

CHAPTER I

INTRODUCTION

A. Context of Study

The illicit trafficking in small arms is a transnational phenomenon. This trade arms terrorists and terrorist groups operating around the world and is central to the global war on terror. The line between the legal and illicit trades in small arms is often blurred, fuelled by the lack of strict international criteria and controls. Around the world, the illegal income generated by exploiting resources such as timber, drugs, diamonds, and other minerals perpetuates conflicts and corruption. Arms brokers can operate because they are able to circumvent national arms controls and international arms embargoes or to obtain official protection. Developing policies to address the illicit trafficking in small arms cannot be done in a vacuum. Other countries, on a national, regional and international level, must develop stronger controls on legal sales and increase and enhance international cooperation.¹

Despite the various attempts of international treaties in defining the phenomenon, terrorism remains an emotionally charged, morally laden, and political contentious concept.² Thus, inventing a uniform interpretation of the notion is nearly impossible. The United Nation's Security Council in Resolution

¹Rachel Stohl, "The Tangled Web of Illicit Arms Trafficking, Centre for American Progress", www.americanprogress.org

² Victor V. Ramraj, Michael Hor, Kent Roach and George Williams, *Global Anti-Terrorism Law and Policy*, 2nd Edition (Cambridge: Cambridge University Press, 2012).

1373 required all member states to ensure that terrorism and terrorism financing to be treated as serious crimes, but did not provide any guidance to states on how to define terrorism until three years later in Security Council Resolution 1566, after many states have enacted new anti-terrorism laws.³ Understood as criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes⁴, this term has been use as the object of 13 multilateral and 7 regional treaties, which defines and provides for criminilization of specific acts relating to such behaviours as hijacking, bombing, financing of terrorism, and nuclear terrorism.⁵

Contemporary views have seen that the most recent of these terrorist occurences do not only happen in one state, but also related to another. Lebanon's transnational terrorist attacks explain that most of the worldwide co-movements of transnational terrorism, with the other four countries; United States, Germany, Iraq, and the United Kingdom explaining the remainder.⁶ The five core countries reflect, to different degrees, the influence of the leftist and fundamentalist terrorists, who have dominated transnational terrorism during this period.⁷ These Countries' transnational terrorist attacks may have had common influence on

³ *Ibid*, p. 5

⁴ The definition has been used in numerous UN Resolutions such as; Security Council Resolution 1566, 1994 Declaration on Measures to Eliminate International Terrorism, UN Doc A/RES/51/210, 17 December 1996, Annex.

⁵ Stephen P Marks, "International Law and the 'War on Terrorism': Post 9/11 Responses by the United States and Asia Pasific Countries", *Asia-Pacific Law Review*, Vol. 14 No. 1 (2006).

⁶ Khusrav Gaibulloev, Todd Sandler, and Donggyu Sul, "Common Drivers of Transnational Terrorism: Principal Component Analysis", *Forthcoming Economic Inquiry* (2013).

⁷ B.A. Hoffman, *Inside Terrorism*, revised and expanded edition (New York: Columbia University Press, 2006), *see also* D. C. Rapoport, *Modern Terror: The Four Waves*, in "Elements of a Grand Strategy", edited by A.K. Cronin and J.M. Cronin, (Washington, DC: Georgetown University Press, 2004), p. 46-73.

worldwide transnational terrorism such as through demonstration effect, shared grievances, common terrorist perpetrators, or assets abroad.⁸

Preventing acts of terrorism remains one of the major task of domestic governments, regional and international organizations. As terrorism transcends borders, anti-terrorism must cross the boundaries of domestic, regional, and international law. It also crosses traditional disciplinary boundaries between administrative, constitutional, criminal, financial, immigration, international and humanitarian law.⁹ Hence, the cooperation to block funds to terrorist groups extending to the use of force by states is necessary in every step for the ‘war on terrorism’ progress. Domestic efforts to combat terrorism are given up to every state to plan out strategies of their homeland security shielded by sovereignty.

Nevertheless, as a part of the International Community and members to the United Nations, States must also intensify and accelerate the exchange of information regarding terrorist actions or movements, forged or falsified documents, traffic in arms and sensitive material, use of communications and technologies by terrorist groups, and the threat posed by the possession of weapons of mass destruction.¹⁰ As terrorism does not only transcends borders, but also the boundaries of multiple laws, so does efforts to combat them is critical in every aspect. One of the most essential coverage contributing to terror attacks that

⁸ Khusrav Gaibulloev, *Loc. Cit.*, p. 3.

