

ACCOUNTABILITY AND OVERSIGHT: THE ROLE OF PARLIAMENT IN ARMS TRANSFERS

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Introduction

“An estimated 50 to 60 per cent of the world’s trade in small arms is legal – but legally exported weapons often find their way into the illicit market. The task of effective proliferation control is made far harder than it needs to be because of irresponsible behaviour on the part of some states and lack of capacity by others, together with the shroud of secrecy that veils much of the arms trade. Member States must act to increase transparency in arms transfers if we are to make any progress.”

– UN Secretary General Kofi Annan, 2000¹

There is a need to regulate arms transfers, especially in the developing world. As more countries implement unilateral control measures to regulate the flow of arms, they set standards according to which others will be measured. Regarding conventional arms transfers, the major problem seems to be with small arms since they are easy to conceal and therefore difficult to identify or verify independently – especially when compared to exports of major conventional weapons such as warships, tanks or aircraft.² Moreover, the transfers of small arms usually consist of minor consignments and may sometimes only involve ammunition, which makes it easier to ignore even registering these exports.

While those who sell arms claim to have clear policy guidelines and responsibilities for determining the eligibility of foreign governments, their governments have in many instances authorised the sale of arms even when the recipient country did not meet prescribed requirements. For Africa in particular where the problem of small arms is more serious, this presents a real need for parliaments to scrutinise arms transfers as they have a direct impact on peace. For the United States (US) government, arms can only be sold to a country whose government promotes democracy and such a government must: have been chosen by the people; permit free and fair elections; promote civilian control of the military and security forces; and have civilian institutions

controlling the policy, operation and spending of all law enforcement and security institutions, as well as the armed forces. The recipient government must also promote the rule of law and respect for individual and minority rights, including freedom to speak, publish, associate and organise.³

A meaningful democracy requires the existence of appropriate institutions and the prospects for their institutionalisation in different cultural settings to realise its aspirations. If this prerequisite is not properly met, democracy is deprived of its real meaning. Instead, guided *democracies* in which leaders with consummate skill manage to hold elections and serve long terms in office will emerge. It is widely acknowledged that this reality has derailed Africa from its economic path and progress. However, parliaments hold the power to reverse this trend, where necessary by making new laws or changing existing ones consistent with new initiatives of the African Union (AU) and the New Partnership of Africa's Development (NEPAD), which emphasises good governance through effective institutions. This paper, which uses South Africa as a case study, seeks to dissect the role of parliament in some of these intricacies, focusing on oversight and accountability on conventional arms transfers. It also seeks to illustrate how parliamentarians can take a more active role in the executive process by explaining the role of parliament in the arms trade.

The need for arms and patterns of trade in Africa

“With many sovereign states, with no system of law enforceable among them, with each state judging its grievances and ambitions according to the dictates of its own reason or desire – conflict, sometimes leading to war is bound to occur. Any state may at any time use force; therefore, all states must constantly be ready either to counter force with force or to pay the cost of weakness.”⁴

According to Waltz's analysis of the structural realist paradigm, the international system is the means to understanding international conflict. Advocates of arms transfers have consistently made the point that all states enjoy the right of self-defence under the United Nations (UN) Charter. Further, the denial of weapons to a country under threat of invasion, or to a community subject to genocide, can amount to complicity in acts of aggression.⁵ This reality has increased arms sales to the developing world, and contemporary international trends show that this will continue.

While acknowledging the right of every government to acquire arms to equip itself against acts of aggression and to safeguard its people, there is equally a need for parliamentary scrutiny and oversight in three areas, namely: imports, exports and the manufacture of weapons. The process of decision making over these three elements has to be explicitly spelled out and should

also involve the public. For those countries in Africa that produce weapons, even ammunition, the procedure used to sell these products needs to be made explicit. Arms production necessitates a degree of responsibility on the part of producers so that weapons do not end up in the wrong hands. It is in this role that parliament should regulate arms transfers and enhance democratic civil–military relations as:

- the state is the only actor in society that has the legitimate monopoly of force;
- the security services are accountable to the legitimate democratic authorities;
- parliament is sovereign and holds the executive accountable for the development, implementation and review of security and defence policy; and
- principles of good governance and the rule of law apply to all branches of government and therefore to arms sales and purchases.

