

South Africa's Arms Trade and the Commonwealth: A Cause for Concern?

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“The world cannot ask Africa to develop and then blight its development efforts through the sale of arms and ammunition that fuel Africa's civil conflicts”

[James Speth, Administrator, United Nations Development Programme]

1. Introduction

South Africa is Africa's only significant arms producer, with the country's arms industry having been built up during the 1970s and 1980s in the context of the UN arms embargo. South Africa entered the international arms market in the early 1980s, because of surplus capacity in the country's local arms industry. In the following years, South Africa became a major arms supplier to a number of developing countries. With the lifting of the United Nations (UN) arms embargoes in May 1994, and with the enthusiastic support of the new African National Congress (ANC) government, South Africa has emerged as one of the developing world's leading arms exporters. In 1998 the government announced that since April 1994 South Africa had sold arms worth more than US\$600 million to more than 90 countries, mostly in Africa, Asia, Latin America and the Middle East.¹

This paper describes the history of South Africa's arms trade during the apartheid era and in the period since the new ANC government came to power in April 1994. The aim of this paper is to ascertain whether South African arms exports, particularly illegal exports of small arms, are fuelling conflicts in many parts of the Commonwealth, especially in those states that have a poor human rights record or are experiencing some form of intra – or interstate conflict.

Section 2 describes the history of South Africa's arms industry during the apartheid era. **Section 3** describes South Africa's entry into the international arms market, and the history of South Africa's arms trade before April 1994. **Section 4** describes the history of South Africa's arms trade since April 1994 and examines the new ANC government's attempts to refine and strengthen South Africa's arms control policies and procedures. **Section 5** describes the record of South Africa's arms exports since 1994, particularly with respect to Commonwealth countries in Sub-Saharan Africa and Asia. **Section 6** discusses the issue of whether South African arms exports, particularly illegal exports of small arms, are fuelling conflicts in many countries in Sub-Saharan Africa. The final section of the paper provides some conclusions and policy recommendations.

2. The History of South Africa's Arms Industry

South Africa's arms industry was established in the early 1960s and expanded quite rapidly during the 1970s and 1980s in response to a number of strategic, political and economic

factors.² The imposition of UN arms embargoes in 1963 (voluntary) and in 1977 (mandatory)³ severely limited South Africa's access to foreign sources of armaments, and provided the impetus for a shift away from importing weapons toward the domestic production of various types of armaments.⁴

South Africa's direct and indirect military involvement in a number of regional conflicts during the 1970s and 1980s, such as those in Angola, Namibia, Mozambique and Rhodesia/Zimbabwe, required a guaranteed and continuous supply of armaments and equipment geared to local conditions, and thus provided the impetus for the development of a domestic arms industry.⁵

The rapid expansion of the domestic arms industry during the 1970s and 1980s contributed to the development of closer links between the state and private capital, and by the mid-1980s, more than 2000 private-sector firms were directly and/or indirectly involved in domestic arms production.⁶

By the end of the 1980s South Africa had transformed itself from an arms importer with a limited domestic production capability into a relatively self-sufficient arms producer. At this time the local arms industry was able to supply the South African Defence Force (SADF) with most of its equipment requirements. One of the ways in which South Africa became increasingly self-sufficient in arms production was through its ability to obtain foreign inputs by circumventing the UN arms embargo.⁷ As a result of the embargo, South Africa's arms industry was 'forced' to adopt a number of covert and illegal practices (such as smuggling and the use of front companies) in order to obtain much-needed inputs, including technology and components.

During the apartheid era the arms industry occupied a privileged position in terms of its access to state resources. As a result, by the end of the 1980s the arms industry had developed into one of the most significant sectors of the country's industrial base. By 1989 the industry employed more than 130 000 people (8% of total manufacturing employment) and more than 10% of all manufacturing firms were involved in various aspects of domestic arms production.⁸

After 1989, South Africa's defence budget was cut quite dramatically, as a result of South Africa's military withdrawal from Namibia/Angola, the demise of the Cold War, and the ending of apartheid. Between 1989 and 1994 the defence budget was cut by more than 40% in real terms, and as a result, the local arms industry downsized quite significantly during this period. More than 100 000 jobs were lost, and the value of the industry's output declined by more than 50% during this period.⁹ Many defence firms went out of business or exited the defence market. Those firms that survived attempted to diversify into civilian products, or embarked on major export drives to help offset the declines in the local defence market.¹⁰

3. The History of South Africa's Arms Trade Pre April 1994

Before April 1994, South Africa's arms export business was conducted in a highly secretive fashion because of the presence of UN arms embargoes.¹¹ Secrecy was institutionalised in various legislative measures; and no official information about the destination, the value, or the content of arms exports was publicly available.

