sup> M. Bromley, P. Holtom, *Transit and trans shipments...*, pp. 5–6.

<sup>53</sup> *Strengthening Controls. Small Arms Measures*, Small Arms Survey 2002, p. 253.

<sup>54</sup> Ibidem, p. 255.

<sup>55</sup> Ibidem, p. 253.

<sup>56</sup> H. Anders, S. Cattaneo, A. Vines, B. Wood, V. Yankey-Wayne, *Developing a Mechanism to Prevent Illicit Brokering in Small Arms and Light Weapons. Scope and Implications*, Geneva 2006, pp. 21–40.



thoroughness<sup>57</sup> is concerned. This is the reason why in the doctrine it calls for harmonizing the international arms trade control system. Such transactions involve numerous entities from different countries. In order to boost their profits they can ease standards becoming more competitive for entities carrying out arms trade<sup>58</sup>.

Differences in experience, trade practices and legal culture make it impossible to create model arms trade control system. Nevertheless, it is possible to point out the elements which are regarded as the most important. These are, among others, putting arms trade control systems into legal acts of general application, putting trade politics which resembles international obligations in the legal acts and establishing investigative and penal apparatus to enforce the law<sup>59</sup>.

Arms trade control should cover place of destination, receiver's data and the way the arms are to be used<sup>60</sup>. For this purpose exporter shall obtain a permission by the competent organ in cooperation with other state institutions. The decision on the permission should be made on the basis of legal acts and resemble trade politics. In many countries, before applying for permission, the entity involved is obliged to fulfill a range of requirements like registration of an activity or having any formal authorization to carry on business<sup>61</sup>. In order to obtain the permission it is necessary to submit appropriate documentation (end user certificate) which lists a country that imports arms, value of the transaction, end user, the way the arms shall be used and data of all the rest entities involved in the transaction<sup>62</sup>. The decision on granting a permission for arms export combines political, defense, security and economic aspects. In the process of granting a permission the Ministry of Defense, the Ministry of Internal Affairs, the Ministry of Foreign Affairs and the Ministry of Economic Affairs or the Ministry of Trade shall participate. Usually the last one is responsible for the conduct of proceedings which may indicate a particular role of the economic factor<sup>63</sup>.

Among export permissions there are individual, general and global permissions. Individual permission is for limited time and it is for a one-time export of indicated arms to an indicated receiver. General permission enlists sort of arms export of which is allowed by the indicated entity. Usually in such permission there are no restrictions as far as export receivers are concerned; it requires registration and is granted for unlimited period. The exporter does not have to apply for it every time as in case of an individual permission. Global permissions are for unlimited period and enlist arms receivers<sup>64</sup>.

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<sup>57</sup> S. Parker, *Devils in diversity...*, p. 61.

<sup>58</sup> M. Crowley, R. Isbister, S. Meek, *Building Comprehensive Controls on Small Arms Manufacturing, Transfer and End-use*, London 2001, p. 19.

<sup>59</sup> G. McDonald, *Who's buying end-user certification*, Small Arms Survey 2008, p. 160.

<sup>60</sup> S. Parker, *Devils in diversity...*, p. 62.

<sup>61</sup> *Ibidem*, p. 69.

<sup>62</sup> *Ibidem*, pp. 81–82.

<sup>63</sup> *Ibidem*, p. 86.

<sup>64</sup> *Ibidem*, p. 79.

Apart from the export a permission can cover licensed production. It is to pass another entity a technology allowing production abroad<sup>65</sup>. A foreign entity receives producer's support together with a license in machines, tools, design, specification and technical personnel<sup>66</sup>. As a result a new production facility is being created out of licensor's control. Lack of control can result in deliberate exceeding of production limits (specified in the license) or continuation of production after expiry of the license period. Adapted and modernized arms are placed on the market as new models which are next exported or even produced on the basis of a (new) license<sup>67</sup>. It is estimated that the number of countries producing SALW (small arms and light weapons) has increased between 1960-1999 almost two times. At present about 600 companies in 95 countries produce SALW. This fragmentation is followed by the increase in illegal production. Its potential reflects production of ca. 500 mines and grenades for RPGs by the Red Khmer regime. Such production is also a significant source of supplies for criminal and terrorist groups<sup>68</sup>.

