

# ARMS TRANSFERS TO SOUTH SUDAN



CASE STUDY 1

2015

**THE HISTORY OF ARMS TRANSFERS TO SOUTH SUDAN AND THEIR MOVEMENT THROUGH NORTH EASTERN AND EASTERN AFRICA IS A POWERFUL EXAMPLE OF HOW THE LACK OF STRONG AND UNIVERSAL REGULATIONS OF INTERNATIONAL ARMS TRANSFERS CONTRIBUTES TO VIOLENCE AND WIDESPREAD INSTABILITY.**

Over decades, several governments (in East Africa and beyond) have repeatedly authorised or allowed weapons to be transferred to armed forces that are known to be violating ceasefire agreements in Sudan and South Sudan. These forces have also engaged in grave and persistent violations of international humanitarian and human rights law. Arms and ammunition have continued to make their way to these States despite this track record and persistent evidence of diversion to rebel forces and other unauthorised end-users.

These unrestricted arms flows have fuelled the ongoing conflict in South Sudan, and resulted in tremendous harm caused to civilians and public infrastructure.

This case study begins by providing an overview of the context within which arms proliferation and misuse takes place in South Sudan. It then examines the principal sources of the weapons – including their transfer mechanisms – that are in use in the current conflict in South Sudan. Finally, the case study explores how the Arms Trade Treaty (ATT) could potentially address such irresponsible arms transfers, and thereby contribute to saving lives and promoting peace in South Sudan, and the wider region.



## BACKGROUND

South Sudan has suffered internal and cross-border armed conflict both prior to and since the country's independence in 2011. Conflict erupted in the border states of South Kordofan and Blue Nile in June and September 2011. Disputes with Sudan over the Heglig/Panthou border area escalated to conflict in March 2012, while insurgent attacks and inter-tribal armed violence destabilised parts of the Greater Upper Nile region.

In December 2013, violence again broke out in South Sudan in the context of a power struggle between President Salva Kiir and his former deputy Riek Machar. President Kiir mobilized his ethnic group the Dinkas, and Machar turned to his Nuer ethnic group for support – the two largest ethnic groups in South Sudan. The Sudan People's Liberation Army (SPLA) became involved in the dispute and then disintegrated as fierce fighting involving military and other armed groups spread across the country within days.

After multiple failed attempts by the government and opposition forces to reach cease-fire agreements, Kiir and Machar agreed to stop fighting in August 2014 during talks mediated by the Intergovernmental Authority on Development (IGAD). The warring sides failed to reach an agreement to form a unity government by the six month deadline under the deal and, after talks collapsed in March 2015, IGAD announced a new mechanism for negotiations and an extension of the deadline for the two sides to reach a power sharing agreement.

In March 2015, South Sudanese lawmakers again postponed elections and extended President Kiir's term until 2018. Since then, fighting has resumed, and by July 2015 the warring parties were involved in 46 violations of the cessation of hostilities agreement.<sup>1</sup> The current conflict has claimed the lives of more than 50,000 people, and created 500,000 refugees and 1.5 million displaced people.<sup>2</sup>



<sup>1</sup> | Intergovernmental Authority on Development (IGAD). 2015. Summary of Latest Reports of Violations of the Cessation of Hostilities Agreement (COHA). Office of the Special Envoys for South Sudan. 7 July 2015. (Accessed 10 August 2015). <<http://southsudan.igad.int/attachments/article/294/Summary%20of%20Latest%20Reports%20of%20Violations%20of%20the%20Cessation%20of%20Hostilities%20Agreement-%20V43-46%20ENG%20%20.pdf>>

<sup>2</sup> | See UN OCHA. 2015. Humanitarian Bulletin: South Sudan Biweekly Update. 30 April 2015. (Last accessed 10 August 2015) <[https://www.humanitarianresponse.info/en/system/files/documents/files/south\\_sudan\\_april\\_biweekly\\_2015\\_humanitarian\\_bulletin.pdf](https://www.humanitarianresponse.info/en/system/files/documents/files/south_sudan_april_biweekly_2015_humanitarian_bulletin.pdf)>.