International arms transfers are difficult to trace, especially if governments neither publish their exports nor report to the UN Arms Register. This reality has made patterns of arms trade in Africa, at best, complicated. Small arms present a serious problem and many of these are sold to rebel organisations by most international arms manufacturers. Governments of the arms-providing companies should know and may wittingly approve such transactions.⁶ In instances where some countries were accused of this complicity, they have often hidden behind the veil of their companies' unscrupulousness.

The fact that international organisations are not designed, or at least do not have the capacity, to deal with non-state actors such as rebel groups exacerbates not only arms proliferation to these groups but war itself. For instance, this reality has made it more complicated to deal with internecine strife as rebel groups (and more recently terrorist groups) have easy access to funds and are not accountable to anyone. A rather undesirable additional complement is that arms transfers are first and foremost, commercial transactions shrouded in the premier echelon of secrecy. However, it is a parliamentary responsibility to publicise and shame those who provide military assistance to such organisations. Although this may undermine a community's aspirations for self-determination, it may encourage dialogue and thus a better alternative to war.

Arms producing nations of the world are finding it hard in terms of their domestic politics to curtail production of weaponry in excess of levels needed for their own armed forces. Surplus weaponry is thus exported for cash revenue, which surpasses most other industries. While the trend has declined with the end of the Cold War it, however, opened avenues for others. Currently China now has 21% of the African market, Russia has 18% and Western Europe, including the United Kingdom (UK) and France, has 14%.⁷ Most obvious, the military industrial complex is a very powerful subset of any nation with its benefit from weapons sales abroad. Arms contractors have consistently argued

that arms are essential to foster good relations as well as to create more jobs at home. The arms lobby works assiduously to ensure that foreign sales continue apace and foreign lobbyists diligently ensure that their countries get the weapons they want.

Challenges

The challenge in implementing parliamentary scrutiny is that it requires political systems to be democratic. This begs the question: What happens when an undemocratic country produces weapons and sells them or, as has happened in many instances, when a recipient country is undemocratic? Even when the producing country is democratic, the nature of internal arrangements within its polity may challenge the very fabric of democracy. For instance, where a democratic system uses proportional representation for its electoral system, parliamentarians who make up the committee may listen more to the wishes of party leaders if that would guarantee their return to parliament in the next election and their ranking within the party list. However, since politicians are public representatives, they have a responsibility to behave in accordance with the wishes and dreams of their constituency.

Be that as it may, the more governments adopt transparency as a means of curbing the dangerous proliferation of arms, the more effective transparency becomes. While few African countries produce arms, it is important that parliaments adopt strong positions regarding legislation to regulate arms transfers and decisions regarding what needs to be done with old and surplus weapons, that is, whether they are to be sold or destroyed. Through these initiatives, parliamentarians can make a real and direct contribution towards strengthening democracy and addressing the humanitarian and criminal damage enabled by arms transfers. The cost and efforts of implementing these recommendations will undoubtedly be overshadowed by the humanitarian and financial costs of failing to address the problem of arms transfers.

Parliament: What role in conventional arms transfers?

Former French Prime Minister Georges Clemenceau once stated that: "War is a much too serious matter to be entrusted to the military".⁸ This statement recalls that in a democracy, the representatives of the people hold supreme power and no sector of the state should be excluded from their control. A democratic state without legislature's control of its security sector, especially the military, should at best be deemed an unfinished democracy or a democracy in the making. In an ideal world, the legislature should have a role to play in a country's arms procurement process for purposes of transparency and accountability to the public. Regrettably, in most countries the legislature has a limited role in arms sales and procurement.

In carrying out its task, whether by implementing legislation or policy, the executive requires considerable powers. A condition of the exercise of that power in a constitutional democracy is that the executive is checked and held accountable to an organ of government distinct from it. This oversight function is normally exercised by the legislature over the executive. The notion is inherent in the concept of the separation of powers, which simultaneously provides for checks and balances on the exercise of executive authority, making the executive more accountable to an elected legislature.

Accountability means 'to give an account' of actions or policies, or 'to account for' spending and so forth. Accountability can be said to require a person to explain and justify – against criteria of some kind – their decisions or actions. It also requires that the person goes on to make amends for any fault or error and takes steps to prevent its recurrence in the future.