South Africa entered the international arms market in the early 1980s. Before 1980, South Africa's only significant export market was white-run Rhodesia; but when Rhodesia became Zimbabwe in 1980, this market effectively disappeared.¹²

During the early 1980s the South African arms industry began to experience a number of economic problems, because of rising overhead costs, excess production capacity, and poor economies of scale.¹³ Arms exports were seen as the solution to the problem of surplus capacity, while at the same time helping to preserve accumulated skills and technologies.

South Africa's surprise appearance at an international arms exhibition in Greece in 1982 marked the country's 'official' entry into the international arms market. At the same time new legislation was passed to regulate arms exports; and a new international sales and marketing department, Nimrod, was created within Armscor, the state-owned arms production and procurement organisation.¹⁴

The apartheid government, through Armscor, enthusiastically embraced the local arms industry's export drive. Armscor established more than 130 front companies to assist with the import and export of armaments, and Armscor officials were given diplomatic status at many of South Africa's foreign missions to facilitate arms transfers.¹⁵

In 1982 the value of South Africa's arms exports amounted to US\$24 million. By 1993 this figure had risen to US\$271 million. Arms exports increased from 0.4% of total manufactured exports in 1982 to over 3% in 1993. Despite these significant increases, by 1993 South Africa's arms exports accounted for less than 1% of the global arms market.

Before April 1994, most of the recipients of South Africa's arms exports were governments or rebel groups in other "pariah states" that were also excluded from access to major suppliers. South Africa sold arms to Iraq during the Iran/Iraq war, to the Pinochet regime in Chile, to the Khymer Rouge in Cambodia, to Unita in Angola and to Renamo in Mozambique. It also supplied arms to Peru, Morocco, Oman, Sri Lanka, Taiwan, South Korea, Israel and Rwanda during this period.¹⁶

The 'success' of South Africa's arms export drive during the 1980s was related to the fact that South Africa emerged as a willing exporter to a number of nations, which for one reason or another, were cut off from military business with the leading Western arms producers.¹⁷ In response to South Africa's arms export drive the UN Security Council unanimously adopted Resolution 558 of 1984, which requested all states to voluntarily refrain from purchasing arms manufactured in South Africa.

After 1989, as a result of the cuts in defence spending, and the declining defence market, South African defence firms began to vigorously pursue export markets. The introduction of the government's General Export Incentive Scheme (GEIS) in 1990 also played a significant role in stimulating arms exports. The unbanning of the ANC and other liberation movements in 1990, and the start of constitutional negotiations between the ANC and the South African government, improved South Africa's image abroad. As a result, the South Africa arms industry began to trade more openly in the international market, and during this period South African defence firms attended a number of international defence exhibitions in Chile, London, Malaysia and Dubai. The value of South Africa's arms exports jumped from US\$78 million in 1989 to US\$271 million in 1993.¹⁸

4. South Africa's Arms Trade Post April 1994

When the ANC-led government came to power in 1994, it inherited a domestic arms industry that was considerably smaller than it had been in the late 1980s, and one that was struggling to survive.

With the lifting of the UN arms embargoes in May 1994, Armscor announced its intention to double the country's share of the global arms market. At the time, many multinational organisations, such as the United Nations Development Programme (UNDP) expressed concern at the plan to promote exports. A senior official in UNDP warned that "the new South African government will have to be more careful about weapons sales...South Africa has a moral responsibility not to fuel regional conflicts because it was the United Nations arms embargo that ultimately helped bring down apartheid".¹⁹

In addition to launching a massive international marketing drive, Armscor and the arms industry were able to convince the new ANC government of the economic and strategic importance of the arms industry, and the potential benefits of arms exports. Since April 1994 the ANC government, like the former apartheid government, has become a major supporter of the arms industry's export drive.