⁹ Victor V. Ramraj, *Loc. Cit.*

¹⁰ *Ibid.*

is seldomly touched upon because of the lack of international restrictions¹¹ is the international arms trade. While arms do not create conflict, they increase the intensity of the violence of the conflict.¹²

It is founded upon that terrorism is a strong determinant for arms demand and possibly supply.¹³ Researches have discovered that 92% of all terrorist attacks between 1989 and 2014 occurred in countries where political violence by the government was widespread. Consistent with its definition, terrorist attacks will always entail some level of violence or threat of violence to an individual's physical wellbeing or damage to properties.¹⁴ Nonetheless, the intensity of these attacks relates to the instruments and strategies employed.¹⁵ Approximately 60% of all attacks uses explosives, 30% uses firearms and the remaining 10% use other weapons.¹⁶ Taking into account that only 12% of all the incidents were unsuccessful.¹⁷ These significant numbers are more than sufficient to prove the contribution of small arms and explosives to the accomplishment of terrorist attacks. .

¹¹ Law Teacher, "Trading Arms to Terrorist Organizations", The Law Essay Professionals.

¹² Neil N. Snyder, "Disrupting Illicit Small Arms Trafficking in the Middle East", Naval Postgraduate School (Monterey, California), p. V.

¹³ Brock Blomberg and Oana Tocoian, "Terrorism and Arms Trade" (2013), p. 8.

¹⁴ Global Terrorism Index 2015 , p. 6.

¹⁵ Neil N. Snyder, *Loc. Cit.*, p.1.

¹⁶ Global Terrorism Index, *Loc. Cit.*, p. 35.

¹⁷ *Ibid.*

Across the world, the diversion of arms and ammunition sustains the activities of terrorist organizations.¹⁸ It includes, but is not limited to: large, international transfers organized by corrupt military officials; low-level, localized theft and resale by military and police forces; and the loss of civilian weaponry through home burglary and other forms of theft.¹⁹ Weapons that are diverted from state stockpiles or from civilian hands can fuel crime as easily as they can fuel international terrorism.²⁰ These persistent weapons often remain behind at the end of conflicts, thus enabling disputes to reignite or spreading to neighboring countries.²¹ As the weapons do not directly fall into terrorist hands, it is critical to peek into the larger actor of the arms transfer; the States.

The issue of trading arms to terrorist organizations is a fairly new topic arising from the past decade of issues with the multitudes of terrorist organizations. Quite recently the United Nations has only just brought up the proposal to increase arms trade regulations and further restrict arms trade. This, of course, was addressed in the proposal for the Arms Trade Treaty (ATT) proposed in 2006 which has over the past year gained much needed support. The most prominent arms traders are nations are The United States, Russia, UK, and several other economically powerful nations who have expressed support for the ATT. However, it is important to keep in mind the lack of international restrictions and

¹⁸ Graduate Institute of International and Development Studies, “Small Arms Transfer Control Measures and the Arms Trade Treaty: A Small Arms Survey (2007-2010)”, (Geneva, Cambridge, 2012).

¹⁹ *Ibid*, p. 33.

²⁰ *Ibid*.

²¹ Rachel Stohl, *Loc. Cit.*, p. 21.

laws on arms brokers that also fuels the ease in which terrorists groups can obtain arms.²²

Outside of the ATT and the Program of Action in securing small arms trade, there have been no real international efforts to restrict or secure the trade of arms by nations or to impose any oversight to the arms brokers trading weapons internationally. It is important to note that while many nations have attempted to prevent illicit arms trade both importing and exporting within their own nations, the issue of setting up any form of guide lines, rules, restrictions, regulations, or even clear international law on the subject remains absent from international law. Therefore, the current problems confronted with the red thread that links between international arms trade and transnational terrorism, precisely on the mechanism of how illicit arms trade will affect the continuation and rapid development of transnational terrorism. Thus, it is of the highlighted importance to reinforce the international legal instruments regulating arms trade to prevent transnational terrorism.

Thus, this paper was made in order to figure out, analyze, and to give clearer view of those aforementioned legal issues.