Oversight refers to the crucial role of legislature in monitoring and reviewing the actions of the executive organs of government. The term refers to a large number of activities carried out by the legislature in relation to the executive. In other words, oversight traverses a far wider range of activity than does the concept of accountability.

In the past decade, there has been a growing clamour for governments and their parliaments in particular to exercise their oversight and accountability functions in regulating arms sales and to report and declare what and to whom they have sold or received. There is an obvious oversight role for parliament to play as public funds are involved. It therefore could be viewed as a parliamentary responsibility to decide whether money should be spent on 'guns or butter', and if it is to be spent on 'guns', then which 'guns', how much and why? The motivation is for parliamentary oversight to balance the costs of arms expenditure against social sector needs. In essence, the legislature should monitor the increasing military expenditure. More importantly, a proper parliamentary oversight on arms procurement may reduce the danger of the regional arms procurement spiral.⁹ Assessing the needs for weapons procurement requires a comprehensive decision-making process on procurement through:

- threat assessment processes;
- the long-term concept of defence capacity-building/identification of material needs for new equipment;
- budget allocations for arms procurement;
- technical quality assurance and post-procurement performance audit processes; and
- assessing offers for compensation and off-set.

This need for transparency and accountability has acquired added importance in the contemporary era as the international community beefs up its fight against terrorism. One of the problems in dealing with conventional arms has

been how to deal with the situation of a free market in trading weapons of all kinds when it is in fact a commercial business. At the international level, this has been achieved through a universal and non-discriminatory Register of Conventional Arms at the UN in New York, to include data on international arms transfers as well as information provided by member states on military holdings, procurement through national production and relevant policies.¹⁰

Still, arms trade remains puzzling and weapons have continued to reassert their retrograde influence on humanity. The problem has been that the criteria most countries use in determining arms sales is usually trumped by strategic and commercial interests. In line with this, a country may sell arms to another in order to offset the balance of power in a particular region. Parliamentary scrutiny of such transactions that run contrary to a government's agenda is unthinkable.

Intrinsically, incentives to sell arms are largely encouraged by economic interests and may also be politically motivated. Inevitably, this creates the risk that governments will seek to define criteria such as human rights abuses as narrowly as possible (or as narrowly as they feel they can get away with) in order to smooth the passage of an arms transfer. A system of prior parliamentary scrutiny and openness regarding the export licence process is the only avenue through which public interest can monitor and influence decisions before they are made – and before all arms are delivered.¹¹

To be successful, this initiative may require the existence of effective political opposition and a vibrant civil society that would spawn debates on the subject. The associational sphere of civil society is seen as the place where citizens learn habits of free assembly, dialogue and social initiative. When engaged properly without intimidation, civil society can help to bring about that delicate balance of private interests and public concern vital for a democracy as it evokes images of freedom to speak and associate without fear. It also conjures up images of a public life in which the words and actions of ordinary citizens are duly acknowledged by the state.

A combination of parliamentary scrutiny and a vibrant civil society in regulating arms sales would ensure that both citizens of arms-exporting countries and those in importing countries benefit from a regime of transparency around the international trade in arms transfers. The benefits of such a regime would:

- encourage restraint in arms transfers to actors that use them in the commission of human rights violations and armed conflict;
- enhance good governance by curbing corruption and increasing democratic accountability;
- promote the norm of transparency to states that do not yet provide meaningful information about their arms shipments; and
- enable better understanding of the arms trade and its relationship to armed violence.

According to Haug et al, certain basic principles which form the minimum criteria for full transparency prior scrutiny cut across national boundaries. At the parliamentary level, the establishment of a defence oversight committee under the following principles would ensure that governments are fully accountable for their actions.

