

Arms Trafficking: Closing the Net

A Test Case
for Prosecution
under the U.S. Law
on Arms Brokering

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ADDENDUM

The Fund for Peace has learned that Sarkis Soghanalian, the alleged gun trafficker who is the subject of this report, was granted permission by the federal court in Los Angeles to leave the U.S. pending sentencing in July for conviction on wire fraud charges. This ruling reversed previous restrictions that limited Soghanalian's movements to the Central District of California and, at one time, required him to wear an electronic monitoring device. Despite inquiries, The Fund for Peace has been unable to ascertain why a convicted felon, awaiting sentencing in the U.S. and facing an international arrest warrant from Peru, was allowed to travel overseas, providing an opportunity to escape justice and destroy evidence on other possible charges. Available public records do not provide any explanation for the decision of the court.

Should Soghanalian not return to the U.S. for his July sentencing, the U.S. should immediately seek his extradition and solicit mutual legal cooperation and assistance from foreign governments for prosecution for violation of the U.S. arms brokering law. The Fund for Peace report helps establish probable cause for his arrest.

Action on this case is especially urgent in light of the recent arrest of the Peruvian former intelligence chief, Vladimiro Montesinos, who, among other crimes, was reportedly involved in the same arms trafficking scandal as Soghanalian, and his accomplice, Charles Acelor. While the U.S. government, in cooperation with Peruvian authorities, has spent considerable resources in its successful attempt to locate and apprehend Montesinos, it has yet to take appropriate action in bringing to justice those persons falling under its own legal jurisdiction. Evidence from the Montesinos investigation is likely to shed light on the case against Soghanalian. This would be a test case for the U.S. government to enforce its own U.S. law on gunrunners.

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The Fund for Peace Mission Statement

The mission of The Fund for Peace is to prevent war and alleviate the conditions that cause war. The Fund promotes education and research for practical solutions. It is a consistent advocate of promoting social justice and respect for the principles of constitutional democracy.

Our programs focus on how to strengthen the capacity of the US and the international community to respond to global internal conflicts in five key areas: Early Warning (Conflict Prevention and Recovery Program), Constituency Building (Human Rights and Business Roundtable), Military Intervention Criteria (Regional Responses to Internal War), Arms Control (Arms and Conflict) and Policy Integration (Senior Fellows Program, and Institute for the Study of World Politics).

A Note on Methodology

This case study is based on a methodical background search of open sources as well as a series of interviews with U.S. and foreign government officials from September 2000-May 2001. The interviews were conducted in person and by telephone primarily from Washington, D.C., San Francisco, New York and Los Angeles. In many cases, the names of the official sources cited in this report are withheld so as not to jeopardize open law enforcement investigations. Often, U.S. government officials agreed to speak to The Fund for Peace on condition of anonymity in order to preserve their ability to conduct future law enforcement investigations. Research is also drawn from U.S. and foreign legislation, U.S. case law and Peruvian court documents.

Preface

In January 2000, The Fund for Peace launched the Arms and Conflict Program as part of its new integrated approach to peace-building in the 21st century. The new program combines research and advocacy to stem the flow of illicit arms to conflict zones. The research dimension focuses on identifying arms flows from their sources of supply, through their pipelines, to their final destinations, examining how unhampered arms flow engender human rights abuses and exacerbate conflicts around the globe. The Program also documents the privatization of the weapons transfer cycle, now increasingly in the hands of non-state suppliers and recipients. This research is conducted through extensive field missions, sustained on-the ground observation and documentary investigations as well as cooperation with a multitude of public and private sources.

This pioneering program of The Fund for Peace not only provides critical data and policy options for an arms control agenda, but approaches the problem of the proliferation and misuse of weapons from a preventative action, peace-building and human rights perspective.

For more than a decade, the Program's Director, Kathi Austin, has documented the role of arms traffickers in supplying weapons, primarily to African conflict zones. Her investigations have uncovered arms networks that have violated international arms embargoes, delivering weapons to such murderous clients as the Rwandan genocidaires. To date, not a single arms middleman that she and others have exposed has been brought to justice for illicit trafficking. These merchants of death have found it all too easy to circumvent controls, take advantage of lax regulations, or make themselves seemingly indispensable to government covert operations. She has also documented governments' acts of commission, omission, and negligence contributing to this state of tacit impunity. This has permitted arms traffickers to freely ply their lethal business, with no public accountability.

Recognizing that unregulated arms brokers pose a direct threat to international peace and security, the international community has begun to target these activities to obtain greater control. For example, the United Nations created international commissions of inquiries to investigate arms flows to places such as Rwanda, Angola, and Sierra Leone. These investigations led to the exposure of some of the most prominent arms brokers who have supplied internationally embargoed clients. The commissions also proposed recommendations for reining in brokers' activities. In April 2001, after contentious deliberations, a "Firearms Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition," which contained a limited provision on arms brokering, was attached to the U.N. Convention on Transitional Organized Crime.

Another U.N. forum, the "U.N. Conference in 2001 on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects," convenes in New York on July 9, 2001. Given political will, the participants will have an historic opportunity to further advance the international regulation of arms brokering. In the lead up to the conference, a U.N. study group asserted the feasibility of implementing international regulations on brokering in a

report that it released. However, during preparatory meetings of this consensus-driven process, significant U.N. member states expressed opposition to a binding political agreement on arms brokering and may try to thwart this effort.

First, given the critical nature of the problem, The Fund for Peace published, *Casting the Net? Implications of the U.S. Law on Arms Brokering*, in January 2001. This report, written by Loretta Bondi, The Fund for Peace Advocacy Director, and Research Associate Elise Keppler, examines the merits and pitfalls of this comprehensive American law enacted in 1996, and provides recommendations for its application and enforcement. This law has been touted as the best legislative instrument in the world to control the arms middlemen, yet no illicit broker has been prosecuted under this statute.

Second, concerned about the U.S. government's failure to prosecute illegal arms brokering cases, The Fund for Peace has investigated and prepared a high profile case study in the belief that precedent-setting prosecution is needed to put arms brokers on notice, and to establish case law that expounds extraterritorial scope. This case study could also serve to inform law enforcement officials and the public of the utility of this law in acting against criminals who violate international humanitarian and human rights law.

A handful of arms middlemen have achieved notoriety in the international arena. Recently, for example, Tajikistan-born, world roving Victor Bout, who currently operates out of the United Arab Emirates, has been exposed by several U.N. commissions of inquiry, a *Financial Times* newspaper series and a *New York Times* editorial on arms supplied to embargoed forces in Africa. Other brokers in the weapons trade reside in the U.S. However, American-based arms brokers have escaped justice due, in part, to the underreported nature of their crimes, which are often committed offshore. We hope that this report will prompt more investigations and prosecutions against their illicit activities.

Third, The Fund for Peace will work for an internationally binding agreement on arms brokers in conjunction with sympathetic governments and non-governmental partners, such as the International Action Network on Small Arms (IANSA). An effective agreement should include provisions for an international registration and licensing scheme, incentives for compliance, criminal penalties for offenders, and mechanisms for improved international cooperation.

The Fund for Peace believes that curtailing the illicit activities of unregulated arms brokers will save innocent lives around the world and help prevent the escalation of lethal conflict.

--Pauline H. Baker
President
The Fund for Peace

LIST OF ABBREVIATIONS

AECA	Arms Export Control Act
AKM	AKM Kalashnikov rifles
CIA	Central Intelligence Agency
DIA	Defense Intelligence Agency (U.S.)
DTC	State Department office of Defense Trade Controls
FARC	Revolutionary Armed Forces Of Colombia
INTERPOL	International Criminal Police Organization
IRS	Internal Revenue Service
SIN	Peruvian National Intelligence Service

INTRODUCTION AND RECOMMENDATIONS

In 1996, the U.S. government passed a new law that specifically targeted arms brokers in order to close a loophole that had left their activities uniquely unregulated in the arms pipeline. This comprehensive statute was passed as an amendment to the 1976 Arms Export Control Act (AECA), and requires U.S. arms brokers living anywhere and foreign nationals residing or conducting business in the United States to register and obtain licenses for all arms deals they transact whether on or off U.S. soil. Not only does the law empower U.S. implementing and enforcing agencies to keep tabs on the number of brokers and the type of their operations, it also subjects violators to U.S. jurisdiction wherever an offense has been committed.¹

While the law provides a fresh opportunity to break the impunity with which illegal traffickers operate, the manner in which the law is currently being implemented and enforced raises serious concerns over the ultimate success of its application.² To date, there has not been a single prosecution of an arms broker under this U.S. law.

A report published in January 2001, by The Fund for Peace, *Casting the Net? Implications of the U.S. Law on Arms Brokering*, addressed the practical obstacles to the application of the law and provided a set of recommendations which should be promptly heeded.

The aversion of the U.S. so far to prosecute arms brokers under this law, however, may constitute a more insidious problem. On a fundamental level, reining in arms brokers could force the dismantling of an institutionalized relationship of interdependence between governments and traffickers. Governments around the world utilize unregulated traffickers to carry out national security covert operations, “gray” market sales, and sting operations.³ In turn, these traffickers have eluded prosecution or have received reduced sentences in exchange for providing services, relaying intelligence, or serving as informants. Illegal brokers are often at the center of government arms scandals. They are relied upon by rogue officials to misappropriate resources from the state or as linchpins in organized crime syndicates. All of these elements come into play in the following case study.

In the hope of breaking the cycle of impunity and withering the reliance on illicit traffickers by governments, The Fund for Peace has been advocating for a precedent-setting

¹ The title of the amendment is: *An Act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes*. Public Law 164, 104th Cong., 2nd Sess. (July 21, 1996), sec. 151; *Arms Export Control Act*, U.S. Code (U.S.C.) vol. 22, sec. 2778(b)(1976). For a comprehensive overview of the U.S. law and its implications, see Loretta Bondi and Elise Keppler, *Casting the Net? Implications of the U.S. Law on Arms Brokering* (Washington, D.C.: The Fund for Peace, 2001).

² Problems with the implementation of the law include: understaffing and inadequate operating procedures, gaps in the exchange of information among U.S. government agencies, lack of transparency, enforcement problems related to extraterritorial jurisdiction, and possible invocation of ignorance of the law. See Loretta Bondi and Elise Keppler, *Casting the Net? Implications of the U.S. Law on Arms Brokering* (Washington, D.C.: The Fund for Peace, 2001), p. 9-10 and chapters III and IV.

³ Loretta Bondi and Elise Keppler, *Casting the Net? Implications of the U.S. Law on Arms Brokering* (Washington, D.C.: The Fund for Peace, 2001), p. 15-18.

test case for prosecution of illicit arms brokers under the U.S. arms brokering law. Frustrated with the U.S. government's failure so far to take on such a prosecution, The Fund for Peace undertook to research and assemble a case against a celebrity-status broker which we have presented to law enforcement and prosecutors and will continue to advocate for the appropriate judicial response. In so doing, we are challenging the lack of government oversight as well as government negligence in aggressively prosecuting illegal arms brokering cases.