²² Law Teacher, *Loc. Cit.*

B. Problems Formulation

1. What are the weaknesses and loopholes of the current international legal instruments so far in relation to illicit arms trade and the escalation of transnational terrorism?
2. How to cope with the weaknesses and loopholes of the current International Arms Trade instruments in aims for it to be reinforced for the achievement of preventing Transnational Terrorism?

C. Research Objectives

1. To unravel the the weakness and loopholes of the current international legal instruments so far in relation to illicit arms trade and the escalation of transnational terrorism.
2. To find out and analyze the measures that needs to be taken in order to cope with the weakness and loopholes for the reinforcement of the current International Arms Trade instruments in preventing Transnational Terrorism?

D. Definition of Terms

1. *Arms*: arms range from most forms of military weaponry including; tanks, armored vehicles, submarines, aircraft carriers, surface to air missiles,

surface to surface missiles, any form of battleship or gun boat, landmines or sub charges, heavy machine guns or self-propelled guns.²³

2. *Conventional Arms*: any weapon within the category of battle tanks, armoured combat vehicles, Large-Callibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers, and small arms and light weapons.²⁴
3. *Small Arms and light weapons*: any man-portable lethal weapon that expels or launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet or projectile by the action of an explosive, excluding antique small arms and light weapons or their replicas.²⁵
4. *International Arms Trade* (can also be understood as *arms transfer*): the activities of the international trade comprises of export, import, transit, trans-shipment, and brokering.²⁶
5. *Illicit Arms Trafficking*: the unauthorized import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components and ammunition from across the territory of one state to another.²⁷ Arms are illicit if they are considered illicit under the law of the State within whose territorial jurisdiction the arms are found, transferred in violation of arms embargoes decided by the Security Council, not marked in accordance

²³ The 2006 Arms Trade Treaty [hereinafter, “ATT”], Art. 2 Sec. 1.

²⁴ *Ibid.*

²⁵ *Ibid*, Art. 2.

²⁶ *Ibid*, Art. 2 Sec. 2.

²⁷ Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components, and Ammunition, Supplementing the United Nations Convention Against Transnational Organized Crime Adopted by the General Assembly Resolution 55/255 31 May 2001 entered into force 3 July 2005.

with the international provision, manufactured, assembled, or transferred without license or authorization from the competent State authority.²⁸

6. *Terrorism/Acts of Terror/Terrorist Act*: criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious, or other nature that may be invoked to justify them.²⁹
7. *Terrorist Group/Organization*: a collection of individuals belonging to a non-state entity that rely partially or exclusively³⁰ on terrorism to achieve its objectives.³¹
8. *Transnational Terrorism*: a premeditated threat, or actual use of violence to attain a political goal through fear, coercion, or intimidation, and its ramifications transcend national boundaries through the nationality of the perpetrators and/or human or institutional victims, location of the incident, or mechanics of its resolution.³²

²⁸ International Instrument to Enable States to Identify and Trace, in a Timely Reliable Manner, Illicit Small Arms, and Light Weapons [hereinafter "ITI"], Art. 2.

²⁹United Nations General Assembly Resolution 51/210, Measures to Eliminate International Terrorism, 17 December 1996; A/RES/49/60 9 December 2006; Security Council Resolution 1566, 8 October 2004.

³⁰ Leonard Weinberg, Ami Pedazhur, and Sivan Hirsch-Hoefler, "The Challenges of Conceptualizing Terrorism, Terrorism and Political Violence" (UK London, Routledge: 2004), p. 4777-794.

³¹Seth G. Jones and Martin C. Libicki, *How Terrorist Groups End: Lessons for Countering Al Qa'id*, (Washington, DC: RAND, 2008).

³²See E.F. Mickolus, T. Sandler and J. Murdock.

E. Theoretical Review

The Development of International Arms Trade

International Arms Trade is an enormous business which, whether intended or not, affects the lives of millions of people around the world. Trading weapons is a legitimate business in one way, in which government can secure self-defense capabilities.³³ However, the international community realizes, following the Meeting of the Five on Arms Transfers and Non-Proliferation,³⁴ the danger in maintaining an unregulated international arms market when Iraq invaded Kuwait on 2nd of August 2 1990 ago, with an arsenal stocked and arms acquired from the world's largest exporters.³⁵

States have widely acknowledged the need to maintain responsible arms export and import policies that serve to prevent transfer of arms and other military goods that might fuel armed conflicts and promote regional instability. They have also widely recognized the need to implement effective export controls on military goods and to ensure that exported

³³Elli Kytömäki, "How Joining the Arms Trade Treaty Can Help Advance Development Goals", International Security Department Research Paper, Chatham House, The Royal Institute of International Affairs, (2014), p. 4.