- *The committee's proceedings should not be secret.* This requirement should apply to the committees' findings, deliberations and evidence. Open hearings would allow the public to be informed on government policy, enabling debates and examination of the issue outside, as well as inside, parliament. Interested parties would then be able to influence public opinion – and the committee – before a decision is made. In rare cases where there is good reason to keep evidence submitted to the committee secret, the committee should have competence to make this decision.
- *The parliamentary committee should be permanent.* Permanence would allow individual parliamentarians to build up expertise on the issue. Furthermore, the committee should be adequately provided with support staff.¹²
- *A wide range of political opinions should be represented.* Committee members should be drawn from a number of political parties and should reflect the broad political spectrum in parliament. It is also important that members of the committee should not be dominated by trade interests. This requirement would ensure that governments would be subject to some challenge within the committee, and that the public would become aware of the record of each political party's representative(s).
- *The committee should decide which licence to examine.* For the arms exporting countries, the committee should be informed of all potential transfers of defence goods to other countries and imports and should be free to examine any of them in detail. While it may well establish ground rules, such as not reviewing transfers to allied states, the existence of a (pre-defined) monetary thresholds (such as in the US) creates the potential or risk that the committee will simply not be informed of important transfers.
- *A large number of outside organisations should be consulted.* The committee should be able to consult non-political expert groups – such as the defence establishment, manufacturers and human rights organisations – for information and advice.
- *The committee should have adequate time to reach its decisions.* While it would be expected that the committee should take into account commercial sensitivities, the committee should decide what amount of time is required for each case. While it could also be argued that the committee should have the power to block any licence application it objects to, the ability of the committee to make decisions is not a prerequisite of transparency *per se*. The primary role of a committee is to make ministers accountable for their decisions, rather than to take that responsibility from them.

The South African experience: A case study

“Our morality as a democratic government dictates that we have to act in accordance with internationally accepted norms and standards ... in our approach to the sale of arms we are resolved to act responsibly. Arms are for the purpose of defending the sovereignty and territorial integrity of a country not to undermine any considerations of humanity or to suppress the legitimate aspirations of any community” Nelson Mandela, 1994.

During the 1980s South Africa was one of the top arms exporters in the world, and is still prominent. During the apartheid era, South Africa sold arms to human rights violators’ making its arms industry and nuclear capabilities the subject of heated debates throughout the political interregnum of the 1990s. Human Rights Watch noted in its 2000 report the controversies over South African arms deals with abusive governments and countries in conflict: the “disturbing record of arms sales since April 1994 has fed the perception, domestically and internationally, that the ANC [African National Congress] government’s foreign policy is haphazard and that South Africa has failed to become a restrained and responsible arms trader.”¹³ Internationally, the South African government was urged to address the inconsistencies that emerged between its arms export policies and practices. South Africa is a well-respected and increasingly influential developing country that is growing in stature. It has much influence in Africa through its prominence in the AU and NEPAD. In light of these, its use and exports of arms are of particular interest.

In response to the growing concern over the destination of South Africa’s arms exports, the new government committed itself to principles of transparency in conventional arms transfers. These transparency measures ensure that government and citizens have access to data on arms transfers, which facilitates greater understanding of the trade. In this vein, remarkable progress has been made in adopting a set of guidelines to regulate the country’s arms trade consistent with new democratic creeds and international responsibility. This initiative commenced with the establishment of a Cabinet level committee, the National Conventional Arms Control Committee (NCACC) to be responsible for the approval of all South Africa’s arms transfers. The NCACC consists of ministers appointed by the president to carry out the government’s policy on arms control and to ensure political oversight over all arms transfers. The committee is chaired by a minister who does not have a line function interest in trade in conventional arms. The committee operates on the basis of consensus but the minister of defence is responsible for issuing export permits once these have been agreed.

The South African government has instituted a certain rationale and principles for the NCACC to regulate the trade in conventional arms. These

principles are in common with internationally accepted norms relating to the transfer of conventional arms. In deciding whether to authorise the transfer of conventional arms and related technologies, the NCACC considers the following regarding a recipient country:

- The respect showed for human rights and fundamental freedoms. The NCACC determines this from an evaluation based on the UN Universal Declaration of Human Rights and the African Charter on Human Rights and People's Rights. Instances where political, social, cultural, religious and legal rights are seriously and systematically violated by the authorities of that country are considered very critically.
- The internal and regional security situation of the country, taking into consideration existing tensions or armed conflicts.
- The record of compliance regarding international arms control agreements and treaties.
- The nature and cost of the arms to be transferred in relation to prevailing circumstances, including justified security and defence needs and the objective of the least diversion of human and economic resources for armaments.
- Whether such arms sales support South Africa's national and foreign interests.