Only occasionally do details of illicit arms trafficking surface, and illustrate the means by which arms brokers circumvent national and international controls. In the following case study, The Fund for Peace has focused on the U.S. angle of an arms scandal which emerged in August 2000, when the Peruvian President at the time, Alberto Fujimori, announced that the Peruvian government had broken an arms trafficking ring allegedly involving 33 persons.⁴ This ring delivered at least 10,000 AKM Kalashnikov assault rifles from Jordan to the rebel Revolutionary Armed Forces of Colombia (FARC).⁵ The Jordanian government claimed that it believed the arms were sold legitimately to Peruvian military officials.⁶

One of the key arms traffickers in this scandal is Sarkis Soghanalian, a Turkish-born Lebanese citizen and resident of the United States for more than twenty years, whose gun-running career over three decades has been chronicled in books, articles and news reports, and earned him the sobriquet of "merchant of death."⁷ U.S. prosecutors once described him as the "biggest weapons dealer in the United States."⁸ As of May 25, 2001,

⁴ "False name signed on Jordanian arms request: Peruvian official," *Agence France Presse*, September 2, 2000; Reinaldo Munoz, "Gun-running investigation in Peru extends to Lebanon," *Agence France Presse*, September 5, 2000; "International Trafficker Involved in Illegal Arms Deal," *Xinhua News Agency*, September 7, 2000.

⁵ On August 23, 2000, Peru's President Alberto Fujimori filed an official complaint with the Jordanian government after announcing that his police had broken up a ring of arms traffickers who had delivered 10,000 rifles to FARC rebels in Colombia. See Reinaldo Munoz, "Gun-running investigation in Peru extends to Lebanon," *Agence France Presse*, September 5, 2000; "International Trafficker Involved in Illegal Arms Deals," *Xinhua News Agency*, September 7, 2000; Abraham Lama, "Peru: A Spy Story Replete With Arms, Drugs-Dealers-And Bear," *Inter Press Service*, September 8, 2000; Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000.

⁶ "Peru Denies Involvement in Weapons Smuggling," *Xinhua News Agency*, September 1, 2000; Reinaldo Munoz, "Gun-running investigation in Peru extends to Lebanon," *Agence France Presse*, September 5, 2000; Abraham Lama, "Peru: A Spy Story Replete With Arms, Drugs-Dealers-And Bear," *Inter Press Service*, September 8, 2000.

⁷ See, for example, Kenneth Timmermann, *Death Lobby: How the West Armed Iraq* (New York: Houghton Mifflin, 1991); William Hartung, *And Weapons for All* (New York: Harper Collins, 1994); "Arms smuggler Soghanalian accused in bank scheme," *Associated Press*, December 29, 1999; Carol Huang, "'Merchant of Death' Being Held in Miami," *APB Online, Inc.*, available at www.APBnews.com, December 29, 1999; "Arms dealer jailed in Florida," *United Press International*, December 29, 1999; Yuri Kirilchenko, "Notorious weapons trader arrested in US," *Itar-Tass News Agency*, December 30, 1999; "Judge Grants Bond for 'Merchant of Death,'" *APBnews.com*, available at www.APBnews.com, January 5, 2000; Angel Paez, "Report on interview with gunrunner Sarkis Soghanalian," *La Republica* [Translated FBIS Text], September 20, 2000; Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000.

⁸ "Man Convicted in Bid To Send Arms to Iraq," *New York Times*, October 23, 1991; Carol Huang, "'Merchant of Death' Being Held in Miami," *APB Online, Inc.*, available at www.APBnews.com, December 29, 1999.

Soghanalian was awaiting sentencing in Los Angeles on an unrelated charge of wire fraud.⁹ A partner of Soghanalian in the Jordanian-Peruvian arms transactions is Charles Acelor. Acelor is a French-born naturalized U.S. citizen who, as of May 24, 2001, is on probation after a wire fraud conviction.¹⁰ He is currently residing in the greater Miami, Florida area, and is monitored with an electronic tracking device.¹¹

Peruvian authorities accuse Soghanalian of “arms trafficking” and Acelor of “financing the weapons trafficking.” They have charged both with violations of Article 337 of the Peruvian penal code for crimes against the government and national defense and against the public security.¹² According to Peruvian officials and Peruvian court documents on file with The Fund for Peace, Acelor is believed to have both furnished the introduction and arranged the financial transactions between Soghanalian and the Peruvian traffickers.¹³ In turn, Soghanalian brokered the weapons and organized their delivery.¹⁴ These arms traffickers have denied any illicit role in the arms transaction to the FARC and insist that their involvement was entirely legitimate.¹⁵

⁹ On March 19, 2001, Soghanalian pled guilty to the charge and faces a maximum sentence of five years in prison. Prosecutors had recommended leniency in exchange for testimony against another suspect involved in the same case, Araik Asatryan, although Soghanalian’s testimony is no longer being sought. Soghanalian is due to be sentenced on July 23, 2001, before U.S. District Judge Ronald S.W. Lew. David Rosenzweig, “Arms Dealer Pleads Guilty in Stolen Check Case,” *Los Angeles Times*, March 20, 2001. FfP telephone interviews, Terri Law, assistant United States attorney, Los Angeles, March 19 and May 25, 2001.

¹⁰ “Reports Say Traffickers Made Five Flights To Deliver Russian Rifles to FARC,” Madrid EFE in Spanish 1851 GMT 03 Sep 00 [FBIS Translated Text]; Reinaldo Munoz, “Gun-running investigation in Peru extends to Lebanon,” *Agence France Presse*, September 5, 2000. The FBI provided the Peruvian government information which identified Acelor as a U.S. citizen. FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, Lima, November 10, 2000; Court documents and passport records on file with the Peruvian government also identified Acelor as a U.S. citizen. It is possible that words such as “citizen” and “national” and “resident” may become confused in translations from Spanish to English, and vice-versa. Acelor was released from jail on May 28, 2000, at which time he began serving a one year probation. *USA v. Solorzano, et al.*, 97-CR-136 (Southern District of Florida, 1997);

¹¹ *USA v. Solorzano, et al.*, 97-CR-136 (Southern District of Florida, 1997).

¹² FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, November 10, 2000; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos Case, March 8, 2001; FfP telephone interview, Sarah Boero, aide to Jose Ugaz, March 9, 2001. See Reinaldo Munoz, “Gun-running investigation in Peru extends to Lebanon,” *Agence France Presse*, September 5, 2000.

¹³ FfP has obtained Peruvian court documents which pertain to the indictment and preliminary investigation by the prosecutors of the arms traffickers. These documents are on file with the FfP. Henceforth, these documents will be referred to as *Peru court documents*. FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, November 10, 2000; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

¹⁴ FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, November 10, 2000; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2000; *Peru court documents*; Bill Rempel and Sebastian Rotella, “Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring,” *Los Angeles Times*, November 1, 2000.

¹⁵ Sarkis told Angel Paez of *La Republica* and Jeff Moag of the National Security News Service that “the operation was completely legal. Otherwise, I would not have participated at all.” See Angel Paez, “Report on interview with gunrunner Sarkis Soghanalian,” *La Republica* [Translated FBIS Text], September 20, 2000; Bill Rempel and Sebastian Rotella, “Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring,” *Los Angeles Times*, November 1, 2000. In formal interviews with both U.S. and Peruvian law enforcement officials, both Acelor and Soghanalian proclaimed their innocence. FfP interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

In addition to the possible violations of Peruvian law and despite Soghanalian and Acelor's protestations, a close examination of the facts of the case suggests that both Soghanalian, as a U.S. resident with business operations in the U.S., and Charles Acelor, as a U.S. national, may have violated the U.S. brokering law because they conducted multiple transactions to facilitate an arms deal without the requisite registration and license (see below).¹⁶ Based on our research findings, interviews and material available in open sources, The Fund for Peace has brought the potential violations to the attention of appropriate U.S. officials.¹⁷

As a follow up, The Fund for Peace recommends that the U.S. government immediately:

- Provide appropriate United States law enforcement agencies the adequate resources and political backing to investigate Soghanalian and Acelor's transactions as possible violations of the arms brokering statute;
- Promptly prosecute the case if sufficient evidence is obtained;
- Cooperate with Peruvian judicial and law enforcement officials on their investigations and judicial proceedings involving U.S. persons in the Jordan-Peru arms trafficking ring and solicit their cooperation, which includes serving credible international arrest warrants;
- Solicit cooperation from the government of Jordan for both the U.S. and Peruvian investigations;
- Educate all law enforcement officials and prosecutors involved with the case about the U.S. brokering statute;

¹⁶ As found in the *Arms Export Control Act*, U.S. Code (U.S.C.) vol. 22, sec. 2778(b)(1976), the text of the law reads:

(I) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in official capacity) who engages in the business of brokering activities with respect to the manufacture, export, import, or transfer of any defense article or defense service designated by the President... or in the business of brokering activities with respect to the manufacture, export, import, or transfer of any foreign defense article or defense service...shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations.

(II) Such brokering activities shall include the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service.

(III) No person may engage in the business of brokering activities described in sub clause (I) without a license, issued in accordance with this Act, except that no license shall be required for such activities undertaken by or for an agency of the United States Government...

¹⁷ FfP telephone interview, U.S. liaison with INTERPOL, United States National Central Bureau, Washington, D.C., October 24 & November 28, 2000; numerous FfP interviews with U.S. Justice Department officials, September 2000-March 2001; numerous FfP telephone interviews with U.S. Customs officials based in Washington, D.C. and Los Angeles from September 2000-February 2001; FfP telephone interview, U.S. Bureau of Alcohol, Tobacco and Firearms official, Washington, D.C., November 30, 2000; FfP interview, U.S. Administration official, Washington D.C.; FfP telephone interview, Terri Law, assistant United States attorney, Los Angeles, December 13, 2000; FfP interviews, Terri Law, assistant United States attorney, and U.S. Internal Revenue Service special agent, Los Angeles, February 9, 2000; FfP telephone interviews, U.S. Federal Bureau of Investigation officials, March 9, 2001.

- Provide sufficient resources and political backing to investigate a Miami-based arms brokering ring that has come to light as a result of the U.S.-Peruvian investigations; and
- Aggressively pursue violations of the arms brokering statute to establish legal precedent and case law.