³⁴ Meeting of the Five on Arms Transfers and Non-Proliferation 3, July 8-9 1991.

³⁵Michael Brzoska and Thomas Ohlson, "Arms Transfers to The Third World" (1971-1985), as quoted in Elli Kytömäki (2014).

weapons are not diverted into the hands of unauthorized end-users, such as terrorists, criminals and armed groups.³⁶

The Volume of International arms transfers peaked in 1982. Following the end of the cold war there was a steady decline in global arms transfer which reached the lowest point in 2002, when transfers amounted to only 38 per-cents of their cold war high. Since 2002 there has been a more steady increase in transfers.³⁷

One of the most marked aspects of major arms transfers over time is the stable composition of the list of the five biggest suppliers, with only slight changes in the ordering. For the period 1980–1984, when global arms transfers were at the highest, the Soviet Union, the United States, France, the United Kingdom and Germany accounted for 84 per cent of all exports. The five largest suppliers of major conventional weapons for the period 2004–2008 were the USA, Russia, Germany, France and the UK. These suppliers accounted for 78 per cent of world exports for this period, compared with 81 percent for the period 1999–2003. United States and Russia remain by far the largest exporters.³⁸

United Nation member states have recently discussed the feasibility of an Arms Trade Treaty (ATT) which would seek to create better controls on international arms transfers. To support this process, the European Union

³⁶Mark Bromley, Paul Holtom, Sam Perlo-Freeman and Pieter D. Wezeman, “Recent Trends in Arms Trade”, SIPRI Background Paper (2009).

³⁷*Ibid.*

³⁸*Ibid.*

(EU) is funding a series of six regional seminars, hosted by the United Nations Institute for Disarmament Research (UNIDIR), to increase the awareness of the ATT proposal among UN member states, regional organizations, civil society and industry and to promote international discussions about the proposed treaty.

The Historical Background of Arms Trade Treaty

The ATT is premised on an elegantly simple, but far-reaching, insight. For years, diplomats and arms control specialists have argued that the world was awash in weapons due to thriving black markets and unscrupulous arms dealers. Yet research suggests that the “diversion” of official or authorized conventional weapons is much larger and more destructive than the outright “trafficking” in illicit arms. In other words, the legal trade, coupled with weak controls over state arsenals, arms sales, and weapons possession, is a bigger problem than black marketeering. It was with this focus on the authorized trade that the ATT departed from the UN Program of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects launched in 2001.³⁹

The Arms Trade Treaty (ATT) is a multilateral, legally-binding agreement that establishes common standards for the international trade of

³⁹Robert Muggah, “Making History: How the Arms Trade Treaty Was Won”, International Peace Institute (IPI) Global Observatory (2013).

conventional weapons and seeks to reduce the illicit arms trade. The treaty aims to reduce human suffering caused by illegal and irresponsible arms transfers, improve regional security and stability, as well as to promote accountability and transparency by state parties concerning transfers of conventional arms. The ATT is not an arms control treaty, per se, and does not place restrictions on the types or quantities of arms that may be bought, sold, or possessed by states. It also does not impact a state's domestic gun control laws or other firearm ownership policies.⁴⁰

The ATT is the product of nearly two decades of advocacy and diplomacy. After years of preparation, a UN diplomatic conference was formally convened in July 2012, but fell short of reaching consensus on a final text and another two week-long diplomatic conference was convened in March 2013 to complete work on the treaty. However, Iran, North Korea, and Syria blocked consensus on the final treaty text, leading treaty supporters to move it to the UN General Assembly on for approval. On April 2, 2013, the UN General Assembly endorsed the ATT by a vote of 156-3, with 23 abstentions. The treaty opened for signature on June 3, 2013, and entered into force on December 23 of 2014.⁴¹

World Trade Organization and Arms Trade

⁴⁰Daryl G. Kimbal, "The Arms Trade Treaty At a Glance, Arms Control Association" (2016).