Licensor may try to prevent such situations by contracts clauses like export prohibition, production limits or sales restrictions. For the effectiveness of the control, the fact whether a country has appropriate legislation and enforces the arms trade law, is of crucial significance<sup>69</sup>. The country, where a licensed production takes place, should ensure compliance with conditions of the license agreement. Penalization of its violation is necessary. The country of licensor should establish a requirement for production authorization based on the license. The process of obtaining permission should be similar to arms export<sup>70</sup> and two different options are possible. Firstly, it is possible to authorize export of some parts and components to weapons production and it would require a permission. Each element is a subject to a separated proceeding and the license agreement itself does not fall under control. There is a risk, however, that the assessment will not be complementary and will not cover the whole transaction<sup>71</sup>. It gives an advantage to a second solution. This consists of the control of license agreements, conclusion of which is treated as arms export and may be a subject to production limits and export prohibition without any authorization of the licensor country<sup>72</sup>.

The loss of arms control can be a result of redirecting, i.e. when arms get to an unauthorized user or are used in an inadmissible manner. The redirecting may occur before or after arms procurement<sup>73</sup>. It means losing power over the arms and it does not extend to cases of an intentional providing the arms to subsequent users<sup>74</sup>. Increased

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<sup>65</sup> M. Crowley, R. Isbister, S. Meek, *Building Comprehensive Controls...*, p. 2.

<sup>66</sup> *Ibidem*, p. 7.

<sup>67</sup> *Ibidem*, p. 8.

<sup>68</sup> *Ibidem*, p. 6.

<sup>69</sup> *Ibidem*, p. 8.

<sup>70</sup> *Ibidem*, p. 2.

<sup>71</sup> *Ibidem*, p. 9.

<sup>72</sup> *Ibidem*, p. 10.

<sup>73</sup> G. McDonald, *Who's buying end-user certification...*, p. 156.

<sup>74</sup> *Ibidem*, p. 157.



risk of redirecting exists in the time of permission granting, transportation, procurement, using and re-exportation. These are the moments when transferring of the arms control takes place. In the first stage, i.e. permission granting, the arms remain in the possession of the country of export. Thanks to relevant legal standards and verification procedures it is possible to minimize the risk of arms control loss<sup>75</sup>. The risk exposure is growing when the weaponry is leaving the territory of the country of export and intermediaries and transportation companies are taking it over. These entities responsible for goods transferring between exporters and importers can exploit legal loopholes and differences between legislations in order to transfer the arms to other (than legal and authorized) recipients<sup>76</sup>. Arms procurement to a declared recipient does not mean that the risk of redirecting is eliminated. The user may pass the weaponry to other entities or use it in an illegal manner. There is also a risk of arms loss because of theft or corruption<sup>77</sup>.

A particularly vital tool of arms trade control are end user certificates (EUC). An EUC issuer is usually end user and arms receiver. EUC shall specify the value and amount of goods, parties involved in transaction, the way the goods will be used and declaration that the re-export will not be performed without exporting country consent or the exporting country being notified<sup>78</sup>. If the EUC issuer is a non-state entity, the document usually needs to be authorized by the proper office of the importing state<sup>79</sup>. The problem is that EUCs are different in different countries both in terms of form and the scope of information included. The information included are very often given to a minimum extent. In reality EUCs are more declarations than real obligations<sup>80</sup> and allow to maintain only colorable control over exported goods. Only some countries carry out physical verification during procurement what makes EUC prone to fraud.

Three categories of falsified EUC can be distinguished. First one covers documents looking like original ones but issued by unauthorized organs. Their effectiveness is proved by cases of arms exports authorized by EUC which had been issued by a non-existing (for three years) country. Second category of EUC are those prepared by an entitled but corrupted official. In case of any verification its authenticity will not be confirmed. The costs of such certificate vary between 200 dollars (Rwanda) to 2000 dollars (Chad) and it can be issued in accordance with the formula of the country given. Some information like issuer telephone number, details of the supplier or description of goods completed by selling entities according to their current needs<sup>81</sup>. Because of the simple form of the document it is possible to create many copies and using the document many times. Falsified EUC can be eliminated by verification of their originality. But it turns out useless in case the issuer confirms their reliability.

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<sup>75</sup> Ibidem.

<sup>76</sup> G. McDonald, *Who's buying end-user certification...*, p. 157.

<sup>77</sup> Ibidem, p. 158.

<sup>78</sup> S. Parker, *Devils in diversity...*, p. 64.

<sup>79</sup> *Strengthening Controls...*, p. 250.

<sup>80</sup> Ibidem.

<sup>81</sup> G. McDonald, *Who's buying end-user certification...*, p. 158.

This kind of “service” boosts significantly costs of the official’s “salary” which may, in some cases, be some percent of the transaction<sup>82</sup>.