Background

At a press conference on August 21, 2000, former Peruvian President Alberto Fujimori announced that the Peruvian National Intelligence Service (SIN) had busted a ring of gun-runners responsible for smuggling Kalashnikov assault rifles from Jordan to the FARC under the guise of an official Peruvian military purchase. Fujimori said that in March 1999, the SIN had been alerted when a Russian plane carrying no cargo landed at the Peruvian airport of Iquitos, purportedly to load wood destined for Jordan.¹⁸ The ensuing investigation by the SIN, aptly code-named “operation Siberia,” uncovered a weapons smuggling ring linking traffickers in Jordan to Peru and the FARC. The cast of characters involved in the scandal included Vladimiro Montesinos, the feared chief of SIN, who fled the country on September 24, 2000, and is currently on Peru’s most wanted list, as well as Peruvian military officials, Colombian rebels, American middlemen, and European arms traffickers.¹⁹

At the center of the scandal was a consignment of 50,000 AKM Kalashnikov assault rifles which Jordan had bought from East Germany in the mid-1980s to arm a Jordanian militia.²⁰ The man who brokered this transaction, Tahsin Ammouri, furnished the CIA with the serial numbers on the assault rifles when he transferred the weapons to Jordan.²¹ Plans for the creation of the Jordanian militia were shelved, however, and Jordan began to seek buyers for the assault rifles

¹⁸ Abraham Lama, “Peru: A Spy Story Replete With Arms, Drugs-Dealers-And Bear,” *Inter Press Service*, September 8, 2000; “Reports Say Traffickers Made Five Flights To Deliver Russian Rifles to FARC,” Madrid EFE in Spanish 1851 GMT 03 Sep 00 [FBIS Translated Text], Lima, 3 Sep; Angel Paez, “Report on interview with gunrunner Sarkis Soghanalian,” *La Republica* [FBIS Translated Text], September 20, 2000.

¹⁹ “International Trafficker Involved in Illegal Arms Deals,” *Xinhua News Agency*, September 7, 2000; Abraham Lama, “Peru: A Spy Story Replete With Arms, Drugs-Dealers-And Bears,” *Inter Press Service*, September 8, 2000; Angel Paez, “Report on interview with gunrunner Sarkis Soghanalian,” *La Republica* [FBIS Translated Text], September 20, 2000. Peru has several pending investigations against Montesinos for arms trafficking, drug trafficking, corruption, judicial extortion, illegal financial transactions, bribes and human rights violations. FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

²⁰ The original shipment of Kalashnikovs from East Germany to Jordan totaled 60,000. These were originally intended by the Jordanian government to be deployed by a government-backed people’s militia in the event of a civil emergency. The militia was never officially activated, and thus the guns never used, so the Jordanian military took steps to sell the weapons by contacting the original suppliers. FfP telephone interview, Joseph Sala, The ANN Group, consultant to the government of Jordan, October 2, 2000; FfP interview, Joseph Sala, The ANN Group, consultant to the government of Jordan, Washington, D.C., November 28, 2000.

²¹ FfP interview, Joseph Sala, The ANN Group, consultant to the government of Jordan, Washington, D.C., November 28, 2000.

cache.²² To this end, in the late 1990's, Jordan enlisted the services of Soghanalian.²³

The Fund for Peace has obtained official Peruvian documents pertaining to the indictment of the alleged trafficking ring, which include a summary of the facts of the case stemming from the prosecution's preliminary investigation. According to this summary as well as interviews with Peruvian officials, Peruvian arms middlemen traveled to Miami, Florida to meet with U.S. citizen Charles Acelor and obtain his assistance in arranging an arms deal.²⁴ Acelor then put Sarkis Soghanalian, an arms dealer residing in the U.S., but with bases also in Paris and Jordan, in touch with the Peruvian arms middlemen.²⁵ News reports, Peruvian court records, and Peruvian officials indicate that at least part of the arms deal was transacted in December 1998, in Amman, Jordan, where Soghanalian maintains an office. There, he met with Juan Manuel Lopez Rodriguez, who professed to be a translator, and Jose Luis Aybar Cancho, who professed to be a Peruvian military official and furnished documents to support that claim.²⁶ After inspecting the Jordanian weapons, Aybar agreed to purchase them on behalf of the Peruvian military.²⁷ Reportedly, Jordanian authorities consulted U.S. officials who raised no objection to the deal since they said they believed that "there was no sign of anything illegal at the time."²⁸ While this type of notification of a purported government to government arms transfer is routine as well as a diplomatic courtesy, questions remain: did U.S. government officials investigate or approve of Soghanalian's involvement as an arms broker and were they aware that the intended recipients were the FARC rebels? According to *The New York Times*, U.S. State

²² Ibid.

²³ Ibid.

²⁴ *Peru court documents*; FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, November 10, 2000; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

²⁵ Lowell Bergman, "Arms Dealer Faces Charges In Laundering and Tax Case," *The New York Times*, December 29, 1999; *Peru court documents*; FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, November 10, 2000; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

²⁶ Aybar and his brother Frank ran a Peruvian company that for years provided supplies for the Peruvian army. They are also alleged to be drug traffickers with ties to the FARC. In early August, Peruvian police arrested Luis Aybar and his brother Frank as the heads of the "illegal organization" used in the arms smuggling ring. Lopez is cited in the summary of facts as a partner of the Aybar brothers acting as a coordinator and finance specialist in the ring. Reinaldo Munoz, "Gun-running investigation in Peru extends to Lebanon," *Agence France Presse*, September 5, 2000; Abraham Lama, "Peru: A Spy Story Replete With Arms, Drugs-Dealers-And Bears," *Inter Press Service*, September 8, 2000; Angel Paez, "Report on interview with gunrunner Sarkis Soghanalian," *La Republica* [FBIS Translated Text], September 20, 2000; Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000; *Peru court documents*; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

²⁷ Abraham Lama, "Peru: A Spy Story Replete With Arms, Drugs-Dealers-And Bears," *Inter Press Service*, September 8, 2000; Angel Paez, "Report on interview with gunrunner Sarkis Soghanalian," *La Republica* [FBIS Translated Text], September 20, 2000; Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000.

²⁸ Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000; see also Angel Paez, "Report on interview with gunrunner Sarkis Soghanalian," *La Republica* [FBIS Translated Text], September 20, 2000; Tim Golden, "CIA Links Cited on Peru Arms Deal That Backfired," *The New York Times*, November 6, 2000.

Department officials complained that the Central Intelligence Agency (CIA) did not properly pass along relevant information to other administration officials.²⁹

According to news reports, around the beginning of 1999, Soghanalian supervised the shipment of 4,000 assault rifles on a Dubai-registered 707 which the manifest listed as “military equipment.”³⁰ Heading towards Iquitos, the plane landed in Spain to refuel, but was sent back when it became clear that delays would prevent the jet from reaching its final destination in the Peruvian jungle.³¹ With the shipment delayed, Soghanalian traveled to Lima, Peru on January 12, 1999.³²

In interviews with the press, Soghanalian claimed that during his six day visit to Peru, he negotiated the sale and transportation of an additional 6,000 assault rifles as well as other war material with Peruvian officials. On these occasions, the arms trafficker claims that he met with officers of the Peruvian army general headquarters and the SIN.³³ According to Soghanalian, he also met Vladimiro Montesinos, who proposed arms purchases for approximately \$80 million.³⁴ To seal the deal, Montesinos reportedly offered Soghanalian a \$22 million dollar down payment.³⁵

Soghanalian told reporters that he became alarmed, however, when Peruvian officials asked that all future sales be paid for in cash.³⁶ Soghanalian contends that he insisted on bank transfers in order not to “alarm U.S. authorities, because large cash transactions are a common practice of drug lords.”³⁷ Previously, Acelor handled the cash problem by facilitating payment towards the weapons in the form of bank transfers to

²⁹ Tim Golden, “CIA Links Cited on Peru Arms Deal That Backfired,” *The New York Times*, November 6, 2000.

³⁰ Bill Rempel and Sebastian Rotella, “Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring,” *Los Angeles Times*, November 1, 2000.

³¹ *Ibid.* According to *Peru court documents*, the first shipment did not go through due to a dispute on board between the pilot and one of the passengers.

³² Angel Paez, “Report on interview with gunrunner Sarkis Soghanalian,” *La Republica* [FBIS Translated Text], September 20, 2000; “International Trafficker Involved in Illegal Arms Deals,” *Xinhua News Agency*, September 7, 2000; Bill Rempel and Sebastian Rotella, “Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring,” *Los Angeles Times*, November 1, 2000; Tim Golden, “CIA Links Cited on Peru Arms Deal That Backfired,” *The New York Times*, November 6, 2000.

³³ Angel Paez, “Report on interview with gunrunner Sarkis Soghanalian,” *La Republica* [FBIS Translated Text], September 20, 2000; Bill Rempel and Sebastian Rotella, “Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring,” *Los Angeles Times*, November 1, 2000; Tim Golden, “CIA Links Cited on Peru Arms Deal That Backfired,” *The New York Times*, November 6, 2000.

³⁴ Bill Rempel and Sebastian Rotella, “Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring,” *Los Angeles Times*, November 1, 2000; Tim Golden, “CIA Links Cited on Peru Arms Deal That Backfired,” *The New York Times*, November 6, 2000.

³⁵ Montesinos purported shopping list for weaponry included such lethal items as shoulder fired SA-7 “Strella” missiles (designed to seek and destroy low flying aircraft), dual use communications equipment, and parts to upgrade tanks. Tim Golden, “CIA Links Cited on Peru Arms Deal That Backfired,” *The New York Times*, November 6, 2000.

³⁶ Bill Rempel and Sebastian Rotella, “Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring,” *Los Angeles Times*, November 1, 2000; Tim Golden, “CIA Links Cited on Peru Arms Deal That Backfired,” *The New York Times*, November 6, 2000.

³⁷ Bill Rempel and Sebastian Rotella, “Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring,” *Los Angeles Times*, November 1, 2000.

Soghanalian.³⁸ Peruvian officials have on file Acelor's bank statement from the Paris-based bank Banque San Paolo which indicate that 3 transfers from Acelor's account to Soghanalian were made on December 8, 11, and 15, 1998, in the amounts of \$350,000, \$40,000, and \$100,000, respectively.³⁹ During an official interrogation in Miami, Acelor told the Peruvian special state attorney for the Montesinos case, Jose Ugaz, that once Soghanalian began negotiating directly with the Peruvians, he cut Acelor out of future deals since Acelor had charged a price over Soghanalian's services.⁴⁰ However, Acelor claims that he maintained on-going business relations with his Peruvian contacts, which included, for example, the supply of Chinese buses.⁴¹

Soghanalian asserted that he was once also troubled by Peruvian insistence that shipments of the remaining AKM assault rifles be dropped by air into the jungle allegedly to remote Peruvian troops.⁴² The "unusual" nature of the request, however, did not deter Soghanalian from organizing at least four of the planned arms drops.⁴³ Testimony before Peru authorities by other key actors involved in the operation contradict Soghanalian's assertion that he did not know that the intended recipients were the FARC. According to this testimony and Peruvian authorities, it was Soghanalian who made the arrangements and coordinated the deliveries to the Colombian rebel clients.⁴⁴

For these operations Soghanalian claimed that he depended on a Ukrainian-registered cargo plane which was secured through an arrangement between Peruvian officials and a Russian military attaché in Lima.⁴⁵ A crew of Russian and Ukrainian nationals flew the aircraft with cargo handlers, Luis Alberto Meza and Santos Cenepo Shapiama, supervising the loading and air drops.⁴⁶ The plane would fly through circuitous

³⁸ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001. In an interview, Soghanalian informed Jeff Moag of the Washington, D.C.-based National Security News Service and Angel Paez of the Madrid-based paper *La Republica* that Acelor facilitated payment towards the weapons in the form of a bank check made out to Soghanalian. FfP interview, Jeff Moag, National Security News Service, Washington, D.C., November 16, 2000.

