



LINKING CBRN AND SALW NON-PROLIFERATION: LOOKING AHEAD AT POTENTIAL CONJOINED RISKS

Small arms ammunitions being prepared for destruction in Mali; Credit: UN Photo/Marco Dormino

ABSTRACT

The rigorous efforts from multiple key stakeholders have developed an operational basis for the important mandate contained in United Nations Security Council resolution 1540 (2004). However, gaps in implementation of effective and robust chemical, biological, radiological and nuclear (CBRN) non-proliferation methodologies exist among nation-states which denote a lower security priority to CBRN non-proliferating agendas, whether for national interest reasons or financial development constraints. This gap is exploited by non-State actors, and conjoined criminal organizations that seek to profit from the nation's status quo. As a result of this security aspect, this journal article seeks to create a linkage characterized by a duality approach to policy construction of lagging nation-states *vis-à-vis* their respective CBRN non-proliferation policies and higher valued conjoined policies, whether small arms and light weapons proliferation, drug trafficking, or any other security related feature sharing overlapping control characteristics that would incentivize a closing, or reducing, of the security gap, thereby reducing overall CBRN proliferation risks.



THE AUTHOR:
Erik Farkaš



Erik Farkaš holds an LLB, LLM in public international law, as well as GDL and LPC qualifications (i.e., pre-solicitor qualifications). He is currently operating as a private consultant and frequently writes research papers on matters of interest.

ACKNOWLEDGMENT OF THE PAST AND PRESENT WHILST LOOKING AHEAD

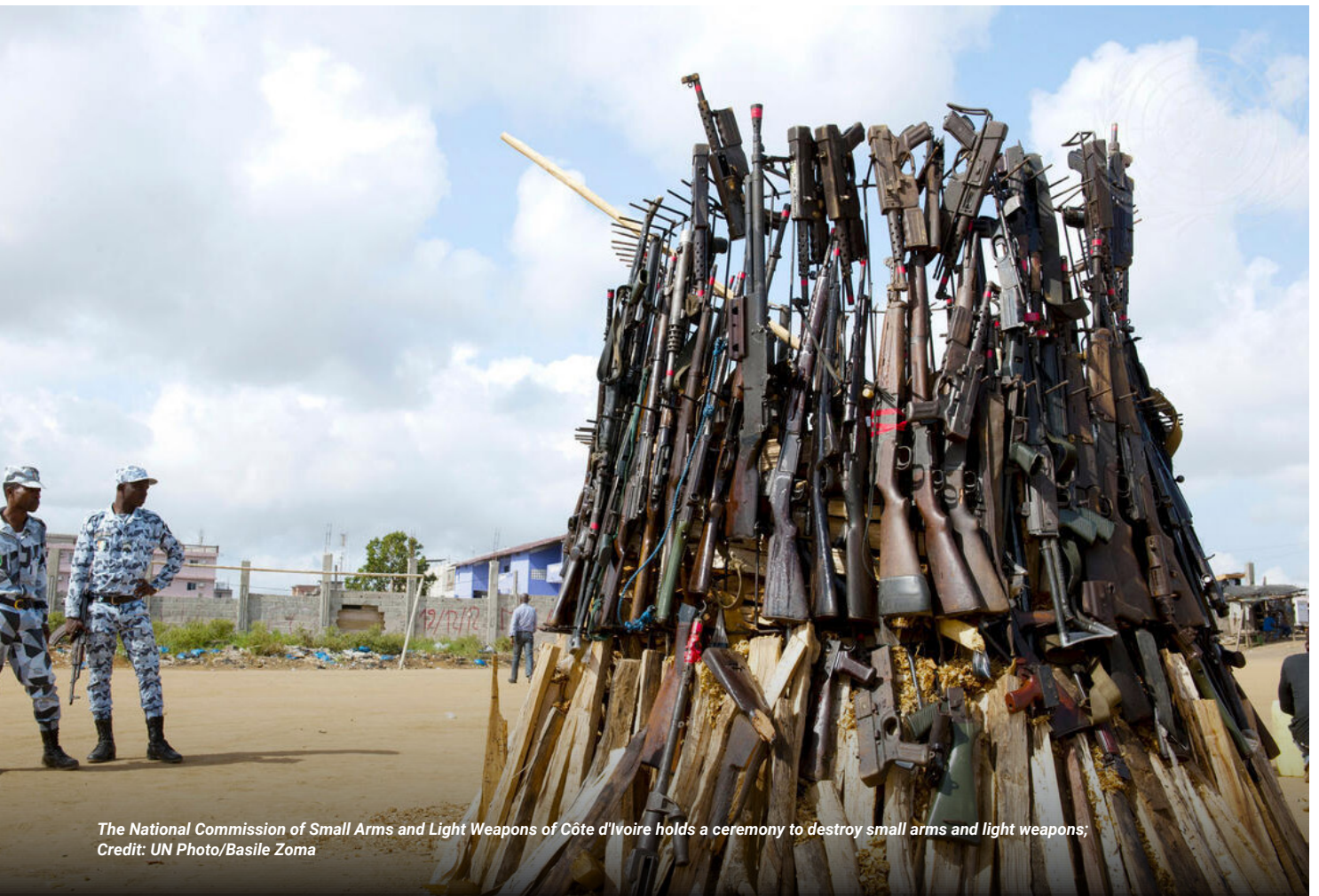
With the onset of the two-decade mark for the agenda of global non-proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, encapsulated by the momentum behind United Nations Security Council resolution 1540 (2004) (UNSCR 1540), the present article seeks to address a