## ARMS TRANSFERS TO SOUTH SUDAN

South Sudan has obtained arms and ammunition from a number of key sources. Prior to independence, and during the Comprehensive Peace Agreement interim period (2005-2011), Ukraine was the most prolific verified exporter of conventional weapons to South Sudanese forces like the SPLA. Investigators verified regular shipments of Ukrainian T-72M1 main battle tanks, conventional weapon systems, small arms and light weapons, and ammunition to the SPLA.<sup>3</sup> The Government of South Sudan (GoSS) issued at least three contracts to the Ukrainian state arms exporter Ukrspetsexport between 2006-08, initiating the purchase of ZU-23-2 (23 mm) and ZPU-4 (14.5 mm) anti-aircraft guns, BM-21 Grad 122 mm self-propelled multiple-launch rocket systems, RPG-7V rocket launchers, T-72M1 and T-72M1K main battle tanks, approximately 40,000 AKM assault rifles (based on the weights exported), and thousands of rounds of ammunition.<sup>4</sup> These weapons, apparently authorised by Ukraine for import by Kenya, were offloaded in Mombasa and were subsequently transported through Kenya and Uganda to South Sudan.<sup>5</sup>

Since its independence in 2011, South Sudan Government forces have received large volumes of weapons and ammunition from countries including China, South Africa and Canada. The China North Industries Corporation (NORINCO), a Chinese state-owned defence manufacturing company, provided ammunition to South Sudan from 2011 to July 2014. A single transfer in 2014 was worth more than USD 30 million, and all of which transited through Mombasa, Kenya.<sup>6</sup> The transfer included more than 27 million rounds of small calibre ammunition, 40,000 rounds of 40 mm Type-69 HEAT rockets for RPG launchers, 20,000 rounds of 40 mm BGL2 anti-personnel grenades, 1,200 Type HJ-73D anti-tank missiles, more than 9,500 Type 56 (AK-pattern) 7.62 x 39 mm assault rifles, 2,394 add-on 40 mm under barrel grenade launchers, as well as smaller quantities of NP42 9 mm pistols, Type 80 general-purpose machine-guns, and other military equipment.<sup>7</sup>



**CONFLICT ARMAMENT  
RESEARCH FIELD INVESTIGATOR  
DOCUMENTING AMMUNITION  
AIRDROPPED TO SPLA-IO  
FORCES. PHOTO TAKEN ON 11  
DECEMBER 2014 IN MALAKAL,  
SOUTH SUDAN**

CREDIT: © CONFLICT ARMAMENT  
RESEARCH

<sup>3</sup> | Lewis, M. 2009. Skirting the Law: Sudan's Post-CPA Arms Flows. HSBA Working Paper No. 18. Geneva: Small Arms Survey. September.

<sup>4</sup> | Lewis, 2009, pp. 39-44. The Stockholm International Peace Research Institute (SIPRI) Arms Transfers Database confirms these deliveries and records transfers from Ukraine to South Sudan for a total of USD 82 m. from 2007 to 2009. USD indications are at constant (1990) prices.

<sup>5</sup> | Lewis, 2009. Somali pirates intercepted one of these shipment on board the MV Faina in September 2008.

<sup>6</sup> | Gridneff, 2014, and confidential documents received by Conflict Armament Research.

<sup>7</sup> | Ibid

In 2012, South Africa transferred 10 Reva III Armoured Personnel Carriers (APC), valued at USD 2 million, to South Sudan's Ministry of Defence.<sup>8</sup>

Between 2012 and 2014, the SPLA procured 20 'Cougar' and 30 'Typhoon' type APCs worth USD 9 million from the United Arab Emirates production facilities of the Canadian-owned manufacturer Streit Group.<sup>9</sup> Both the Cougar and Typhoon APCs were subsequently observed in different locations within South Sudan between May and December 2014, including in areas of Unity State where the conflict has been intense.