³⁹ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000; Tim Golden, "CIA Links Cited on Peru Arms Deal That Backfired," *The New York Times*, November 6, 2000.

⁴³ Angel Paez, "Report on interview with gunrunner Sarkis Soghanalian," *La Republica* [FBIS Translated Text], September 20, 2000; Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000; *Peru court documents* list the dates of the additional shipments as March 17, June 5, July 21, and August 3, 1999.

⁴⁴ For example, Aybar, Lopez and Shapiama have provided contradictory testimony claiming that Soghanalian was directly involved in arms trafficking to the FARC. FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001. *Peru court documents*.

⁴⁵ Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000. According to *Peru court documents*, the plane bore the registration UR-UCE.

⁴⁶ The transportation for the weapons is said to have been arranged by Russian Viatcheslav Raschivkine. The Peruvian authorities have indicted the two cargo handlers, Santos Shapiama and Luis Alberto Meza, as well as the Ukrainian and Russian crew members. See "Reports Say Traffickers Made Five Flights To Deliver Russian Rifles to FARC," Madrid EFE in Spanish 1851 GMT 03 Sep 00 [FBIS Translated Text]; "International Trafficker Involved in Illegal Arms Deals," *Xinhua News Agency*, September 7, 2000; Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los*

routes, one of which included Amman, the Canary Islands, Mauritania and Grenada, to reach its final destination ostensibly in Iquitos.⁴⁷ In March 1999, the first twenty-two crates fitted with parachutes were pushed out of the modified Ilyusin-76.⁴⁸ At least four deliveries were executed between March and August of 1999.⁴⁹ None of the delivered 10,000 Kalashnikovs were dropped into Peruvian territory. Instead, the flight crew and the Peruvian cargo experts pushed the crates out of the aircraft near the Colombian town of Barranco Minas, known to be a stronghold of the FARC's 16th Front.⁵⁰

Colombian authorities operating in the area seized the first drop to the FARC.⁵¹ With the help of the CIA, the Colombian authorities were able to trace the serial numbers on the rifles back to the Jordan-Peru transaction.⁵² The CIA, which had records of these assault rifles, notified the Jordanian government of the illicit diversion, and Jordan canceled shipment on the remaining 40,000 Kalashnikovs.⁵³

In an interview with the *Los Angeles Times*, Soghanalian claimed that he independently became suspicious of the arms deal and pulled out in July or August after only 10,000 rifles had been delivered, and he had received only half of his payment for

Angeles Times, November 1, 2000; Angel Paez, "Report on interview with gunrunner Sarkis Soghanalian," *La Republica* [FBIS Translated Text], September 20, 2000; *Peru court documents*.

⁴⁷ Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000. Another flight path reported included Amman-Mauritania-Trinidad and Tobago-Iquitas, Peru. See "Reports Say Traffickers Made Five Flights To Deliver Russian Rifles to FARC," Madrid EFE in Spanish 1851 GMT 03 Sep 00 [FBIS Translated Text]. Additionally, it was reported that the plane made layovers in the Canary Islands and Guyana. See Abraham Lama, "Peru: A Spy Story Replete With Arms, Drugs-Dealers-And Bears," *Inter Press Service*, September 8, 2000. *Peru court documents* list the flight paths as Amman via Algeria-Mauritania-Trinidad-Tobago-Iquitos for the first successful drop and Amman via Algeria-Grenada-Lima for the next 3 drops.

⁴⁸ Several different dates have been given for the first arms delivery, for example, March 17 and March 23. See, respectively, Abraham Lama, "Peru: A Spy Story Replete With Arms, Drugs-Dealers-And Bears," *Inter Press Service*, September 8, 2000, and "Reports Say Traffickers Made Five Flights To Deliver Russian Rifles to FARC," Madrid EFE in Spanish 1851 GMT 03 Sep 00 [FBIS Translated Text], Lima, 3 Sep (EFE).

⁴⁹ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001; Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000. See footnote #39.

⁵⁰ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001; "Reports Say Traffickers Made Five Flights To Deliver Russian Rifles to FARC," Madrid EFE in Spanish 1851 GMT 03 Sep 00 [FBIS Translated Text]; Abraham Lama, "Peru: A Spy Story Replete With Arms, Drugs-Dealers-And Bears," *Inter Press Service*, September 8, 2000; *Peru court documents*.

⁵¹ Reinaldo Munoz, "Gun-running investigation in Peru extends to Lebanon," *Agence France Presse*, September 5, 2000; Abraham Lama, "Peru: A Spy Story Replete With Arms, Drugs-Dealers-And Bears," *Inter Press Service*, September 8, 2000; Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000; Tim Golden, "CIA Links Cited on Peru Arms Deal That Backfired," *The New York Times*, November 6, 2000.

⁵² Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000; Tim Golden, "CIA Links Cited on Peru Arms Deal That Backfired," *The New York Times*, November 6, 2000; FfP interview with Joseph Sala, The ANN Group, consultant to the government of Jordan, November 28, 2000.

⁵³ Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000; FfP interview with Joseph Sala, The ANN Group, consultant to the government of Jordan, November 28, 2000.

them.⁵⁴ It is important to note that Soghanalian purportedly withdrew at the same time the illicit weapons deliveries became a diplomatic issue between Colombia, the U.S., Jordan, and Peru. Soghanalian contended that it was Montesinos who undermined the operation once it became apparent that the Peruvian government would be embroiled in the scandal.⁵⁵ The scandal was not publicly acknowledged by any of the governments involved until nearly one year later.

As the public scandal unfolded, the Jordanian authorities rejected any responsibility in the arms trafficking operation. Prime Minister Ali Abu Ragheb stated “that ‘active’ Peruvian generals signed an arms deal with Jordan and took delivery of the weapons.”⁵⁶ He added: “The arms sale was signed by representatives of the Jordanian and Peruvian armies. According to their official identification documents, the latter were active generals in the Peruvian army and not retired officers.”⁵⁷ The Prime Minister concluded that “If there was a mistake, it was not on our part and it is not our responsibility. The problem resides in Peru not in Jordan.”⁵⁸

The Peruvian Defense Minister Carlos Bergamino contested this assessment. He noted that Peruvian general Lucio Olivera Chezzi and other signatories named on the weapons purchase order from Jordan were not active duty members of the Peruvian armed forces.⁵⁹ Bergamino further denied Jordan’s charges that Peruvian military aircraft were used in the weapons delivery, while Fernando De Trazengnies, the Peruvian Foreign Minister, implied that Jordan had been conned by “a delinquent gang and that it trusted them in good faith.”⁶⁰ As of May 24, 2001, Jordan has not provided all the relevant information being sought through diplomatic channels by Peru which may shed light on the role of Soghanalian, the identities of Peruvian officials involved, the purchase orders, and the end user clients or recipients of the weapons.⁶¹

⁵⁴ Bill Rempel and Sebastian Rotella, “Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring,” *Los Angeles Times*, November 1, 2000.

⁵⁵ *Ibid.*

⁵⁶ Reinaldo Munoz, “Gun-running investigation in Peru extends to Lebanon,” *Agence France Presse*, September 5, 2000.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ “International Trafficker Involved in Illegal Arms Deal,” *Xinhua General News Service*, September 7, 2000; “False name signed on Jordanian arms request: Peruvian official,” *Agence France Presse*, September 2, 2000; Reinaldo Munoz, “Gun-running investigation in Peru extends to Lebanon,” *Agence France Presse*, September 5, 2000.

⁶⁰ “International Trafficker Involved in Illegal Arms Deal,” *Xinhua General News Service*, September 7, 2000; “False name signed on Jordanian arms request: Peruvian official,” *Agence France Presse*, September 2, 2000.

⁶¹ Since there is no Jordanian embassy in Peru, the Peruvians have used diplomatic channels at the United Nations to request relevant information and documents. FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, Lima, November 10, 2000; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001. On November 28, 2000, FfP sent a fax letter to the Minister of Justice of Jordan recommending action on the case.

On the Wanted List by the Peruvian Authorities

A Peruvian magistrate formerly assigned to prosecute the indicted persons in the Jordan-Peru arms trafficking case, Celinda Segura Salas, told The Fund for Peace that the Peruvian government has sufficient evidence to prosecute both Soghanalian and Acelor.⁶² In late 2000, Peruvian authorities officially indicted and issued international arrest warrants through the International Criminal Police Organization (INTERPOL) office in Lima for both Soghanalian and Acelor for their respective roles in the gun-running ring.⁶³ As one Peruvian official explained: the Peruvian national police provided facts and evidence to Peruvian prosecutors who presented the case against the two accused along with a number of others before the courts; in turn, the courts decided there was sufficient evidence to open a penal process against the accused; subsequently the suspects were charged with criminal activities under the Peruvian penal code, and then their whereabouts were sought through INTERPOL Lima.⁶⁴ Neither has yet been prosecuted in absentia.

Although U.S. officials confirmed that they had received notice of an international warrant, in subsequent conversations they stated that the Peruvians had not submitted the appropriate application for a provisional arrest warrant to U.S. officials in Washington D.C. Without this application, U.S. law enforcement officials cannot properly serve the warrant.⁶⁵ One official explained to The Fund for Peace that international arrest warrants often go through various stages before they can be delivered.⁶⁶ U.S. law enforcement officials are seeking the appropriate paperwork from the Peruvian government which has yet to comply.⁶⁷

The Peruvian government has been slow to seek formal extradition of Soghanalian and Acelor from the U.S. for several reasons. According to Peruvian magistrate Celinda Segura Salas, the Peruvian government was concerned that extradition would not be granted since a court case was pending against Soghanalian in California, and Acelor was

⁶² FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, Lima, November 10, 2000. Another magistrate responsible for the case has since replaced her. FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

⁶³ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001; FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, Lima, November 10, 2000. According to the magistrate, the docket number issued through INTERPOL Lima, Peru is #6132-00. Press reports also indicated that INTERPOL was seeking those indicted by the Peruvian government. See Abraham Lama, "Peru: A Spy Story Replete With Arms, Drugs-Dealers-And Bears," *Inter Press Service*, September 8, 2000. The FfP would like to issue a note of caution that certain words like "indictment" and "arrest warrants" have different meanings in Peruvian court parlance than what may appear in English translation. For example, the Peruvians commonly use the word "denounced" and "detention" rather than "indicted."

⁶⁴ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

⁶⁵ FfP telephone interview, U.S. liaison officer to INTERPOL, October 24, 2000; FfP telephone interview, U.S. Customs official, February 9, 2001; FfP telephone interview, U.S. Customs official, March 1, 2001; FfP telephone interview, U.S. Justice Department official, March 8, 2001.

⁶⁶ FfP telephone interview, U.S. Customs official, February 9, 2001.