Like other arms exporting countries, export applications are considered after a meticulous scrutiny of the recipient country's human rights and compliance with international arms protocols. In essence, it is South Africa's policy not to sell arms to countries that are not consistent with these requirements. For instance, in August 1997 the South African government decided to block a potentially lucrative sale of Rooivalk attack helicopters to Turkey because of Turkey's poor human rights record towards its Kurdish minority, and because of Turkey's continued occupation of part of Cyprus in defiance of international law.

However, following an announcement of prospective arms sales to Syria, the US government voiced its concern as it regards Syria as a terrorist state and threatened to suspend aid to South Africa. ANC parliamentarians (at committee level and in the House in general) rejected US attempts to impose its definition of terrorism on South Africa and Cabinet ministers similarly denounced Washington's 'bullying tactics'.¹⁴ They insisted that South Africa, as a sovereign state, was free to choose to whom it exports arms.¹⁵ As Deputy Minister Essop Pahad bluntly put it in early 1997:

"Who says Syria is a terrorist country? It is a matter of interpretation. Our assessment of human rights [in Syria] can't be determined by an Amnesty International report. We have our own criteria."¹⁶

The extent to which the NCACC is accountable to Parliament remains questionable as decisions are taken at Cabinet level and Parliament is only informed once a decision has been taken. While the public may have access to data on conventional arms transfers through the Access to Information Act, requests of this nature are often difficult to secure as they can be classified national security. Still, the new government demonstrated its commitment to openness and transparency by making its data on arms exports public. In 1996 the Directorate Conventional Arms Control published its first report on arms transfers. The report published in March 2000 for exports made in 1999 included:

- an overview of the authorities responsible for assessing and granting arms export licences;
- a list of the international arms control regimes that South Africa has acceded to;
- the rationale and principles governing South African arms exports;
- a summary of the laws and procedures governing production and export of weapons;
- an explanation of the different weapons categories referred to in the export statistics; and
- arms export statistics for the period 1997–99.

Establishing exactly what was sold from the report is, however, tricky due to insufficient explanations on how the Directorate Conventional Arms Control collects the data from exporters and derives the report. Moreover, the report does not name the arms exporting producers nor does it include any information on licences granted or end-users. Furthermore, the broad categories into which weapons are broken down make any detailed analysis of South African arms exports impossible. However, there seems to be room for improving on

Table 1: South African arms export report, 1997–99 showing the value of particular categories of weapons exported by country¹⁷

	<i>Category</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>
Guatemala	B			950,000
India	A	572,225,000	7,324,000	205,047,000
	C	28,293,000	5,978,000	
Indonesia	C		2,597,000	
Ireland	A	4,487,000	2,334,000	13,449,000
	B	74,000	33,000	
	C	329,000		241,000
	D		1,036,000	
Israel	A	1,207,000	414,000	909,000
	B	22,796,000	2,106,000	534,000
	C	2,160,000	3,297,000	8,660,000

Table 2: Export totals for 2000 and 2001 rounded to the nearest thousand rands

	2000	2001
Category A	841,919,000	990,047,000
Category B	70,811,000	81,068,000
Category C	304,022,000	591,872,000
Category D	62,106,000	30,719,000
Category G	105,711,000	42,866,000
Totals	1,384,569,000	1,736,572,000

some of these weaknesses; for instance, the 2002 report does mention end-users of military equipments exported. Export totals for the years 2000 and 2001 rounded to the nearest thousand rands are shown in Table 2. South African military exports for the year 2002 are shown in Table 3.

The NCACC reserves the right to cancel licences. It may exercise this function if:

- any condition of the permit has not been or is not being complied with;
- the person who has been issued the permit is convicted of an offence in terms of the NCACC Act;

Table 3: South African military exports for 2002

A	B	C	Remarks	
Category (I-VII)	Final importer state(s)	No. of items	Description of item	Comments on the transfer
	Angola	1	Casspir APC vehicle(refurbished)	End user: Norwegian People's Aid
	Eritrea	2	SAMIL20 Mine Protected Vehicle (refurbished)	End User: United Nations
	Mali	5	RG31 Mine Protected APC	
	United Kingdom	3	RG32 SCOUT APC	End User: Alvis UK
	Uganda	15	RG 31 Mine Protected APC	Delivery on outstanding 1998 order. For internal use only
	Belgium	1	Armoured Car: Eland Mk7 90mm	End User: SABILEX; Short shipment on 1999 export