The effectiveness of EUC may be increased by application of delivery verification certificate (DVC). The document issued by the country of import confirms that the goods have crossed its borders and/or were delivered to the competent recipient. DVC is issued upon proof of delivery (for example bill for the unloading or a proper document from customs services) and is passed to the exporter<sup>83</sup>. It is also worth mentioning that DVC is prone to frauds as EUC<sup>84</sup>. This is a reason why the most important for countering redirecting is verification of documents<sup>85</sup>. It should be parallel to a redirecting risk assessment (when the permission is issued) and physical control during procurement and/or by the user.

Numerous countries which deal with arms trade have already introduced the mentioned elements into their legal systems. But their functioning is a matter of concern. Firstly, decisions on permissions are discretionary. Information on the practice and risk assessment and EUC verification politics are not publicly open. Secondly, EUC verification is insufficient and controls are quite rare. The countries of arms export pay most attention to a risk assessment<sup>86</sup>. The last one is the most effective as far as costs are concerned but is not so much certain as physical control on the spot of procurement and by the user<sup>87</sup>. Physical control could be performed by diplomatic posts<sup>88</sup>. Not all the countries have sufficient number of diplomatic posts though<sup>89</sup>. The problem is also lack of time and properly qualified personnel in already existing posts<sup>90</sup>. They allow to establish whether the arms have been delivered to an authorized user and whether the user passed them further. The control carried out during a procurement helps to eliminate passing arms to unauthorized users during the transaction. Nevertheless, it does not affect further destiny of the arms. Controls carried out after the procurement are very rare and usually they are a result of some events (for example media reports). Carrying out a control requires cooperation with the country of import and it is often limited to written explanations<sup>91</sup>. In the result, many cases of redirection stay undetected. This way there is nothing against further arms exports for the concrete (dishonest) recipient and supply (unwillingly) illegal arms trade<sup>92</sup>. Separate question are sanctions in case of disclosed redirections. As a solution there should be a ban on such transactions in the future<sup>93</sup> as a permanent element of fighting

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<sup>82</sup> Ibidem, p. 159.

<sup>83</sup> S. Parker, *Devils in diversity...*, p. 64.

<sup>84</sup> *Strengthening Controls...*, p. 250.

<sup>85</sup> G. McDonald, *Who's buying end-user certification...*, p. 162.

<sup>86</sup> Ibidem, p. 155.

<sup>87</sup> S. Parker, *Devils in diversity...*, pp. 81–82.

<sup>88</sup> G. McDonald, *Who's buying end-user certification...*, p. 162.

<sup>89</sup> S. Parker, *Devils in diversity...*, pp. 81–82.

<sup>90</sup> G. McDonald, *Who's buying end-user certification...*, p. 173.

<sup>91</sup> Ibidem, p. 163.

<sup>92</sup> Ibidem, 173.

<sup>93</sup> Ibidem, p. 163.

illegal arms trade<sup>94</sup>. Other ways of preventing getting arms into unauthorized hands are precise definition of people entitled to issue EUCs and DVCs, minimum requirements of their content and form<sup>95</sup>, list of border points with proper equipment and personnel to carry out effective controls of arms trade<sup>96</sup>. In the end, it is worth mentioning that these are only examples of possible solutions and their operation can be a subject to numerous reports and discussions which go beyond this article framework.

## Summary

There is a strong correlation between a risk of outbreak of war and uncontrolled arms trade. Military conflict causes implications which may be described as direct and indirect. They occur in both economic as well as social dimensions. Circumstances accompanying a war encourage terrorist and criminal activities. Such activities may be a result of a military conflict but also its cause.

Lack of proper control of arms trade encourages terrorist and criminal activities. Weapons are only tools to achieve their own objectives by violation acts. They are also a subject of developed trade between terrorists and criminals. It must be stressed that the weapons which are a subject of trade come mainly from regions of military conflicts. Terrorists and criminals can buy weapons on black market or just steal them.

Fighting described threats requires rigorous controls of the international arms trade. Basic elements are incorporation of arms control system into a legislation, trade politics based on the rule that international obligations are reflected in the rules of law, investigative apparatus to execute law. Arms trade control should regard destination point, recipient and the way arms are going to be used. Arms trade control should be based on the verification of transaction documentation, loss of arms control risk assessment and physical control in the moment of delivery and/or at the place of user.

## Abstract

The following article aims to explain the relationship between uncontrolled arms trade and the decline in domestic and international security. Crucial elements of the arms trade control system will be examined with the purpose of highlighting typical problems in their functioning. Presented results may find their use in the legislative and research works aimed at elimination of risks related to arms trade.

**Keywords:** arms trade, control, terrorism, conflict, organized crime.

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<sup>94</sup> M. Bromley, P. Holtom, *Import controls and arms...*, p. 7.

<sup>95</sup> *Ibidem*.

<sup>96</sup> *Ibidem*.