⁶⁷ FfP telephone interviews, U.S. Customs official, March 1 & 7, 2001; FfP telephone interview, U.S. Justice Department official, March 8, 2001; FfP telephone interview, U.S. Justice official, May 1, 2001.

serving probation in Florida.⁶⁸ Even though Soghanalian and Acelor, as of this writing, respectively were awaiting sentencing and under probation in the U.S., the Peruvian authorities may still submit an application for their arrest, and the U.S. has the discretion to serve the warrant.⁶⁹ Additionally, the Peruvians sought to question both Soghanalian and Acelor in the U.S. before first submitting such an application, but this has now transpired.⁷⁰

In early January and again in late February, Jose Ugaz traveled to the U.S. to question Soghanalian before the presence of his lawyer and U.S. officials, including assistant U.S. attorney Terri Law, a Defense Intelligence Agency (DIA) representative, and an enforcement agent.⁷¹ During the meeting, Ugaz explained that Peru was willing to grant Soghanalian “benefits” from the Peruvian government, for example, possible immunity, in exchange for both a guilty plea and his “useful, beneficial, and substantive” cooperation in the Peruvian case against Montesinos. According to Ugaz, Soghanalian declined to plead guilty maintaining that the arms deal was a legitimate government to government transaction. Furthermore, Ugaz stated that Soghanalian appeared elusive, for example, claiming that he did not recall the names of high-ranking Peruvian military officials that he had met in Peru nor other specific information asked of him. Soghanalian maintained that much of the paper work that could shed light on the arms transactions were in a locked security box in Amman, to which he alone had the key and refused to provide.⁷² At the end of the day, the Peruvian official, Jose Ugaz, left with “only what was reported in the press” and “nothing new or exceptional” except the determination to speed up the Peruvian process for the extradition request.⁷³

Jose Ugaz also questioned Acelor in front of an FBI officer in Miami in late February 2001.⁷⁴ Peru made a similar offer for cooperation with Acelor who also maintained his innocence and added nothing that would assist the Peruvians in their investigation and prosecution of Montesinos and his former senior government cohorts.⁷⁵ While Acelor touched on details about the financial transactions such as his receipt of approximately \$1.2 million from his Peruvian contacts and his transfer of over \$400,000 to

⁶⁸ Originally, the Peruvians were told that it was not feasible to seek assistance for an arrest of Soghanalian while he was in negotiation for immunity with U.S. officials on another case, but the Americans changed their position by refusing such immunity and seeking to prosecute Soghanalian in a forthcoming trial. FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001; FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, Lima, November 10, 2000. For results of this prosecution, see footnote #6.

⁶⁹ According to legal research by FfP, the U.S. government may grant extradition or serve an international arrest warrant for someone on probation if it is deemed in the U.S. government interest. The same applies to the Soghanalian case, in that, at a minimum, U.S. officials can arrest Soghanalian immediately at the conclusion of his current trial. FfP telephone interview, U.S. Customs official, March 7, 2001; FfP telephone interview, U.S. Justice Department official, March 8, 2001.

⁷⁰ FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, Lima, November 10, 2000; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

⁷¹ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ A few months before Ugaz’s interrogation, the FBI had conducted one of its own with Acelor and passed along vital information to Peru; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

⁷⁵ Ibid.

Soghanalian, Acelor refused to divulge particulars about how the Peruvians paid him and on which bank accounts the money was drawn. While this kind of information is essential for the Peruvians to follow the money trail and determine the sources of funds used to pay for the arms, Acelor stated that he would only provide explicit details once the U.S. government granted him immunity.⁷⁶

The Peruvian authorities have so far received adequate assistance from U.S. law enforcement officials. According to Peruvian magistrate Celinda Segura Salas, in the fall of 2000, the Peruvian government informed INTERPOL and the FBI of the case against Soghanalian and Acelor.⁷⁷ Through INTERPOL, the U.S. provided Peru with address locations.⁷⁸ Furthermore, the FBI responded by providing details from a background check indicating, for example, that Soghanalian was a resident of the U.S.⁷⁹ According to the Peruvian magistrate, the FBI also identified Charles Acelor as a French-born American citizen residing in Miami, Florida.⁸⁰ The FBI has continued its cooperation through its liaison with the Peruvian national police. The Peruvians have used normal official channels such as “letters rogatory” and a “mutual assistance treaty” to solicit U.S. cooperation, and to date are quite satisfied, according to Jose Ugaz.⁸¹ The Peruvians may also seek assistance under the “Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunitions, Explosives, and Other Related Materials,” as needed.⁸²

In telephone conversations with Jose Ugaz, The Fund for Peace has been pressing the Peruvian government to complete the international arrest warrant application.

The Case for Applying the U.S. Brokering Law to Acelor and Soghanalian

Irrespective of what happens in the Peruvian courts, the arms brokering activities of Soghanalian and Acelor should be scrutinized by U.S. officials for possible violations of the arms brokering law. Both Soghanalian and Acelor, who fall under U.S. jurisdiction since they are considered “persons of the United States” by virtue of having citizenship, residence, and/or business operations in the U.S., are in fact required by law to register as

⁷⁶ Ibid.

⁷⁷ FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, Lima, November 10, 2000.

⁷⁸ FfP telephone interview, U.S. Justice Department official, March 1, 2001.

⁷⁹ Additional details such as date of birth, passport number, address, etc. were also provided. FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, Lima, November 10, 2000. While the Peruvian magistrate informed the FfP that she received information from the FBI which indicated Soghanalian was a U.S. citizen, it is feasible that facts such as whether Soghanalian is a resident or citizen may have been confused due to problems of translation of such precise terms from English.

⁸⁰ Additional details include such information as INS number, FBI case number, address, etc. FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, Lima, November 10, 2000.

⁸¹ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001. For a better understanding of how these channels may apply, see Loretta Bondi and Elise Keppler, *Casting the Net? Implications of the U.S. Law on Arms Brokering* (Washington, D.C.: The Fund for Peace, 2001), p. 38.

⁸² See Loretta Bondi and Elise Keppler, *Casting the Net? Implications of the U.S. Law on Arms Brokering* (Washington, D.C.: The Fund for Peace, 2001), p. 42.

brokers in the U.S and obtain a license for each transaction that they are involved in, regardless of whether the transactions take place on American soil.⁸³ Moreover, Ugaz, Peruvian court documents, and U.S. law enforcement records indicate that at least some aspects of the illicit transactions, such as negotiations and financial transfers, may have been carried out in the U.S.⁸⁴

Inquiries by The Fund for Peace with the State Department Office of Defense Trade Controls (DTC) ascertained that neither Soghanalian nor Acelor are registered brokers in the U.S., and thus neither of them had applied for a license for the Jordanian-Peruvian arms transactions.⁸⁵ In addition, Soghanalian is ineligible for obtaining an arms brokering license since, following a conviction of conspiracy to violate the Arms Export Control Act, he has been debarred from conducting arms transactions in accordance with the AECA (see below).

Sarkis Soghanalian

According to press reports, Peruvian and U.S. officials, and other sources, Soghanalian is a legal permanent resident of the U.S., a so-called green-card holder.⁸⁶ Furthermore, Soghanalian has established business ties to entities in the U.S.⁸⁷ In both cases, Soghanalian would be required to register and obtain licenses for his arms brokering operations. If Soghanalian had complied with U.S. law and applied for a license, his request should have been denied because he has been statutorily prohibited from receiving a license for violations of the AECA since 1992.⁸⁸ His name continues to appear on the list

⁸³ *ITAR*, sec. 129.7 (1988).

⁸⁴ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001. *Peru court documents*. Original property of the U.S. government on file with the Peruvians.

⁸⁵ FfP telephone interviews, U.S. DTC officials, David Trimble & Mary Sweeney, December 15, 2000. Both indicated that neither was registered as individuals or principal officers, but that Acelor possibly could be listed on a registration application as a business associate. However, Acelor is unlikely to have been granted a license since a trial for a felony was pending against him.

⁸⁶ See Carol Huang, "'Merchant of Death' Being Held in Miami," *APBnews.com*, available at www.apbnews.com, December 29, 1999; "Arms dealer jailed in Florida," *United Press International*, December 29, 1999; Yuri Kirilchenko, "Notorious weapons trader arrested in US," *Itar-Tass News Agency*, December 30, 1999; Angel Paez, "Report on interview with gunrunner Sarkis Soghanalian," *La Republica* [FBIS Translated Text], September 20, 2000; "Judge Grants Bond for 'Merchant of Death'," *APBnews.com*, available at www.apbnews.com, January 5, 2000; FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, Lima, November 10, 2000; FfP telephone interviews with U.S. Justice Department officials, December 13, 2000 and February 9, 2001; FfP interview, Joseph Sala, The ANN Group, consultant to the government of Jordan, Washington D.C., November 28, 2000. Several press accounts and Peruvian officials purported that Soghanalian was an American citizen and possessed a U.S. passport. General U.S. regulations stipulate that a person is not entitled to both a U.S. passport and a green card. The FfP was able to verify from U.S. officials that Soghanalian enjoys resident status in the U.S. but did not ascertain independently whether he also has a U.S. passport and is a citizen possibly as an exception to the rule.

⁸⁷ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001; FfP telephone interview, U.S. Justice official, March 9, 2001.

⁸⁸ *ITAR*, Sec. 127.7 (1988).

of debarred parties published by the DTC.⁸⁹ According to a U.S. Customs official, such restrictions would not apply if Soghanalian undertakes operations on behalf of an agency of the United States Government.⁹⁰

According to press reports, Soghanalian has admitted his involvement in the Jordanian-Peruvian transaction, but claimed that this arms deal was entirely legal, although the Peruvian government has collected evidence to the contrary.⁹¹ Even if the transaction were within the parameters of Jordanian and Peruvian law, Soghanalian's role appears to have been in violation of his debarment and the U.S. brokering law.

Moreover, Soghanalian has protested his innocence in shady arms deals before, only to be convicted on conspiracy to violate the AECA in 1981 and 1991 (see below). It remains unclear why the recent arms brokering activities of such a notorious arms trafficker and felon have escaped U.S. law enforcers' attention.⁹²

Through his lawyer, Mark Geragos, Sarkis Soghanalian has declined an interview with The Fund for Peace.⁹³

No Stranger to Murky Arms Deals

When he arrived at the Miami International Airport on an Air France flight from Paris on December 22, 1999, Soghanalian was arrested by U.S. officials for charges issued in September 1999, stemming from a year-old sealed indictment.⁹⁴ It is presently unclear

⁸⁹ For a list of debarred parties, see State Department Office of Defense Trade Controls, "List of Debarred Parties, July 1988 - May 1999, available on <http://www.pmdtc.org/debar059.htm>. Soghanalian's debarment was published in 57 *Federal Register* 43768, September 22, 1992.

⁹⁰ FFP telephone interview, U.S. law enforcement agent official, December 14, 2000. One early press report cites Jordan as claiming that a United States government official "had taken part in the deal," though no names were given. See Abraham Lama, "Peru: A Spy Story Replete With Arms, Drugs-Dealers-And Bear," *Inter Press Service*, September 8, 2000.

⁹¹ Angel Paez, "Report on interview with gunrunner Sarkis Soghanalian," *La Republica* [FBIS Translated Text], September 20, 2000; FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, Lima, November 10, 2000; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001; *Peru court documents*.

⁹² Given his past convictions for violations of the AECA, Soghanalian should be on the U.S. State Department's export compliance watch-list. Philip S. Rhoads, *The International Traffic in Arms Regulations: Compliance and Enforcement at the Office of Defense Trade Controls, U.S. Department of State*, at 822 (PLI Com. Practice Course, Handbook Series No. 812, 2000).