Table 3: South African military exports for 2002 (continued)

<i>A</i>	<i>B</i>	<i>C</i>	<i>Remarks</i>	
<i>Category (I-VII)</i>	<i>Final importer state(s)</i>	<i>No. of items</i>	<i>Description of item</i>	<i>Comments on the transfer</i>
	Austria	1	RG32 SCOUT APC	
	Mozambique	6	4xSAMIL20: Mine Protected Vehicle 2x Casspir APC (Refurbished)	End User: Norwegian People's Aid
	Georgia	2	RG32 SCOUT APC	End User: UN
	France	2	RG32 SCOUT APC	
	Malaysia	22	G5 Howitzer 155mm Towed	10 exported in September 2001, 12 exported in July 2002
	Cameroon	1	Impala Mk2	Old surplus stock

Of these weapons, category A = sensitive major significant equipment; category B = sensitive significant equipment; category C = non-sensitive equipment; category D = general service; and category G = general services.

*Note that most of the equipment sold in the year 2002 consisted of used but refurbished equipment, for instance, the Casspir, SAMIL20 and the Impala Mk2. Thus there is a role for parliament to play regarding old stocks of military hardware.

- it is in the interest of the protection of the security of the Republic; or
- it is in the interest of maintaining and promoting international peace or avoiding repression and terrorism.¹⁸

The role of Parliament in legislation, exports and procurements

While South Africa has a well-established arms industry, this does not render the country self-sufficient. As a result, South Africa acquires a significant percentage of its military hardware from other countries. The acquisition of arms is hard to conceal as the process involves a fair degree of consultation and tendering and has to be approved by Parliament and other organs of state.

What is important is that Parliament makes laws after a lengthy consultative process. The minister responsible appoints a task team to investigate/research the issue and to draft a Green Paper, which is a consultative document designed to provoke responses from interested parties that might be affected by the proposals. The department concerned considers these responses and they

influence the final policy proposals, which are agreed by the minister and sometimes by Cabinet. Although ministers and departments do their own consultations on Green and White papers, sometimes a parliamentary committee may also conduct public hearings or consultations.

In this regard, Parliament has played a significant role in laying the foundations of national policy through the White Paper on the South African Defence Related Industries. Legislation covering these industries consists of the Regulation of Foreign Military Assistance Act of 1998 and the National Conventional Arms Control Act of 2002. Legislation passed by Parliament laid down the following organisational structure involved in the acquisition of armaments for the SANDF:

- The military component consisting of the chief of the SANDF and the arms of service that are mainly the clients of products to be acquired.
- The civilian component consisting of the secretary for defence, the chief of acquisition and the chief of policy and planning.
- The minister of defence and his/her department, Cabinet and Parliament itself.
- The Armaments Corporation of South Africa (Armscor) – established in terms of the provisions of the Armaments Development and Production Act, 1968 and its core business is to acquire and produce defence material and related services for the Department of Defence.¹⁹

Parliament analyses consistency of procurements with the security policy and assesses the financial burden of such purchases in comparison with other public needs and social priorities. For instance, Parliament exercised this function in the recent strategic defence package through the Standing Committee on Public Accounts (SCOPA). Although the investigation proved the strong executive–weak Parliament dilemma, Parliament fulfilled its functions. As the former chair of the committee remarked:

“As a result of my trying to have SCOPA properly investigate the R60 odd billion arms deal, I was blocked and undermined by everyone from the Deputy President, Cabinet ministers, the Speaker of Parliament to the majority of members in the Committee – and with little effective support from the media, the business community or any other part of civil society, I became isolated to the point where I had no option but to resign as chairman.”²⁰

Despite the powers vested in the committee, it was difficult to unearth issues relating to alleged securities and corruption. Be that as it may, lessons learned from the experience of this transaction are that South Africa should beef up its policy on arms trade and transfers to close the existing loopholes.