⁴¹*Ibid.*

The relevance of arms export subsidies becomes much higher following the definition of subsidy agreed by the World Trade Organization members (WTO) in the Agreement on Subsidies and Countervailing Measures.⁴² According to this criteria, an export subsidy to a firm would include not only direct transfers of funds (e.g. grants, loans, and equity infusions) and potential direct transfers of funds or liabilities (e.g. loan guaranties) but also, indirect subsidies channeled through purchases of goods by the government, among others. Following this definition, military aid to importers, marketing advice to national champions, subsidized export credit guaranties⁴³ and a portion of national defense procurement would all enter into the ‘export subsidy’ category.⁴⁴

Despite the fact that arms trade constitutes the first source of ‘legal’ trade in the world, the WTO has given an exemption to arms exports subsidies. Therefore, the categories of prohibited or actionable subsidies in the ASCM do not apply to arms exports. This exemption is recorded in the General Agreement on Tariffs and Trade (GATT): “...*nothing in this Agreement shall be construed...to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests*”

⁴² Agreement on Subsidies and Countervailing Measures [hereinafter, “ASCM”], Art 1 Sec. 1.

⁴³ P Powell S. Bagci, S., Grayburn, Kvekvestia J., Venables V, Estimating the Economic Costs and Benefits of ECGD, National Economic Research Associates (NERA), 2003.

⁴⁴ Maria del Carmen Garcia-Alonso, Paul Levine, “Arms Export Controls, Subsidies and the WTO Exemption” (October 24, 2003).

- (i) relating to fissionable materials or the materials from which they are derived;
- (ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
- (iii) taken in time of war or other emergency in international relations.⁴⁵

General Scheme of Illicit Arms Trafficking

Illicit trafficking in firearms, their parts and components and ammunition has long been a major concern for the international community.⁴⁶ The vast majority of small arms on the black market were produced and traded legally before being diverted into an illicit network.⁴⁷ Much of illicit arms trade in fact depends on the control, or lack of control, of legal transfers.⁴⁸ Thus, such process of unauthorized transfer of arms and ammunition from the stocks of lawful users to the illicit market is known as diversion.⁴⁹

⁴⁵ The General Agreement of Tariffs and Trade [hereinafter "GATT"], Art. XXI, Security Exceptions.

⁴⁶ United Nations Office on Drugs and Crime, "A Study on the Transnational Nature of and Routes and Modus Operandi Used in Trafficking Firearms", Study on Firearms (2015).

⁴⁷ Rachel Stohl, *Loc. Cit.*, p. 22.

⁴⁸ See Small Arms Survey 2007-2010.

⁴⁹ *Ibid*, p. 34.

Diversion lies in the core of arms proliferation. Across the world, the diversion of arms and ammunition sustains the activities of non-state armed groups, terrorist organizations, and armed criminals.⁵⁰ There are seven primary ways in which diversion occurs:⁵¹

a. Direct shipping to debarred countries

Violations of arms embargoes, both by supplier states and those that allowed weapons to be transshipped through their countries.⁵² Government officials accept bribes in exchange for export license for intangible parties and other services. Cash payouts are particularly common in countries where government workers receive lower salaries or do not receive regular wages.⁵³

b. Poor Stockpile Security and Management

Lack of surveillance and supervision make government arsenals attractive to thieves and vulnerable to accidental loss. Weapons can flow from insecure government stockpiles into the hands of illegal arms dealers or end up in the hand of organized crime syndicates, terrorist or rebel groups.⁵⁴

⁵⁰ *Ibid.*

⁵¹ Rachel Stohl, *Loc. Cit.*, p. 22.

⁵² United Nations Security Council, Final Report of the Monitoring Mechanism on Angola Sanctions, S/2000/1225.

⁵³ Rachel Stohl, *Loc. Cit.*, p. 22.

⁵⁴ *Ibid.*

c. Stolen Stockpiles

National arsenals can be looted during times of instability.⁵⁵

For example in 1997, over half a million weapons are stolen from the Albanian national arsenal, also a multitude of armed groups and smuggling network looted Qadhadhfa district in Libya.⁵⁶

d. Lost stockpiles

Weapons are sometimes simply lost by the government or military. From the United States to the Philippines, weapons are accidentally misplaced or unaccounted for. These weapons often end up in the black market.⁵⁷

e. Un-official sales by officials

Soldiers may sell weapons for cash. In countries where military personnel have not been paid, surplus weapons have not been collected from military stocks, or soldiers have sympathies to a rebel cause, weapons may be sold for cash.⁵⁸

f. Stolen from civilians

⁵⁵ *Ibid.*

⁵⁶ Libya's Fractious South and Regional Instability, Security Assessment in North Africa, a project of the small arms survey, Geneva, Dispatch No. 3, February 2014.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