President Mandela, and other government ministers, including Deputy President Thabo Mbeki and Defence Minister Joe Modise are enthusiastic supporters of the local arms industry and use their foreign visits to promote arms exports and international collaboration with South Africa's industry. To support the industry's export drive, the government helps to maintain South Africa's "arms export infrastructure", including the use of civilian and military government personnel in overseas offices and foreign missions to promote arms sales. Armscor maintains a number of overseas offices and helps to underwrite the participation of South African defence firms at overseas and local defence exhibitions.

As a result of the ANC government's support, the value of South Africa's arms exports has increased quite significantly since 1994. In 1994 the value of arms exports in constant 1995 prices was R918 million (US\$258 million), by 1997 the value of arms exports had increased by nearly 30% in Rand terms to R1166 million (US\$260 million). However, the share of arms exports in South Africa's total manufactured exports remained relatively constant during this period. This was because of the improvement in South Africa's overall

manufacturing export performance since 1994 as a result of the ending of trade sanctions and South Africa's reintegration into the global economy.

Table 1. Value of South Africa's Arms Exports, 1994-1997

Figures are in Rand Million in Constant 1995 prices. Figures in italics are in percentages.

Year	1994	1995	1996	1997
Defence Exports	918	1033	488	1166
Manufacturing Exports	69825	81289	95659	100495
<i>Defence/Manufactured Exports</i>	<i>1.3</i>	<i>1.3</i>	<i>0.5</i>	<i>1.2</i>

Source: Armscor Annual Report, various years; National Conventional Arms Control Committee, South African Reserve Bank Quarterly Bulletin, various issues.

The significant increases in the value of South Africa's arms exports in the last few years have been accompanied by a series of arms trade scandals. Most of the scandals have involved illegal transfers of weapons by individuals or companies, rather than the government. The recipients of these arms transfers have tended to be governments and/or rebel groups in developing countries, many of which are in the midst of civil wars or some form of intra-state conflict.

In September 1994, Armscor was implicated in an aborted arms deal involving a consignment of small arms supposedly destined for Lebanon that had in fact been sold to Yemen, a prohibited destination for South African arms.²⁰ This consignment was the second part of a dual shipment. The first shipment had found its way to the former Yugoslavia. The events surrounding these shipments led to the establishment of the Cameron Commission of Inquiry. The First Report of the Commission, which was published in June 1995, argued for the formulation of new arms export regulations and controls.

In November 1994 Human Rights Watch charged that elements within the South African armed forces continued to supply arms to Unita in Angola for several years after the peace accords were signed.²¹ While the South African government denied these charges, it admitted that rogue elements within the local arms industry and private companies could be supplying arms to Unita.

In mid -1995 Human Rights Watch alleged that certain South African individuals had been involved in selling arms to the Hutu government in Rwanda before their defeat in 1994 by the Rwanda Patriotic Front.²² While Armscor and the South African government stopped official arms sales in February 1993, unofficial sales by certain elements within the arms industry continued into 1994.

Such scandals embarrassed the ANC government and damaged its attempts to portray South Africa as a responsible arms trader. They also highlighted the problems associated with implementing an effective arms control system, given the presence of rogue elements in the country's armed forces and arms industry.

Before April 1994, Armscor controlled the export of conventional arms. In fact, it was charged with the marketing of armaments and the issuing of export permits, thus acting as both player and referee. In response to the various arms trade scandals the ANC government began work on developing a new arms trade policy during 1995. The new policy, which drew heavily on the recommendations of the Cameron Commission, was spelt out in the White Paper on Defence, which was approved by parliament in May 1996.

In terms of the new policy, each arms export application was to be assessed by considering the recipient's record on human rights and fundamental freedoms, its security needs, its record of compliance with arms treaties, the nature and cost of the arms in relation to the circumstances of the recipient country, and the effect of the transfer on South Africa's national and foreign interests.²³

The White Paper states that South Africa will not "transfer arms to countries which systematically violate or suppress human rights and fundamental freedoms".²⁴ It also states that South Africa will avoid arms sales if the weapons transferred are likely to be used to violate or suppress human rights and fundamental freedoms or will contribute to regional conflict, or if the weapons are likely to be diverted or used to support terrorism.²⁵