Conclusions and recommendations

This paper sought to highlight the importance of parliamentary oversight and accountability over arms transfers and procurements. There is a need to establish independent auditing procedures with statutory powers, to ensure that national arms sales processes are subject to autonomous scrutiny and oversight. There are just as many examples from which to draw lessons, for instance, the European code of conduct on arms transfer and the Organisation of American States code of conduct for arms transfers. All these codes give legislature the power to investigate any military transfer and to ascertain if these are consistent with the promotion of human rights and democracy.

While Africa is not a major producer of arms, it is in Africa where weapons, especially light weapons, kill more people every year. The capacity to produce ammunition for small calibre weapons exists in many African countries. In the epigraph to this paper, the UN Secretary General highlights the dangers posed by arms and the difficulties in regulating arms transfers. It is for the reasons mentioned above that:

- parliamentary oversight of arms procurement needs to be legislated;
- parliamentarians should demand that parliament has a say in the process of arms and military equipment procurement;
- parliament should conduct post-procurement performance audits of weapons systems, after the contract has been implemented;
- parliamentarians should also make sure that they are able to access and to utilise expert advice; and
- parliaments also encourage participation in transparency measures, for instance, by encouraging reports to the UN arms register.

Left unregulated, it is the ammunition that renders guns useful. There is a need for parliaments to establish and institute a robust authority endowed with sufficient legal power to supervise, verify and investigate and if necessary institute legal proceedings to improve the business of arms transfers which is shrouded in secrecy. Until parliaments commit themselves and exercise this function, the detrimental impact of arms within Africa will remain. In conclusion, echoing the UN Secretary General's words, "Member States must act to increase transparency in arms transfers if we are to make any progress".²¹

Notes

- 1 K Annan. *We the Peoples: The role of the United Nations in the 21st Century*, United Nations, New York, 2000.
- 2 See M Haug et al, *Shining a light on small arms exports: The record of state transparency*. A joint publication of the Small Arms Survey and the Norwegian Initiative on Small Arms Transfer, 2002, p 25.

- 3 See the US Code of Conduct of Arms Transfers Act of 1997.
- 4 K Waltz, *Man, the state and war: A theoretical analysis*, University Presses of California, Columbia and Princeton, New York, 1979, pp 159-160.
- 5 L Nathan, A human rights perspective on arms sales to the Middle East, Paper prepared for the meeting on South African Arms Sales to the Middle East, Department of Foreign Affairs, Pretoria, 16 October 1997.
- 6 Notwithstanding the clamour and pressures from the West for the developing world to democratise, at least with their governments' tacit approval, they have concluded numerous transactions. For instance, in April 1997 Laurent Kabila signed a US\$885 million contract with American Mining Fields, a US firm intent on exploiting Congolese copper, cobalt and zinc. See M Ross, How does natural resource wealth influence civil war? Unpublished paper, Department of Political Science, University of California, Los Angeles, 2001, p 20.
- 7 See <<http://www.clw/atop/media/cnntv021600.html>>
- 8 See Parliamentary oversight of the security sector: Principles, mechanisms and practices, Geneva Centre for the Democratic Control of Armed Forces and the Inter-Parliamentary Union, Geneva and Belgrade, 2003, pp 18-19.
- 9 See *Ibid*, p 173.
- 10 See <<http://disarmament.un.org/cab/register.html>>.
- 11 See Haug, *op cit*, p 42.
- 12 In a presentation to the South African Institute of Race Relations, former chair of the South African parliamentary Standing Committee on Public Accounts, G Woods, pointed out that "the committee is seriously incapacitated and relies heavily and improperly on the Auditor General's office to carry it through superficial motions of promoting sound public finance management", 12 June 2002.
- 13 See , South Africa: A question of principle, arms trade and human rights, *Human Rights Watch* 12(5), 2000.
- 14 On 16 January 1997 *The Star*, a major Johannesburg newspaper, ran an article titled 'Mandela Says SA Will Not Bow to US'.
- 15 *Ibid*.
- 16 Nathan, *op cit*.
- 17 All figures are rounded to the nearest R1,000.
- 18 See the National Conventional Arms Control Act, 41 2002, *Government Gazette*, Pretoria.
- 19 In addition to these functions, Armscor also has to participate in the drafting of value systems and, amongst others, the provision of a system for tender management, evaluation and adjudication.
- 20 Woods, *op cit*.
- 21 Annan, *op cit*.