prospect and challenge that has the potential to metastasize into a concerned risk for State actors, as well as concerned stakeholders, in the foreseeable future. However, before identifying a prospective future risk to UNSCR 1540 implementation, we must first acknowledge a brief historical overview of the lessons learned *vis-à-vis* the non-proliferation of weapons of mass destruction (WMDs) and their delivery systems to non-State actors,

as the recognized highest risk player in the arena of WMD proliferation.

The initial development of WMD non-proliferation was viewed by stakeholders as a long-term project accepting the inherent risks of proliferation that the development of technology could entail.¹ The conjoined inferences of technology's growth in leaps and bounds, and the accelerated development of technology

¹ Tom Wuchte, "A Strategy for the 1540 Committee", 1540 Compass, Winter, Vol. 1, Issue 1, (2012), pg. 4.



The National Commission of Small Arms and Light Weapons of Côte d'Ivoire holds a ceremony to destroy small arms and light weapons; Credit: UN Photo/Basile Zoma

via military-oriented projects are two sides of the same coin of concern.² A coin that once again has begun to resound around the growing impetus of nation-states to protect their national interests.³ In order to implement the agenda of non-proliferation embodied in UNSCR 1540 and prevent and mitigate the potential cashing of the coin of concern

resulting in a zero-sum result, State actors, international organizations (IOs), regional and sub-regional actors, supranational organizations, stakeholders, and, in time, private companies⁴ and civil society operated on parallel lines to achieve the long-term goals embodied in UNSCR 1540. In order to achieve this, respectively within general and spe-

cialized mandates, there arose an enhancement of border controls,⁵ border systems (i.e., physical and digital infrastructure), legal systems (national, regional and international instruments), trade systems,⁶ dual-use safeguards, financial systems, information-exchange and cooperation pipelines, sensitive technology control systems, sanction regimes

2 Comprehensive Review of UNSCR 1540 (2004) Implementation, (1 Dec. 2022), (S/2022/899), para. 117.

3 United Nations General Assembly Resolution – Agenda Item 103(d) (7 Dec. 2020), (A/RES/75/43), pg. 2.

4 Ian J. Stewart, “Partnerships with the Private Sector to prevent Proliferation”, *1540 Compass*, Fall, Vol. 1, Issue 4 (2013), pg. 41.

5 Karl Lallerstedt, 1540 Compass Discussion Forum, *1540 Compass*, Spring, Vol. 1, Issue 3 (2013), pg. 4.

6 Renaud Chatelus, “Challenges and Engagement for the World Customs Community”, *1540 Compass*, Winter, Issue 5 (2014), pg. 21.

and more, under the overall auspices of developing a CBRN security culture⁷ within State mechanisms to reflect the responsibility and obligation of States as actors of highest authority for non-proliferation concern and implementation.