According to the White Paper, all applications for arms sales must be approved by a new four level control system, which includes a cabinet committee – the National Conventional Arms Control Committee (NCACC) – which comprises six ministers and four deputy ministers. In terms of the new control system the NCACC is responsible for ensuring that all conventional armaments and related technology may not be imported, transferred through South Africa or marketed or exported abroad without a duly approved permit.²⁶

5. Destination of South African Arms Exports, 1994-

Despite the presence of new arms control policies and procedures, the ANC government has flouted its own policy guidelines on a number of occasions by approving a series of controversial arms sales, or proposed sales. The recipients of these controversial sales and proposed sales include countries such as Rwanda, Uganda, Congo-Brazzaville, Algeria, Colombia, Syria, Turkey, Kuwait, Saudi Arabia, and Taiwan. Many of these countries are authoritarian and undemocratic regimes; have poor human rights records; or are experiencing various forms of intra and inter-state conflict. In terms of the government's new arms control policy guidelines, arms transfers to such countries should be avoided.

If one examines in more detail the official record of South Africa's arms exports in between 1996 and 1998 then it is evident that the majority of its arms sales are to developing countries, particularly in Africa, the Middle East, Asia and Latin America.

Of the country's top 10 destinations for arms exports between 1996 and 1998, 5 countries - India, Columbia, Pakistan, Congo-Brazzaville and Algeria have all experienced some form of intra- and/or interstate conflict in the last few years (see Table 2).²⁷

Table 2. South African Arms Exports: Top 10 Destinations, 1996-1998

Figures are in Rand (‘000) in current prices

Country	Value 1996	Value 1997	Value 1998	Total Value
India*	13639	600518	13302	627459
Switzerland	18217	108106	66210	192533
Columbia	28746	71223	44633	144602
Singapore*	18163	87970	15425	121558
Thailand	1401	36477	67094	104972
Pakistan*	51457	33716	10048	95221
Congo-Brazzaville	61266	31920		93186
Algeria			84933	84933
Peru	38686	14639	30154	83479
United Arab Emirates	7814	17045	37221	62080

Source: National Conventional Arms Control Committee

Note: * Commonwealth states

In terms of South Africa's arms trade with the Commonwealth, 3 member states – India, Singapore and Pakistan have emerged as some of South Africa's most important markets for arms exports.

The reason for India's importance as the largest market for South African armaments is a direct result of the fact that both countries recently entered into a defence co-operation agreement to exchange views on strategic matters and trade in military equipment. It was also recently reported that the outgoing Hindu nationalist-led government had informally directed the Indian Ministry of Defence to source defence equipment from Israel and South Africa because both countries were “impervious” to sanctions and restrictions that India faced after last year's nuclear tests.²⁸ Pakistan has also emerged as a significant market in recent years, although the value of sales to India is more than 6 times the value of sales to Pakistan.

Officially, the South African government maintains good diplomatic relations (including military relations) with both Pakistan and India, and has been careful not to be seen to be favouring either India or Pakistan, given the increasing tensions between the two countries. However, South Africa continues to sell large amounts of conventional weapons to both countries, and it is clear that the ANC-led government is using arms sales to strengthen and solidify its existing diplomatic relations with both countries. Ironically, South African weapons are in all likelihood being utilised in the ongoing inter-state conflict between India and Pakistan, Thus weapons sales to either one side and/or both sides of the conflict may jeopardise South Africa's future relations with both countries.

Most of India's recent purchases from South Africa include armaments and equipment for the Army. During 1998 it was reported that India had purchased 90 second hand Casspir MKII mine-protected armoured personnel carriers worth US\$12 million for the Army²⁹ and US\$15 million worth of 155mm high-explosive ammunition for use in its Bofors FH-77B

howitzers.³⁰ The Indian Army is also currently evaluating the purchase of T6 155mm/52-calibre turret systems for use on the locally-developed Arjun main battle tanks.³¹

The importance of India as a key market for South African armaments was highlighted recently, when it was reported that Armscor and about 20 of South Africa's defence firms would be taking part in a defence exhibition in India in October 1999. The main reason for South Africa's participation in this defence exhibition was to try and reverse the decline in the value of India's arms purchases from South Africa, down from over R600 million in 1997 to only R13 million in 1998.³²

If one examines in more detail South Africa's record on arms sales to Sub-Saharan Africa and Asia, then it is evident that these markets are emerging as important destinations for South African arms exports.