⁹³ In the interest of fairness, the FfP contacted Soghanalian's lawyer on numerous occasions in an effort to interview Soghanalian but to no avail. On February 9, 2001, Ms. Kathi Austin visited Mr. Geragos' office in Los Angeles and was declined a meeting. Although the lawyer scheduled later appointments with Ms. Austin at his office, he called the same day to cancel them. In a final effort, Ms. Austin received confirmation on February 12, 2001, from Geragos' office administrator, Joslin Rudd, that Ms. Austin could interpret Geragos' failure to respond as Soghanalian's decline for a FfP interview.

⁹⁴ The indictment was delivered in October 1998 and alleged that Soghanalian along with four accomplices arranged to steal \$3.3 million from the Nebraska-based Great Western Bank and launder the money through a Las Vegas casino and an account in Paris via a Federal Express bank check. Carol Huang, "'Merchant of Death' Being Held in Miami," *APB Online, Inc.*, available at www.apbnews.com, December 29, 1999; Lowell Bergman, "Arms Dealer Faces Charges In Laundering and Tax Case," *The New York Times*, December 29, 1999; "Judge refuses bail for Lebanese arms dealer," *Agence France Presse*, January 27, 2000;

why the indictment was originally sealed and why it was unsealed at this particular time. Soghanalian was allowed to post bail, but was restricted from leaving southern California pending his scheduled sentencing before the U.S. federal court in Los Angeles, on June 4, 2001.

At the time of Soghanalian's December 1999 arrest in Miami, Florida, he was also wanted for questioning by a Federal grand jury in Washington D.C. regarding arms sales to Iraq and a subject of inquiry involving large cash transfers in Miami.⁹⁵ According to an IRS official in the criminal division, the IRS civil division also has a lien against Soghanalian for approximately \$30 million. The IRS official questioned why this was not being actively pursued, particularly since Soghanalian was in police custody.⁹⁶

Soghanalian's current trouble with the law echoes the difficulties his controversial dealings have brought him in the past. In 1981, he had been indicted by a federal grand jury on three counts of fraud in connection with the sale of machine guns to Mauritania.⁹⁷ A plea bargain was struck in this case after Soghanalian's attorney submitted a sealed court statement describing his "great assistance to the United States."⁹⁸ The presiding Federal District Judge Joe Eaton stated that Soghanalian's case involved "international affairs conducted by the State Department."⁹⁹ While the Government agreed not to deport him, Soghanalian was nevertheless sentenced to five years probation.¹⁰⁰

In 1991, Soghanalian was convicted by Federal officials under the Arms Export Control Act (AECA) for conspiring to sell 103 combat ready helicopters and two missiles to Iraq.¹⁰¹ Sentenced to more than six years in prison, Mr. Soghanalian was released in less than two for his cooperation with a U.S. government investigation of a currency counterfeiting operation in Lebanon.¹⁰²

A year later, Soghanalian was debarred under the AECA. Soghanalian subsequently relocated to Paris, France where it is reported that he registered as an arms

"Arms dealer jailed in Florida," *United Press International*, December 29, 1999; Yuri Kirilchenko, "Notorious weapons trader arrested in US," *Itar-Tass News Agency*, December 30, 1999; David Rosenzweig, "Arms Dealer Pleads Guilty in Stolen Check Case," *Los Angeles Times*, March 20, 2001.

⁹⁵ Lowell Bergman, "Arms Dealer Faces Charges In Laundering And Tax Case," *The New York Times*, December 29, 1999; "Judge refuses bail for Lebanese arms dealer," *Agence France Presse*, January 27, 2000.

⁹⁶ FfP interview, IRS official, Los Angeles, February 9, 2001.

⁹⁷ Joel Brinkley and Jeff Gerth, "U.S. Aides See Gun Smugglers As Low Priority," *The New York Times*, September 26, 1985.

⁹⁸ *Ibid.*

⁹⁹ *Ibid.*

¹⁰⁰ *Ibid.*

¹⁰¹ "Man Convicted in Bid to Send Arms to Iraq," *The New York Times*, October 23, 1991; Hugh Herbert, "Dispatches, Bookmark, Pole to Pole; Television," *The Guardian* (London), November 26, 1992; Carol Huang, "'Merchant of Death' Being Held in Miami," APB Online, Inc., available at www.apbnews.com, December 29, 1999; "Arms dealer jailed in Florida," *United Press International*, December 29, 1999.

¹⁰² The maximum penalty carried 24 years in prison and \$240,000 in fines. "Man Convicted in Bid to Send Arms to Iraq," *The New York Times*, October 23, 1991; Carol Huang, "'Merchant of Death' Being Held in Miami," APB Online, Inc., available at www.apbnews.com, December 29, 1999; "Arms dealer jailed in Florida," *United Press International*, December 29, 1999; Lowell Bergman, "Arms Dealer Faces Charges In Laundering and Tax Case," *The New York Times*, December 29, 1999; "Judge refuses bail for Lebanese arms dealer," *Agence France Presse*, January 27, 2000.

broker and resumed his trafficking activities.¹⁰³ Since then he has reportedly “turned to business opportunities created by the collapse of the Soviet Union: retrofitting fleets of Soviet-made military equipment in countries that can no longer rely on the Russians for spare parts and maintenance support.”¹⁰⁴ As noted above, the arms trafficker also maintains an office in Amman.

Some of Soghanalian’s recent arms deals have directly conflicted with U.S. foreign policy interests. For instance, he brokered at least 150 Chinese manufactured C-802 anti-ship missiles to Iran.¹⁰⁵ Although China and Iran had signed contracts for a delivery of roughly 400 missiles, only about 150 were “confirmed” delivered by February 1997.¹⁰⁶ Deputy Assistant Secretary of State Robert Einhorn stated on April 11, 1997 that the C-802 cruise missiles “pose new, direct threats to deployed United States forces.”¹⁰⁷

Charles Acelor

As a U.S. national, Charles Acelor is likewise subject to the requirements of the U.S. law no matter where he operates.¹⁰⁸ Acelor resided and conducted business in Florida at the time of the Jordanian-Peruvian transactions, and the Peruvian government has evidence that Peruvian middlemen traveled to negotiate the arms deal with Acelor in his home state.¹⁰⁹

According to Peruvian officials, Peruvian court documents, and press accounts, Acelor introduced parties to the Jordanian-Peruvian deal and made the financial arrangements for the arms transfer.¹¹⁰ Both functions fall within the scope of brokering

¹⁰³ Carol Huang, “‘Merchant of Death’ Being Held in Miami,” *APB Online, Inc.*, available at www.apbnews.com, December 29, 1999; Bill Rempel and Sebastian Rotella, “Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring,” *Los Angeles Times*, November 1, 2000. On November 30, 2000, FfP requested a French government official through its U.S. embassy in Washington, D.C. to verify whether Soghanalian is a registered arms broker in France and whether the Jordan-Peru arms transfers violated French laws. To date, there has been no reply.

¹⁰⁴ Bill Rempel and Sebastian Rotella, “Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring,” *Los Angeles Times*, November 1, 2000.

¹⁰⁵ Stephen Green, “Iranian missiles put U.S. Navy in harm's way in Persian Gulf,” *Copley News Service*, June 3, 1999.

¹⁰⁶ *Ibid.*

¹⁰⁷ House Committee on International Relations, Governmental Affairs Subcommittee, *Urging The Executive Branch To Take Action Regarding The Acquisition By Iran Of C-802 Cruise Missiles*, 105th Cong., 1st sess., October 6, 1997. H. Rept. 105-304.

¹⁰⁸ See Chapter III in Loretta Bondi and Elise Keppler, *Casting the Net? The Implications of the U.S. Brokering Law* (Washington, D.C.: The Fund for Peace, 2001), p. 26.

¹⁰⁹ FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, November 10, 2000; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001; *Peru court documents*.

¹¹⁰ FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, November 10, 2000; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001; *Peru court documents*; “Reports Say Traffickers Made Five Flights To Deliver Russian Rifles to FARC,” Madrid EFE in Spanish 1851 GMT 03 Sep 00 [FBIS Translated Text], Lima, 3 Sep (EFE).

activities as defined by U.S. law.¹¹¹ Both appear to have been carried out without proper official authorization. Furthermore, after depositing roughly \$490,000 with Soghanalian for his services, Acelor kept for himself the remainder of the \$1.2 million allegedly paid by Peruvian entities.¹¹² Consequently, unless Acelor was working on behalf of the U.S. government in the Jordanian-Peruvian transaction, his role in the operation appears to be in violation of the U.S. brokering law.

In 2001, Acelor was on probation for a federal conviction of wire fraud.¹¹³ Court records indicate that he was arrested on October 1998, and indicted for several counts of financial crimes though only convicted of a wire fraud charge.¹¹⁴ Acelor was required to pay restitution in the amount of \$648,000 due immediately upon his judgment in July 2000. Of considerable relevance is that Acelor allegedly continued to engage in the Peruvian arms deal while court proceedings for unrelated charges against him were still ongoing in Miami; he requested permission from the court to travel both to France and Peru at the time that the Jordanian-Peruvian transactions were reportedly taking place.¹¹⁵ The Peruvians have documented Acelor's travels to Peru during the period of the arms transactions, including payment of his hotel bill in Lima in April 1999 by the Aybars' company Nippon Corporation SA, which was the business entity at the center of the Peruvian arms network.¹¹⁶

Through his lawyer, Mr. Edward Shohat, Acelor declined an interview with The Fund for Peace.¹¹⁷

Setting the Precedent

The Fund for Peace recommends that U.S. law enforcement and justice officials swiftly and sufficiently investigate the activities of both Soghanalian and Acelor for violations of the U.S. arms brokering law. While both Soghanalian and Acelor are currently being monitored, they may not be constrained from hiding or destroying documentation which would be of value to law enforcement officials. Moreover, once they are no longer under surveillance, they may travel more easily for the purpose of covering up their involvement in the arms deal. For example, Soghanalian claimed that documents pertaining to the Jordan-Peru arms transactions are housed in his office in Amman.¹¹⁸ The Fund for Peace wrote to the Jordanian Minister of Justice, Faris Nabulsi, recommending

¹¹¹ Brokering activities means acting as a broker... and includes the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service, irrespective of its origin." *ITAR*, Sec. 129.2(b)(1997).

¹¹² FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

¹¹³ *USA v. Solorzano, et al.*, 97-CR-136, (U.S. District Court for the Southern District of Florida, 1997).

¹¹⁴ *Ibid.*

¹¹⁵ *Ibid.*

¹¹⁶ *Peru court documents.*

¹¹⁷ In the interest of fairness, the FfP sent a formal request for an interview with Acelor via registered mail to his lawyer as per the instruction of the lawyer, Mr. Edward Shohat. On November 3, 2000, Mr. Shohat informed FfP that "Mr. Acelor is not going to talk to you."