It is within these contextual settings that this article will seek to elucidate on a single focal avenue which, in the opinion of the author, represents the highest potential for risk culmination within the non-proliferation mandate established by UNSCR 1540. That linkage is the inherent connection between trafficking in small arms and light weapons (SALW), as defined by COM (2019) 293,⁸ and the potential for non-State actors to launch CBRN-related attacks. The main reason behind the impetus of acknowledging, establishing, and mitigating this identified link within the realm of CBRN non-proliferation is simple: no CBRN attack, ever, has been launched without the preliminary satisfaction and

acquisition of the sufficient degree of weaponry wielded by non-State actors pursuing their own goals (whatever these may be). The sole exception are CBRN infrastructure attacks operating within the digital realm, but this shall not be examined within this article, nor shall the physical failsafe systems operating to prevent such attacks be inspected.

As such this article will seek to establish and solidify the link, without degenerating the vital importance of either specialized mandate by respective actors and stakeholders, and argue for a potential solution to the risk as a novel *modus operandi* for developing and integrating UNSCR 1540 policy within related projects and capacity building exercises of developed and developing nation-states.

WHAT IS MEANT BY THE 'LINK'?

Operative paragraph 1 of UNSCR 1540 decides that all States must refrain from

providing any form of support to non-State actors seeking to acquire or develop nuclear, chemical or biological weapons and their means of delivery. The degree of support encapsulated by the phrase “any form” implies, on the surface, both direct and indirect forms of support as contradictory to the non-proliferation goals of all States. The natural exception of this momentum is contained within the natural interest umbrella of a nation-state.⁹ Furthermore, the degree of risk inherent in CBRN weapons’ deployment is sufficiently accepted to give rise to the current culture of security and control for States that possess the military and technical functionalities enabling them to deploy such weapons. And yet, when we speak of CBRN weapons’ deployment, we speak of their risks, mainly due to the success of the embedded and developed security culture of CBRN weapons, but also because of the calculated potential scenario for a zero-sum game result

7 I. Khripunov, A. Eyzaguirre, & J. Alcorn, “A Blueprint of CBRN Security Culture”, *1540 Compass*, Summer, Vol 1. Issue 2 (2012) pg. 8.

8 European Commission, “Report from the Commission to the European Parliament and the Council: Evaluation of the 2015-2019 action plan on firearms trafficking between the EU and the south-east Europe region”, Brussels, 27.6.2019, COM (2019) 293 final, pg. 2.

9 Annex of the Report of the 8th Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, New York, 8 July 2022, (A/CONF.192/BMS/2022/1), para. 2.

between States that possess CBRN weapons. As a result of these interweaving factors, the overwhelming majority of nation-states have accepted that the actual use of CBRN weapon technology is unacceptable.

The same cannot be said for the deployment of small arms and light weapons, mainly because if the highest risk weaponry poses the highest catastrophic scenario, especially in the hands of non-State actors, the use of SALWs poses a “containable scenario” and can thus be incorporated into the national interest objectives of nation-states.¹⁰ The link between these two factors becomes a serious risk, as opposed to a passive (and thus controllable) risk, when non-State actors gain “the capacity” to acquire CBRN weapons. Paradoxically, non-State actors can only gain the capacity to do this if they possess SALWs.¹¹

The further parsing between “friendly” non-State actors, and “hostile” non-State actors, albeit of specific interest to the overall implementation momentum behind UNSCR 1540 if the link is recognized, will not be examined here as this rests on the knife edge of the national interest balancing act. A parallel concern is applicable to the funding of non-State actors (as a pre-requirement to obtaining SALWs, let alone, CBRN weaponry), and, thereby, an analysis of the global financial system in consideration of the non-proliferation agenda, which will be placed beyond the scope of this article.

As such, the “link” is the fluctuation of risk tied to the “degree” of SALW proliferation, both in the licit (mainly in lieu of diversion¹² and open-ended market loopholes)¹³ and illicit markets (mainly in lieu of demand and supply)¹⁴, and the acquisition of capacity by non-State actors to acquire

CBRN deployment capacity. In the opinion of the author, recognition of this link and its incorporation into the CBRN non-proliferation mechanisms of nation-states is imperative to reducing the actual risk of CBRN proliferation. Rendering it a passive aspect dealt with only by existing mechanisms, whether national or international per mandate, will increase the risk of terrorist occurrences in non-war fronts, and, in conjunction, may exacerbate CBRN acquisition by non-State actors to the detriment of UNSCR 1540 implementation.