South Africa's top 5 destinations for arms sales in Sub-Saharan Africa between 1996 and 1998 are given in Table 3. Some of these recipient states have repressive or undemocratic regimes and/or have experienced some form of intra- and/or interstate conflict in the last few years.³³

Table 3. South African Arms Exports: Top Destinations in Sub-Saharan Africa, 1996-1998

Figures are in Rand ('000) in current prices.

Country	Value 1996	Value 1997	Value 1998	Total Value
Congo-Brazzaville	61266	31920		93186
Uganda	31218	9084	1523	41825
Tanzania		8492	31399	39891
Rwanda	4453	15647	19554	39654
Kenya	19293	5627		24920

Source: National Conventional Arms Control Committee

The top 5 destinations for South Africa's arms sales in Asia between 1996 and 1998 are given in Table 4. Some of these recipient countries, such as India, Pakistan and Taiwan have experienced some form of intra- and/or interstate conflict in the last few years (see Table 5).³⁴

Table 4. South African Arms Exports: Top Destinations in Asia, 1996-1998

Figures are in Rand ('000) in current prices.

Country	Value 1996	Value 1997	Value 1998	Total Value
India	13639	600518	13302	627459
Singapore	18163	87970	15425	121558
Thailand	1401	36477	67094	104972
Pakistan	51457	33716	10048	95221
Taiwan	15176	38625	1035	54836

Source: National Conventional Arms Control Committee

The vast majority of South Africa's arms exports to countries in Sub-Saharan Africa and Asia comprises small arms and light weapons, including ammunition, and armoured vehicles. In many cases these exports have included sales of South African National Defence Force (SANDF) surplus arms and defence equipment.³⁵

South Africa has also emerged as a major supplier of arms to countries in Southern Africa. All member states of the Southern African Development Community (SADC), with the exception of Seychelles, have purchased arms, particularly small arms, from South Africa since 1996.³⁶ Most of the protagonists in the current conflict in the Democratic Republic of Congo (e.g. Namibia, Zimbabwe, Rwanda and Uganda) have purchased arms from South Africa in the last few years.³⁷

The fact that many of the recipient states of South African arms sales in Sub-Saharan Africa and Asia have undemocratic or repressive regimes, and/or are experiencing some form of violent conflict poses a serious dilemma for the ANC government. Should South Africa be selling arms to such countries? What purposes are the arms being used for – self-defence or internal repression?

In the last few years the ANC government has approved a number of controversial arms transfers which highlight this dilemma. The government has been quite willing to approve sales to countries such as Rwanda, Uganda, Algeria, Syria, Saudi Arabia, and Indonesia but has refused to sell arms to countries such as Turkey.³⁸ In the light of these controversial sales there has been speculation that President Mandela's recent diplomatic efforts in Libya, which led to the lifting of UN sanctions, may result in South Africa becoming a major supplier of armaments to Libya.

On the evidence presented above, it is evident that South Africa has emerged as a major supplier of arms to Commonwealth states, particularly in Sub-Saharan Africa and Asia. Many of the recipients of these arms are authoritarian and undemocratic regimes; countries with poor human rights records; or countries experiencing various forms of intra and inter-state conflict, including regional arms races. Thus, it is possible to argue that South Africa's arms exports may be fuelling conflicts in many parts of the Commonwealth, particularly in Sub-Saharan Africa and Asia.

The record of South Africa's arms sales to states in Africa, Asia, Latin America and the Middle East since April 1994 has fed the perception, domestically and internationally, that the ANC government's foreign policy is haphazard and that South Africa has failed to become a restrained and responsible arms trader. Furthermore, the arms deals that have been approved in recent years suggest that maintaining jobs in the arms industry, and other economic considerations, are more important than the government's stated commitment to human rights principles.

The inconsistencies and contradictions in South Africa's arms trade dealings have become a major source of concern and disappointment for both South Africans and foreign observers.