¹¹⁸ Angel Paez, "Report on interview with gunrunner Sarkis Soghanalian," *La Republica* [Translated FBIS Text], September 20, 2000; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

that Jordan cooperate with the Peruvian inquiry, including a legal search of Soghanalian's office.¹¹⁹ U.S. officials should also seek similar cooperation from the Jordanian government.

Furthermore, when Acelor's probation expires and Soghanalian's court case is concluded, it is possible that they could flee the U.S. Soghanalian's sentencing may proceed in two ways: he may be allowed to go free for time served to date for his recent conviction, or be penalized with a sentence up to 5 years. Law enforcement officials and prosecutors fear that if Soghanalian is set free on July 23, 2001, he is likely to flee the U.S. immediately in order to escape a future indictment or arrest.¹²⁰

U.S. officials will need to determine the venue for legal jurisdiction, and whether Soghanalian and Acelor should be investigated individually or jointly. In cases where the elements of the crime are not committed on the territory of the U.S., the prosecution may be appropriate in a variety of federal circuits, including the district of the last known residence, the place of last arrest or the place of entry into the U.S. The federal crime of arms brokering, however, could always be prosecuted in federal court in Washington, D.C.¹²¹ Since the Los Angeles U.S. attorney's office is currently prosecuting Soghanalian on an unrelated charge and has been apprised of the facts of this case by The Fund for Peace, they should, in the interest of timely prosecution, immediately proceed with an investigation of whether his brokering activities were illegal. Similarly, Acelor should be investigated for violating arms brokering laws by law enforcement officials in Miami, where he resides, was placed on probation, and may have committed some elements of the crime. The involvement of both will prove useful even if the venue is moved to Washington, D.C.

In presenting facts of the case to U.S. law enforcement officials, The Fund for Peace has found that some authorities are concerned about how the specific intent requirement of the law may be interpreted since no one has yet been prosecuted under this statute which entered into force of law in 1996.¹²² Based on our analysis, The Fund for Peace does not believe that a "lack of knowledge" defense would be supportable in this case.

¹¹⁹ The November 2000 fax letter is on file with the FfP.

¹²⁰ FfP interviews, assistant United States attorney, and U.S. Internal Revenue Service special agent, Los Angeles, February 9, 2001; FfP phone interview, U.S. Customs official, February 9, 2001; FfP phone interview, U.S. Justice Department official, March 8, 2001; FfP phone interview, assistant United States attorney, May 25, 2001.

¹²¹ The United States Code prescribes that when an offender operating outside of the United States commits a crime, prosecutors must prosecute in the district where the offender is first arrested or brought into the United States. If the offender is not brought into or arrested in any U.S. district when the case is initiated, however, he or she can be prosecuted in the district of the offender's last known residence. If the residence is unknown, the case can be prosecuted in Washington, D.C. 18 U.S.C., sec. 3238 (1911). In addition, as long as the venue is proper under the requirements of section 3238, it is irrelevant if a prosecution may also be conducted in a different venue; in other words, no comparative legal analysis is necessary.

¹²² Loretta Bondi and Elise Keppler, *Casting the Net? Implications of the U.S. Law on Arms Brokering* (Washington, D.C.: The Fund for Peace, 2001), p. 22.

Violations of the brokering law require proof that the offender acted “willfully.”¹²³ The Supreme Court has held that generally in criminal laws, the term “willful” requires proof that the defendant acted with knowledge that his conduct was unlawful.¹²⁴ The Supreme Court has not ruled specifically on the meaning of “willful” in the Arms Export Control Act, but courts addressing this issue have held that the term requires the defendant to be aware of a legal duty not to violate the AECA.¹²⁵ The question of whether the requisite “willfulness” has been proven is a question to be determined by the trier of fact.¹²⁶ Absent specific statements of knowledge by the defendant, willfulness also has been found in cases where: the defendant was specifically told of the requirement,¹²⁷ the defendant was an expert in arms transactions,¹²⁸ or written notice was provided to the Defendant as part of the arms invoice.¹²⁹ When the tracks left behind by a broker point to a systematic or purposeful attempt to cover up an illicit operation, courts also have held that the violator demonstrated the requisite intent.¹³⁰

Soghanalian possessed specific knowledge required under the law in three possible ways. First, he is an expert in arms transactions. He has been involved in the arms trade business for decades and has specifically participated in complex arms transactions involving the United States. Thus, Soghanalian could be expected to know the requirements under the law.¹³¹ Second, Soghanalian is not a first time offender of the AECA and was clearly informed by the courts that specific requirements must be complied with under U.S. law when he was previously sentenced for infractions of these requirements. As U.S. DTC official David Trimble stated, “Soghanalian is debarred so this

¹²³ Under 22 USC § 2778(c), violations may be imposed only on any person, “who willfully violates” the law. 22 USC § 2778(c).

¹²⁴ *Bryan v. United States*, 524 U.S. 184 (1998), p. 192; *United States v. Derington*, 229 F.3d 1243 (9th Cir. 2000), p. 1248.

¹²⁵ *United States v. Muthana*, 60 F.3d 1217 (7th Cir. 1995), p. 1222; see also *United States v. Beck*, 615 F.2d 441 (7th Cir. 1980), p. 451; *United States v. Tsai*, 954 F.2d 155 (3rd Cir. 1992), p. 162, *cert. denied*, 121 L. Ed. 2d 54, 113 S. Ct. 93 (1992); *United States v. Murphy*, 852 F.2d 1 (1st Cir. 1988), p. 7, *cert. denied*, 489 U.S. 1022, 103 L. Ed. 2d 205, 109 S. Ct. 1145 (1989).

¹²⁶ *United States v. Hernandez*, 662 F.2d 289 (5th Cir. 1981), p. 292.

¹²⁷ In 1985, for example, the Seventh Circuit found in *U.S. v. Malsom* that the defendants were guilty of violating the Arms Export Control Act for exporting weapons to Libya without a license when they had been informed by a friend in the shipping business and an employee at the Commerce Department that a license was required. *U.S. v. Malsom*, 779 F.2d 1228 (7th Cir. 1985).

¹²⁸ For example, in *United States v. Beck*, the court affirmed a decision by a jury that Beck’s status as someone in the arms exporting business since 1972, and with knowledge of an existing arms embargo to South Africa demonstrated the requisite intent for violating the AECA in attempting to export weapons to South Africa. *United States v. Beck*, 615 F.2d 441 (7th Cir. 1980), p. 451; see also *United States v. Wieschenberg*, 604 F.2d 326 (5th Cir. 1979).

¹²⁹ For example, in *United States v. Swarovski*, the court affirmed the conviction of Mr. Swarovski for attempting to export a military aircraft gunsight camera without a license after he had received previously an export notice identifying that a license was required for this item. *United States v. Swarovski*, 592 F.2d 131 (2d Cir. 1979).

¹³⁰ For example, in *United States v. Murphy*, the First Circuit affirmed a District Court’s finding that the defendant violated the Arms Export Control Act on the grounds that he did not have a license and had engaged in year-long clandestine efforts, covert acts, and subterfuges to purchase weapons for shipment to Ireland for the IRA. *United States v. Murphy*, 852 F.2d 1 (1st Cir. 1988), p. 7.

¹³¹ *United States v. Beck*, 615 F.2d 441 (7th Cir. 1980), p. 451; see also *United States v. Wieschenberg*, 604 F.2d 326 (5th Cir. 1979).

shows knowledge of licensing procedure and requirements.”¹³² Thus, it is obvious that Soghanalian knew that requirements existed under U.S. regulations for arms transactions, particularly given their complex nature.¹³³ More importantly, being debarred did not only prohibit Soghanalian from carrying out arms transactions but made clear his responsibility to familiarize himself with the law in the future so that he would not undertake any arms transactions which would run him afoul of it again. Third, it appears that Soghanalian took certain actions to keep the deal secret and cover his tracks in defiance of the legal requirements of the U.S.¹³⁴ For example, Soghanalian reportedly stated that he did not want to arouse suspicions and asked the Peruvians for his financial payment, involving the American banking system, in a less conspicuous monetary transaction than large cash deposits. Delivery of the weapons also was circuitous, with transport going through Mauritania, Canary Islands and Grenada. According to Peruvian court documents as well as interviews with Peruvian officials, evidence exists to indicate the covert nature of the arms deals, particularly in regards to the arrangements made for deliveries to remote areas under control of the FARC.¹³⁵

Acelor, as an international financial expert, should also have been aware of the legal requirements of the transactions. Moreover, since Acelor was being prosecuted in the U.S. while allegedly conducting the illicit brokering activities, he should have been acutely knowledgeable of the need to stay within the bounds of the law. Like Soghanalian, Acelor appears as well to have tried to conceal his activities, including failing to report income from the arms deal.¹³⁶

Importantly, under the brokering statute, it is not necessary to prove that Soghanalian and Acelor were aware that the intended recipients of the weapons were the FARC, as some law enforcement officials have assumed. Evidence of this kind may add weight to the application of U.S. jurisdiction, an aggressive prosecution, tougher sentencing, and an increase in the number and types of charges against them. Nonetheless, the arms transactions conducted by Soghanalian and Acelor appear to have violated U.S. law simply by the nature of the fact that Soghanalian and Acelor did not register and obtain licenses. This non-compliance with the law is a sufficient base for an official investigation leading to an indictment and prosecution.

Some U.S. law enforcement officials and a prosecutor have also expressed concern over whether the penalty is worth the investigation. The Fund for Peace believes this is an insufficient reason for not enforcing the law. Foremost, the maximum penalty for violating the law is a \$1,000,000 fine and/or ten year prison sentence.¹³⁷ Soghanalian is not

¹³² FfP telephone interview, David Trimble, U.S. DTC official, December 15, 2000.

¹³³ *U.S. v. Malsom*, 779 F.2d 1228 (7th Cir. 1985).

¹³⁴ *United States v. Murphy*, 852 F.2d 1 (1st Cir. 1988), p. 7.

¹³⁵ FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, November 10, 2000; FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001; *Peru court documents*.

¹³⁶ FfP telephone interview, U.S. Justice Department official, March 8-9, 2001.

¹³⁷ *ITAR*, sec. 127.3 (1988); the *AECA*, sec. 2778(c) states: “Criminal violations; punishment. Any person who willfully violates any provision of this section or section 39 [22 USCS § 2779], or any rule or regulation issued under either section, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or

a first time offender and there may have been multiple transactions for which he can be prosecuted. Since Soghanalian is at an advanced age, over 70 years old, the penalty imposed, if he is found guilty, is likely to put this arms merchant out of illicit business entirely. The same could be said of Acelor whose activities may also have involved multiple transactions. Moreover, some transactions appear to have been committed while he was being prosecuted for another felony for which he was convicted. Furthermore, there may be tax evasion penalties which could be imposed, regardless if Soghanalian or Acelor are found guilty of violating the AECA. Finally, it is important to establish a precedent as a deterrent for other arms traffickers, who have continued to ply their lethal trade with impunity.