MITIGATING THE RISK: A DUALITY APPROACH

The link illustrates the dangerous spill-over potential of SALW trafficking into the hands of criminal and terrorist organizations,¹⁵ with a conjoined negative effect on the CBRN non-proliferation agenda.¹⁶ Viewed from a different perspective, the UNSCR 1540 implementation

10 Office for Disarmament Affairs, “UN Disarmament Yearbook 2022”, New York, Vol. 47, (2023), pg. 35.

11 Lauren Pinson, “Addressing the linkages between Illicit Arms, Organized Crime and Armed Conflict”, UNIDIR, UNODC, (14 Sept. 2022), pg. 4.

12 Duquet N., & Goris K., “Firearms Acquisition by Terrorists in Europe: Research findings and policy recommendations of Project SAFTE”, Flemish Peace Institute, Brussels, (18 April 2018), pg. 19.

13 Petr Litavrin, “The way forward for UNSCR 1540”, *1540 Compass*, Special Edition, Issue 6, pg. 23.

14 UN Secretary General Report: Small Arms & Light Weapons, (30 Sept. 2021) (S/2021/839), para. 6 & 14.

15 Security Council Meeting of 8th Sept. 2022, 3:00 p.m., Mr. Gómez Robledo Verduzco (Representative for Mexico) (S/PV.9127).

16 Ali Rached, “INTERPOL’s CBRNE Capacity & UNSCR 1540”, *1540 Compass*, Winter, Issue 8 (2015) pg. 18.

The rekindling of effective CBRN implementation can therefore best be tackled with a duality approach

goals¹⁷ are stymied by their lack of perceived relevance by States who do not possess solitary CBRN deployment or transit capacity, and for whom the aspect of non-proliferation is a lesser prioritized risk,¹⁸ or by States with problematic transit capacity. The risk stemming from the link cannot be more succinctly exemplified than with the contemporary¹⁹ and current affairs in Yemen.

As aptly stated in the 2016 UN Register of Conventional Arms (UNROCA),²⁰ the realities of conflict in the 21st century were such that efforts to control SALW trafficking were

not a high-priority issue for the international community. Even though this statement was couched within the reporting obligations of nation-states for traditional military armaments, and without the inclusion of complex capacity issues prevalent both for SALW trafficking and CBRN trafficking, it remains, nonetheless, a pervasive problem which crystallizes in a different risk appreciation for CBRN over SALW trafficking (or *vice versa*).²¹

The rekindling of effective CBRN implementation can therefore best be tackled with a duality approach: satisfy an overlapping or parallel concern of a country who has not yet adequately implemented CBRN security measures, by, for example, tackling their respective national security concerns for SALW trafficking, or drug trafficking, or any other illicit methodology providing funding to criminal and terrorist organizations, and, in doing so, develop a more robust

and acute system for CBRN non-proliferation. An inherent risk is being forced to appeal to two agendas, but, if said agendas can be created so as to satisfy a minimum overlapping capacity for mitigation, detection, prevention and more (i.e., 60% viable operative agenda, with 100% being a true duality of purpose) of both SALW and CBRN trafficking, then the dichotomy revolving around the coin of concern can be met.

For countries with secure neighbouring countries, this may not be a pressing issue,²² but, once again, for countries that find themselves subject to neighbouring conflicts or risks thereof (whether in preliminary phases, or growing by the month), the duality approach can assist in solidifying CBRN non-proliferation, whilst satisfying a parallel pertinent risk of the concerned neighbouring country.

17 Comprehensive Review of UNSCR 1540 (2004) Implementation, (1st Dec. 2022) (S/2022/899), para. 22.

18 Michael Beck, "Implementation Challenges for Small and Developing Countries", *1540 Compass*, Fall, Vol. 1, Issue 4 (2013), pg. 11.

19 United Nations Security Council – Letter from Panel of Experts on Yemen, (26 Jan. 2016) (S/2016/73), para. 84 & 85.

20 Report on the Continuing Operation of the UN Register of Conventional Arms and its Further Development (2016) (A/71/259), para. 61.

21 Report by the 2022 Group of Governmental Experts – Report on the Continuing Operation of UNROCA (2023) (A/77/126), para. 34.

22 EU Commission, "Communication from the Commission to the EP, the Council, the European Economic and Social Committee and the Committee of the Regions: 2020-2025 EU Action Plan on Firearms Trafficking", Brussels, (24.7.2020)(COM(2020) 608 final), pg. 5.