A recent survey of 3,500 South Africans found that 91 percent either did not want their country to sell arms at all (38 percent), or would only approve such sales under strict humanitarian guidelines (53 percent). Only 9 percent (mostly white, male and well paid) said South Africa should sell arms to anyone who would pay.³⁹ Foreign governments and international non-governmental organisations, including Amnesty International and Human Rights Watch have also expressed concern over many of South Africa's recent arms sales decisions. One international observer noted that "as time goes on the sense of South Africa as an ethical arms trader is dissipating".⁴⁰

Meanwhile, the government's response to criticism of its arms sales decisions has been confusing. Some ministers, such as Kader Asmal, chairperson of the NCACC, and Ronnie Kasrils, deputy defence minister, have consistently defended the government's record as ethical, and have stated that a recipient's respect for human rights is the paramount concern in arms sales decisions. Other ministers, such as Defence Minister Joe Modise and Aziz Pahad, deputy foreign minister, have adopted a more traditionally hard-line position arguing that arms sales have the potential to create jobs and earn foreign exchange.

When the government's arms trade decisions and foreign policy initiatives are challenged on the basis that they promote relationships with abusers of human rights, the response from ministers such as Pahad is that engagement is the most constructive way of doing business -- that influence can be more effectively brought to bear on governments through diplomatic dialogue rather than by strident public criticism. The irony of such comments, given South Africa's recent history, is obvious. They echo the words that U.S. President Ronald Reagan and Britain's Prime Minister Margaret Thatcher used in the 1980s, when they repeatedly defended their relations with apartheid South Africa.

When the ANC-led government came to power in 1994 it committed itself to putting human rights concerns at the centre of its domestic and foreign policy agenda. South Africa's new constitution, approved in October 1996, commits all South Africans to the establishment of a society based on democratic values, social justice and fundamental human rights. The new government has also consistently said that the advancement of human rights and the promotion of democracy are the pillars on which South Africa's foreign policy rests.⁴¹

According to Laurie Nathan, a member of the Cameron Commission of Inquiry, "respect for human rights in the conduct of the arms trade is as much a legal as a moral duty, because these rights are enshrined in South Africa's new constitution and in international covenants to which South Africa is a party. The constitution also compels government to adhere to international law, which prohibits the use and threat of force. It follows that South Africa is precluded from arming states that defy this rule".⁴²

6. South Africa's Arms Trade and Conflict in Sub-Saharan Africa

In addition to its record of controversial arms sales to governments in Africa, and despite the presence of new arms control policies and procedures, the ANC government has been confronted by a growing number of arms trade scandals in recent years.

In September 1997 newspaper reports suggested that South African arms, including armoured vehicles, small arms and ammunition, which were sold to Uganda in 1995 and 1996 had found their way into the hands of the Sudanese People's Liberation Army (SPLA).⁴³

In December 1997 a report by Human Rights Watch stated that certain South African individuals and companies had been supplying arms and military assistance to rebel movements in Burundi with the knowledge of senior ANC and government officials.⁴⁴

In April 1998 newspaper reports suggested that South African individuals and companies were still involved in supplying food and military equipment to Unita in violation of a United Nations interdict.⁴⁵ These allegations provide further support for reports, which appeared in June 1997, in which South African individuals were implicated in supplying arms and equipment to Unita in Angola via Mozambique.⁴⁶

On the basis of the above it is evident that South Africa's illegal trade in arms, particularly small arms, is flourishing and that South Africa's new arms control policies and procedures are proving to be relatively ineffectual. The need for more effective arms control policies and procedures, particularly with respect to monitoring, compliance and enforcement mechanisms has thus become a key priority for the ANC government.

7. Conclusion

South Africa's recent history, and the key role of the UN arms embargoes in helping to bring about the end of apartheid, together with the increasing incidence of illegal arms transfers from South Africa to countries in Sub-Saharan Africa, imposes a moral duty and a political responsibility on the new ANC government to become a more restrained and responsible arms trader.

Despite the fact that the government's new arms control policies and procedures are, in theory at least, in line with international arms control norms and standards, there is an urgent need for arms control legislation to ensure that the government adheres to its own policy guidelines and procedures when approving arms sales, particularly to controversial destinations. The need for statutory policy guidelines is particularly important, given the government's absence of restraint, and whole-hearted support for the arms industry's export drive to ensure its continued survival and profitability.

In the light of the arms industry's desire to maximise arms exports, there is also an urgent need for the government to implement more effective monitoring, compliance and enforcement mechanisms, such as the establishment of an independent Arms Control Inspectorate, to prevent the growing illegal trade in arms, particularly small arms, from South Africa to countries in Sub-Saharan Africa. Only in this way will the ANC government be able to change the perception, both domestically and internationally, that South Africa is an irresponsible arms trader, and that the country's arms sales are fuelling conflicts in many parts of the developing world.