If the preponderance of evidence is collected on the role of Acelor and Soghanalian in the Jordan-Peru arms trafficking case, prosecution, whether successful or not, would benefit the U.S. government, its citizens, and the citizens of Peru and Colombia as well as contribute to upholding international human rights law. For example, the high profile nature of the case and its precedent would serve to put other potential violators on notice, and they would, henceforth, be less likely to be able to use a lack of knowledge defense in the future. Similarly, if Soghanalian, one of the most infamous merchants of death, is indicted in the U.S., the high profile nature of his case would serve to notify other arms brokers that a legal duty to register and apply for a license exists if they are subject to U.S. jurisdiction no matter where they operate. Soghanalian's activities have already been reported in the major U.S. and international press, and he is well-known in the arms trade community. Both he and Acelor have been linked to a wider arms brokering network operating out of Miami, and their trial would put others, particularly in that ring, on notice that they may also be vulnerable to prosecution.¹³⁸

Investigation and prosecution of this case would send a clear signal to arms brokers that the U.S. is serious about prosecuting offenders of its domestic arms brokering law. This step would be important since the U.S. law is being proposed as model legislation for other governments and international initiatives to rein in illicit arms brokers worldwide. The U.S. is less likely to be embarrassed by its enforcement record and can play a leadership role in multilateral and bilateral processes pertaining to these initiatives if it has a successful conviction to which it can point. This test case would have the added merit of targeting arms brokers who have evaded U.S. jurisdiction in the past and whose recipients (in this case the Colombian rebels) pose a serious security risk to U.S. citizens and U.S. security personnel in Colombia as well as stated U.S. foreign policy goals. This should have a strong deterrent effect on arms brokers operating in similar conflict areas or trafficking to human rights abusing clients and terrorists.

If the case proceeds to a satisfactory conclusion, innocent victims in Colombia's multifaceted conflict may feel that justice was served if the illicit arms traffickers who possibly stoked human rights abuses, violent conflict, terrorist acts, rebel activities, paramilitary attacks, and counterinsurgency operations were held accountable for their

necessary to make the statements therein not misleading, shall upon conviction be fined for each violation not more than \$1,000,000 or imprisoned not more than ten years, or both."

¹³⁸ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001; FfP telephone interview, U.S. Justice Department official, March 8-9, 2001.

actions. The same could be said for the state and citizens of Peru who are still reeling from the arms trafficking scandal which has embroiled the top echelons of its government. The discovery process emanating from a trial against Soghanalian and Acelor is likely to reveal how corrupt Peruvian officials were able to skim hundreds of millions of dollars from state coffers and may lead to the seizure of assets in the U.S. and the return to Peru of stolen monies which could benefit this impoverished nation.¹³⁹

Governments' Responsibilities

Stopping the illicit flow of arms to conflict zones should be one of the highest priorities of the U.S. government and its law enforcement officials, particularly when such flows counter U.S. national security interests, further the aims of terrorist groups, put the lives of U.S. citizens at risk, and contribute to violations of international humanitarian and human rights law. Based on the accumulating evidence depicted in this case study, it appears that two individuals under U.S. jurisdiction, Sarkis Soghanalian and Charles Acelor, were intimately involved in gun-running to human rights abusing rebels in war-torn Colombia, possibly in direct violation of the U.S. arms brokering law. It is the responsibility of the U.S. government to bring these potential violators to justice if this is the case.

Failure by the U.S. to act on this case could raise serious issues. First, it might lead some to suspect that either of the two individuals named in this case study were actually working covertly on behalf of the U.S. government. Governments continue to rely on private arms merchants with shaky pasts and connections to the black market when it suits their foreign policy interests.¹⁴⁰ The U.S. government has been no exception. Previously, the U.S. government has employed the services of Soghanalian for such deals and, in turn, Soghanalian has utilized his government contacts and a public authority defense to avert prosecution, as noted above.¹⁴¹ Soghanalian claims that he contacted the FBI in Miami once the scandal began to unravel, but there is no indication as to whether the FBI checked up on Soghanalian's role.¹⁴² Moreover, there has been no official explanation of why the one-year old sealed U.S. indictment against Soghanalian was unsealed after the Peruvian arms scandal broke out.

Consequently, failure to investigate may raise questions as to whether the U.S. fears that an investigation and prosecution may ultimately prove embarrassing to the U.S. government. Some may ask if a criminal process would expose problematic aspects of the U.S. government relationship with former Peruvian intelligence chief, Vladimiro

¹³⁹ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001; Tom Dubocq and Marika Lynch, "Peru to Seek Local Assets of Accused Arms Dealer," *Miami Herald*, February 3, 2001.

¹⁴⁰ Loretta Bondi and Elise Keppler, *Casting the Net? Implications of the U.S. Law on Arms Brokering* (Washington, D.C.: The Fund for Peace, 2001), p.15-18.

¹⁴¹ Joel Brinkley and Jeff Gerth, "U.S. Aides See Gun Smugglers As Low Priority," *The New York Times*, September 26, 1985; Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000.

¹⁴² Bill Rempel and Sebastian Rotella, "Arms Dealer Implicates Peru Spy Chief in Peru Smuggling Ring," *Los Angeles Times*, November 1, 2000.

Montesinos, who was previously considered a close U.S. ally. Questions may be raised about how much the U.S. government knew, for example, about Montesinos' illicit gun running, corruption, embezzlement, and illegal financial practices. This could point to a situation in which U.S. alliances and policies in the region would be cast in a light that would make it clear that Washington actually fostered gun-running to human rights abusing and terrorist groups for private or public gain. Currently, the Peruvian authorities are investigating the links Montesinos' arms trafficking ring may have had with the FARC, right-wing paramilitaries, and/or drug traffickers. The Peruvians are also investigating whether the alleged Montesinos-led ring was supporting efforts to undermine the Colombian government and the U.S.-financed "Plan Colombia," or adversely, fuel an aggressive movement by the FARC to increase public support for "Plan Colombia."¹⁴³

Thirdly, failure to investigate might raise questions about how much political will and resources the U.S. Administration is willing to utilize to pursue U.S. Arms Export Control Act violations aggressively. According to U.S. and Peruvian law enforcement officials as well as press reports, the activities of Soghanalian and Acelor appear to be just the "tip of the iceberg."¹⁴⁴ Miami has long been a center of illicit arms smuggling, particularly to Latin America.¹⁴⁵ As this case study goes to press, information about a wider arms brokering ring operating out of Miami is coming to light, partly as a result of the U.S.-Peru investigations and the research and advocacy efforts of The Fund for Peace on the U.S. arms brokering law.¹⁴⁶ While U.S. law enforcement officials have been aware that the Miami-based ring has ties to established business entities in Miami, and that some transactions, such as banking activities, have occurred in the U.S., they have been concerned about U.S. jurisdiction since many of the suspects are not U.S. nationals. The Fund for Peace has been pressing U.S. officials to apply the extraterritorial scope and jurisdictional authority of the U.S. brokering statute under which these suspects would fall. Law enforcement officials can approach these cases under the AECA rather than limit their investigations to money laundering, IRS violations, and anti-terrorist criminal activities, or otherwise throw the charges out for assuming that they elude U.S. jurisdiction requirements. To date, the jurisdictional boundaries of the brokering laws have not been tested in court.

Other governments may also share responsibility for investigation and cooperation on the Soghanalian and Acelor arms brokering case. As noted earlier, the Peruvian government has specified the assistance it needs from Jordan, i.e., an examination of the

¹⁴³ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001.

¹⁴⁴ FfP telephone interview, Jose Ugaz, special state attorney for the Montesinos case, Lima, March 8, 2001; FfP telephone interviews, U.S. Justice Department officials, March 7-9, 2001; See *Ex-Peruvian Intelligence Head Linked to Arrested Peruvian Belarusian Arms Dealer* [Report by Sergey Anisko: "Minsk Sukhoy Aircraft Fought in Africa. Belarusian Weapons Illegally Delivered to Conflict Zones"] FBIS Translated Text CEP20010205000132 Moscow Segodnya in Russian 02 Feb 01 P 3; Tom Dubocq and Marika Lynch, "Peru to Seek Local Assets of Accused Arms Dealer," *Miami Herald*, February 3, 2001.

¹⁴⁵ Joel Brinkley and Jeff Gerth, "U.S. Aides See Gun Smugglers As Low Priority," *The New York Times*, September 26, 1985.

¹⁴⁶ It appears that all types of high-powered conventional and sophisticated weapons, including Russian Migs, many no longer in good working order, were brokered to Peruvian government entities or bought with state funds as a means of embezzling money. If the actors which fall under U.S. jurisdiction are investigated and successfully prosecuted, assets could possibly be seized and returned to the Peruvian nation.

original purchase orders.¹⁴⁷ The Fund for Peace has written to the Jordanian Minister of Justice encouraging such action. In the future, the Jordanian government should establish better procedures and policies for authentication of the credentials of purchasing entities as well as end user verification of arms exports to prevent arms transfers to illicit clients, as in the Jordan-Peru-FARC case.

Similarly, The Fund for Peace asked the French government through its embassy in Washington D.C. for details relating to Soghanalian's brokering operations out of Paris and their knowledge and pursuit of information which may be helpful to both the Peruvian and U.S. investigations. The Fund for Peace informed the French embassy that the Peruvians were seeking information that would be useful for their case. According to Soghanalian's interviews in the press and Peru court documents, some of the brokering activities in the Jordan-Peru-FARC case were transacted on French soil, including financial transactions. According to the French embassy official, financial transactions are covered under French brokering statutes, and brokers are expected to report yearly on their activities.¹⁴⁸ The French government should also investigate whether Soghanalian violated French arms control policies and laws in regard to this particular case, and whether Acelor violated requirements for registration as a broker.

Based on interviews with the Peruvians involved in investigating and prosecuting this case, The Fund for Peace believes that the Peruvian government is adequately probing and pursuing prosecution of the arms trafficking ring. To expedite matters, the Peruvian government should submit applications for provisional arrest warrants for Soghanalian and Acelor to the U.S. government so that they may be arrested by U.S. authorities immediately upon conclusion of their respective legal processes in the U.S. This would serve to detain the two arms brokers in the U.S. even if the U.S. has not sufficiently completed its investigation leading to indictment. The Peruvians should also refrain from granting Soghanalian and Acelor immunity from prosecution. At this stage, an investigation, indictment, and corresponding discovery process are likely to reveal more details than grudging and limited cooperation from Soghanalian and Acelor. Furthermore, the Peruvian government should continue to cooperate with U.S. law enforcement on investigations of the wider Miami-based arms brokering ring.

Conclusion

As it pertains to the U.S. arms brokering law, the U.S. has the most expansive reading of jurisdiction to rein in illicit arms traffickers operating with impunity both at home and abroad. However, the government's commitment to expending the political will and necessary resources to follow through with the law remains to be determined. There is an urgent need to pursue violations of the statute aggressively and to establish the necessary case law for effective application of the law. The Fund for Peace has developed this case study and informed appropriate U.S. officials of the relevancy of the law to stress the urgency for pursuing precedent-setting cases.

This would be the first test case.

¹⁴⁷ FfP telephone interview, Celinda Segura Salas, Peruvian magistrate, and her aides, November 10, 2000.

¹⁴⁸ FfP interview, Philippe Lacoste, political counselor, French embassy, Washington, D.C., November 30, 2000.