Weapons are often stolen from both legitimate and illegal civilian owners. Known gun owners are attractive targets for those trying to get their hands of weapons quickly.⁵⁹

g. Domestic Purchasing

Domestic purchasing laws facilitate the entrance of small arms into the illicit market. In countries where there are no limits to how many guns a person may legally own or buy at one time, the phenomenon of “straw purchasing” has become common. Individuals buy several weapons at a time then illegally resell the weapons, often bringing the weapons across international borders to sell in countries where gun laws are more restrictive.⁶⁰

The Trends of Transnational Terrorism

a. Modern day terrorism

The profound changes in the international political environment during the 1980 are led to new perceptions of warfare and the use of violence in sub-state conflicts. This included new interpretations of the motivation and aims of terrorism as a political strategy.⁶¹

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ Francina Bester, “New Trends in Contemporary International and Transnational Terrorism as Manifested in the Al-Qaeda Movement”, April 2007.

For the historian of contemporary terrorism, four years stand out as turning points: 1968, 1979, 1983, and 2001.⁶²

In 1968, Latin American insurgents launched their so-called urban guerrilla strategy, and Palestinians initiated the tactic of terrorism as publicity stunt, which soon evolved into serious violence. As we have seen, both undertook terrorist type activities as a substitute for the guerrilla warfare that neither was competent to wage.⁶³

When the Iranian revolution marked the striking success of radical Shiite Islamism in 1979, its influence was both direct, as with Hezbollah in Lebanon, and indirect, facilitating the rise of suicide bombings by the traditional glorification of martyrdom. This tradition also inspired the radical Sunni Islamists of Hamas, al Qaeda, and others. The Soviet intervention in Afghanistan in 1979 was seized upon by Washington as the perfect opportunity to inflict upon the USSR the same kind of defeat that the United States had suffered in Vietnam. The United States, with the financing of Saudi Arabia and the collaboration of Pakistan, which provided logistical support, safe haven, and training centers, gave telling assistance to the Afghan resistance fighters. Radical Islamists from the Middle East and other Muslim regions began to pour in from the very onset of the war to

⁶² Gérard Chaliand and Arnaud Blin, *Op. Cit.*, p. 221.

⁶³ *Ibid.*

participate in the jihad in any number of ways. Many received their religious and military training on the battlefield. As Sunni-inspired militants, they served the United States, Saudi Arabia, and Pakistan as a counterweight to the mystique of the Shiite revolution in Iran. Among the diverse movements involved in the Afghan resistance, the United States opted to back the most radical of Islamists, Gulbuddin Hekmatyar, leader of the Hezbi Islami, or Islamic Party.⁶⁴

During these years, the 1983 suicide bombings in Beirut were the single most significant development in international terrorism, especially the two that killed 241 American Marines and 53 French paratroopers. These Hezbollah attacks led to the withdrawal of Western troops and were the most important triumph of international terrorism between 1968 and 2000. Indeed, in this instance, the psychological impact was equaled and perhaps even surpassed by the consequence of the attacks: the enemy's retreat.⁶⁵

The fourth turning point, of course, was the attack of September 11, 2001, marking the final evolutionary stage of classical terrorism. That moment gave rise in turn to the most significant counterterrorism operation ever undertaken: the war to overthrow the terrorist haven of Afghanistan.⁶⁶

b. Transnational Terrorism

⁶⁴ *Ibid*, p. 222.

⁶⁵ *Ibid*.

⁶⁶ *Ibid*, p. 223.

When a premeditated threat, or actual use of violence to attain a political goal through fear, coercion, or intimidation, and its ramifications transcend national boundaries through the nationality of the perpetrators and/or human or institutional victims, location of the incident, or mechanics of its resolution it is claimed to be as an act of Transnational Terrorism.⁶⁷

During the modern era of transnational terrorism, terrorists crossed borders and, in some instances, staged incidents in foreign capitals to focus world attention on their cause or grievance.⁶⁸

Since the start of the modern era of transnational terrorism in 1968, terrorists have shared ideologies – the leftists sought to overthrow capitalist governments, while the fundamentalists have followed a fatwa issued against the “enemies” of Islam. These common ideologies and calls to action motivated terrorists to strike in concert against target countries. Some political events have simultaneously resulted in attacks in many countries.⁶⁹ For example, a spate of terrorist attacks followed the Arab-Israeli conflicts, the US

⁶⁷ *Ibid.*

⁶⁸ Todd Sandler, Daniel G. Arce, “Transnational Terrorism”, CREATE Research Archive.