A number of recent developments suggest that the South African government is showing a greater commitment to becoming a more responsible and restrained arms trader. During 1997 the South African government announced a ban on the production, stockpiling, transfer and use of landmines. At the Ottawa meeting in December 1997 South Africa was one of the first countries to sign the APM Convention.⁴⁷ In January 1999 the South African government wrote a letter to the UN Secretary-General stating that it was committed to curbing the flow of small arms to civil wars and conflicts world-wide, and that it was further committed to stopping the flow of illegal small arms across its borders.⁴⁸ As concrete proof of this commitment, in February 1999 the South African government announced that during 1998 it had destroyed 70 tons of small arms and ammunition, as well as 100 tonnes of small arms and ammunition on site in Mozambique.⁴⁹ South Africa also recently announced that it would destroy all its surplus small arms rather than sell them.⁵⁰

However, despite these positive developments, and the ANC government's support for international disarmament campaigns which have popular appeal (e.g. the ban on anti-personnel landmines) South Africa's policy on arms exports remains contradictory. The government, despite domestic and international criticism, remains committed to the export of arms, particularly conventional arms, because of the perceived economic benefits such as job creation and foreign exchange. It is thus unlikely to support any initiatives which seek to limit, or curb, the export of conventional arms, particularly where large arms deals that are highly lucrative, and supportive of the local arms industry, might be threatened.

The government's commitment to supporting arms exports is based on the assumption that the arms industry is an economic asset and that arms exports are extremely lucrative in terms of foreign exchange earnings and job creation. In fact quite the opposite is true, and a number of recent studies have highlighted the opportunity costs associated with maintaining a domestic defence industry, and that once the value of subsidies are included, then the net returns from South Africa's arms exports are in fact relatively insignificant.⁵¹

The problems of illegal arms transfers and small arms proliferation confront many countries in the developing world. Therefore the implementation of more comprehensive national (and regional) arms control policies and procedures, together with more effective monitoring, compliance and enforcement mechanisms should be a key priority for South Africa and all Commonwealth states.

8. Recommendations

The implementation of the following recommendations would help to ensure a more effective arms control system in South Africa, and thereby prevent illegal arms transfers from South Africa to countries in Sub-Saharan Africa and other developing countries.⁵²

i) Compliance

Defence companies and firearms dealers in South Africa should be required by law to take the following steps to ensure compliance with existing arms export legislation and regulations:

- Establish internal control, verification and audit procedures as specified in an official compliance manual;
- Nominate a senior company official who will be held responsible for compliance;
- Maintain detailed records of all exports for a period of 5 years from the date of transaction; and
- Introduce a national training programme on arms transfer regulations and procedures, in collaboration with the government's official arms control body, for all employees involved in the marketing and export of arms.

ii) Sanctions

The statutory penalties for contravening arms control legislation and regulations should be strengthened in order to signal the seriousness of the offence and provide an effective deterrent against transgressions:

- Individual offenders should be liable on conviction to a mandatory jail sentence.
- Company offenders should be banned from marketing and exporting arms for a period of up to twenty years.
- Financial penalties should be equivalent to five times the value of the exported goods.
- There should be provision for confiscation of the goods in question and/or the profits or turnover emanating from an unlawful transaction.

South Africa's existing arms control legislation should be amended to include a positive duty to report illegal arms transfers. A person's failure to report should be regarded as a criminal offence. The amended legislation should also provide for sanctions in respect of both wilful contraventions and acts of omission and commission, which are deemed to be grossly negligent. The legal penalties should extend to South African citizens and companies which breach domestic arms controls and international arms embargoes from outside the borders of South Africa.

iii) Monitoring and Enforcement

South Africa's official arms control body (e.g. the NCACC) should be empowered by law to examine the records of all companies and firms involved in the production or supply of armaments, even in the absence of alleged wrongdoing, for the purpose of monitoring compliance with arms controls.

The South African Police Service (SAPS) should have a dedicated unit for investigating allegations of persons or companies involved in illegal arms transfers.

SANDF units and facilities dedicated to border control should be tasked to prevent illegal cross-border movement of armaments.

South Africa's Department of Customs and Excise should have an explicit mandate to monitor compliance with arms controls. Customs and Excise should make a concerted effort to tighten border controls, and air and port surveillance in particular. It may also be necessary to reduce the number of South Africa's official international ports of entry and exit.

The mandate of South Africa's intelligence agencies, including the intelligence divisions of the SANDF and the SAPS should include the gathering and analysis of information regarding contraventions of South Africa's arms control policies. The SANDF, SAPS and South Africa's intelligence agencies should perform these functions in co-operation with their counterparts in other countries, and with multilateral agencies such as Interpol.

South Africa should formally co-operate with its neighbouring states in the region, and support the strengthening of formal regional arrangements (e.g. regional arms register, bilateral and multilateral treaties) to deal more effectively with the issue of arms transfers into, out of, and within Southern Africa.

An independent Arms Control Inspectorate (as provided for in existing policy) should be established. The mandate and powers of the Inspectorate should be specified in legislation.

South Africa should establish a statutory arms control body, to ensure effective co-ordination between all the various government agencies and departments that should be involved in monitoring and ensuring compliance with arms control legislation and regulations.

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¹ *Business Day*, 14 April 1998.

² See studies by Batchelor and Willett (1998) and Landgren (1989) for comprehensive accounts of the history and development of South Africa's arms industry.

³ Between 1945 and 1990 the UN Security Council imposed arms embargoes on only 2 countries: South Africa and Southern Rhodesia. The embargo against Southern Rhodesia was lifted in 1980 with the independence of Zimbabwe. See Landgren, 1989, p.12.

⁴ Batchelor and Willett, 1998, p.28.

⁵ Batchelor and Willett, 1998, p.25.

⁶ Batchelor and Willett, 1998, p.38.

⁷ See studies by Vayrynen (1980), Landgren (1989) and Brzoska (1985, 1991) for the ways in which South Africa circumvented the UN arms embargo.

⁸ Batchelor and Willett, 1998, pp.40-48.

⁹ Batchelor and Willett, 1998, pp.75-83.

¹⁰ See study by Batchelor and Dunne (1998) for a discussion of the restructuring of South Africa's arms industry since the late 1980s.

¹¹ See studies by Willett (1995) and Willett and Batchelor (1994) for comprehensive discussions of South Africa's arms trade prior to April 1994.

¹² For details of South Africa's arms exports prior to 1980 see Landgren, 1989, pp.177-182.

¹³ Batchelor and Willett, 1998, p.33.

¹⁴ Landgren, 1989, p.182.

¹⁵ *Sunday Times*, 30 July 1995.

¹⁶ See studies by Batchelor and Willett (1998) and Landgren (1989) for comprehensive accounts of South Africa's arms trade before April 1994.

¹⁷ Landgren, 1989, p.12.

¹⁸ *Armescor Annual Report*, 1994/95, p.22.

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²⁰ *Sunday Rapport*, 18 September 1994.

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- ³⁴ Information on conflicts in these countries obtained from the following sources: *Amnesty International Report, 1998; SIPRI Yearbook 1998: Armaments, Disarmament and International Security*.
- ³⁵ In late 1998 the South African government was criticised for donating surplus SANDF arms, including troop carriers and artillery guns, to the Namibian government. See *The Namibian*, 13 October 1998.
- ³⁶ Based on information obtained from the National Conventional Arms Control Committee.
- ³⁷ *The Namibian*, 2 March 1998.
- ³⁸ See Batchelor (1998) for a discussion of South Africa's controversial arms deals since 1994.
- ³⁹ *Business Report*, 4 December 1997.
- ⁴⁰ Joost Hiltermann of Human Rights Watch quoted in *Sunday Independent*, 19 January 1997.
- ⁴¹ Deputy Foreign Minister Aziz Pahad, quoted in *Mail and Guardian*, 25 April 1997.
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- ⁴³ *Mail and Guardian*, 5 September 1997.
- ⁴⁴ Human Rights Watch (1997) *Stoking the Fires: Military Assistance and Arms Trafficking in Burundi*, pp. 75-84.
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- ⁴⁶ *Mail and Guardian*, 20 June 1997.
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- ⁵⁰ *Africa News Service*, 27 February 1999.
- ⁵¹ See studies by Willett & Batchelor (1994) and Batchelor & Willett (1998) for a discussion of the economic costs and benefits of South Africa's arms trade.
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