⁶⁹ Khusrav Gaibulloev, *Loc. Cit.*

retaliatory raid against Libya in April 1986, the Gulf War in January 1991, and the Abu Ghraib prison revelations in April 2004.⁷⁰

c. The Link Between Terrorism and International Arms Trade

International transfers of weapons are a component of trade that can be expected to be particularly responsive to conflict, although the normative implications of the effects are not as straightforward. Strong imports of passenger cars signal consumer confidence and smoothly operating international trade channels. Strong imports of armored vehicles, on the other hand, may be a sign of growth-destroying resource re-allocation.⁷¹

Arms smuggling is a criminal activity in which terrorists tend to be involved. Other criminals and non-state actors may play a key role in the terrorist acquisition and transport of arms and weapon.⁷² There are frequent reports of insurgent and guerrilla groups involved in arm trafficking on every continent, some of them are terrorists, some of the suppliers are organized criminals. Illegal trafficking in arms is increasing in Western

⁷⁰ Brandt, P.T., and T. Sandler, "Hostage Taking: Understanding Terrorism Event Dynamics", *Journal of Policy Modeling*, 31 (2009), 758-78; Enders W., and T. Sandler, "The Effectiveness of Anti-Terrorism Policies: A Vector Autoregression-Intervention Analysis", *American Political Science Review*, 87 (1993), 829-44.

⁷¹ Brock Blomberg, Oana Tocoian, "Terrorism and Arms Trade" (2013), p. 3.

⁷² Lilley P., *Dirty Dealing – The Untold Truth about Global Money Laundering , International Crime and Terrorism*, 2nd Edition, (London: Kogan Page).

Europe and that the trafficking patterns are diverse and complex.⁷³

F. Research Methods

I. Source of Data

The source of data is divided into three; primary legal materials, secondary legal materials and tertiary legal materials. The primary legal materials that were used to complete this research are laws and regulations, both nationals and internationals such as well as other jurisprudences. The secondary legal materials comprises of books, journals, articles, documents and news that cover various aspects within this topic and written by relatively highly qualified writers. As for the tertiary legal materials are legal dictionary.

II. Data Collecting

The process of collecting data in the making of this research was done through both library studies by digging up as many as possible knowledge and information from the books, journal, articles, documents and news, as well as from national and international laws.

III. Data Approach

⁷³ Curtis G.E. and T. Farakan, "The Nexus Among Terrorist, Narcotics, Traffickers, Weapons Proliferators, and Organized Crime Networks", Western Europe Federal Research Division, Library of Congress, (Washington, DC: 2002).

The approach in this research is using the combination of the normative-empiric approach. This will be centering on statute approach, conceptual approach, analytical approach, historical approach, philosophical approach and case approach, as well as sociological approach by gaining information from the interview with the informant.

IV. Data Analysis

In the process of analyzing data during the process of this research, it is applied the qualitative method of analysis. This is done by describing the already gained data, knowledge and information through description or explanation which is assessed by the opinions of the experts, by laws, and also by the researcher's own arguments.

G. Systematic of Writing

The systematic writing on this thesis is made and arranged in four chapters to elaborate a systematic discussion of each issue. The systematics of this thesis is explained as follows:

Chapter one, Introduction. This chapter consists of context of study, Problem formulations, objectives of study, definition of terms and theoretical framework.

Chapter two, is a general review. This chapter consists of general review concerning international legal instruments of arms trade, the trends and development of transnational terrorism, and the relationship between the activity of illicit arms trade and transnational terrorism.

Chapter three is research analysis. This chapter concerns with the answer of the problem statements. In this chapter the writer will discuss the discovery of weaknesses from the current international legal instruments on arms trade so far with the activities of illicit arms trade and the measures that needs to be taken for the prevention of transnational terrorism.

Chapter four provides conclusion and recommendation. This chapter will conclude the discussed matter based on the analysis made by the writer and gives recommendations to the aforementioned issues.