It's important to note that the types, quantities, and scale of military materiel transfers to South Sudan Government forces are difficult to estimate. There is very little official data on arms transfers to South Sudan, and the GoSS does not have a centralized arms procurement system, or a comprehensive inventory.<sup>10</sup> In addition, the country does not submit arms transfer data to the UN Register of Conventional Arms or the UN Commodity Trade Statistics Database. Detailed field research by NGO actors such as Conflict Armament Research and the Small Arms Survey's Sudan/South Sudan Human Security Baseline Assessment (HSBA), alongside accounts from civil society, media and UN researchers has helped clarify the provenance of South Sudan's arms and ammunition.



**A SINGLE TRANSFER IN 2014 INCLUDED MILLIONS OF ROUNDS OF AMMUNITION, RPG ROCKETS, ANTI-PERSONAL GRENADES, ANTI-TANK MISSILES, ASSAULT RIFLES, AND GRENADE LAUNCHERS**

Rebel forces in South Sudan derive their arms and ammunition from a variety of sources. These include:

- from GoSS stockpiles (as retained by soldiers or diverted or stolen from insecure stockpiles);
- battlefield seizures – for example, in 2012-13, "Yau Yau's militia secured large numbers of weapons and their associated ammunition as a result of its battlefield successes against the SPLA in Jonglei. These weapons included heavy machine guns, mortars, and several vehicles"<sup>11</sup>; and
- regional trafficking networks or direct supply from neighbouring countries.<sup>12</sup>

These items all have various origins. Weapons manufactured in Eastern European countries such as Bulgaria, the former Czechoslovakia, and the former Soviet Union are very common among armed groups throughout Africa, and South Sudan in particular.<sup>13</sup> In addition, as Sudan's domestic weapon manufacturing sector has grown, researchers have documented increasing samples of Sudanese materiel in the stocks of South Sudanese opposition groups. Sudanese security forces are known to have armed South Sudanese rebels by land and air, in addition to supply through logistic bases in Sudan.<sup>14</sup>

Weapons transfers have continued through the current crisis, ignoring repeatedly-demonstrated risks of both misuse and diversion to rebel groups. In addition to large-scale internal diversion and recirculation of GoSS stockpiles, arms and ammunition have been flown and transported into the country from neighbouring states, and by international suppliers, to forces engaged in serious crimes. The next section will explain how the Arms Trade Treaty has the ability to influence this situation in a positive way.

<sup>8</sup> | SIPRI. 2015. Arms Transfer Database. Last accessed 10 August 2015. [http://armstrade.sipri.org/armstrade/page/trade\\_register.php](http://armstrade.sipri.org/armstrade/page/trade_register.php)

<sup>9</sup> | Gridneff, I. 2014. China Halts Arms Sales to South Sudan After Norinco Shipment. Bloomberg, 30 September.

<sup>10</sup> | Van de Vondervoort, L. 2014. "Guns Are for the Government": An Evaluation of a BICC Advisory Project on State-owned Arms Control in South Sudan. Bonn International Center for Conversion (BICC) Working Paper 1\ 2014. Bonn: BICC.

<sup>11</sup> | Small Arms Survey. 2014. Signs of Supply - Weapons tracing in Sudan and South Sudan. Chapter 7, pg. 238. < <http://www.smallarmssurvey.org/fileadmin/docs/A-Yearbook/2014/en/Small-Arms-Survey-2014-Chapter-7-EN.pdf> >

<sup>12</sup> | Lewis, 2009.

<sup>13</sup> | The Arms and Ammunition Tracing Desk of the Human Security Baseline Assessment for Sudan and South Sudan (HSBA) is a multi-year research project administrated by the Small Arms Survey that has traced weapons and ammunition in South Sudan and the region for the last 5 years. Small Arms Survey investigators documented weapons and ammunition in the hand of different armed actors such as the South Sudan Liberation Army, the SPLA-North, the Sudanese Armed Forces, and militias under the command of George Athor, John Duit, Peter Gadget, and David Yau Yau. Data in the following paragraphs are mostly derived from the findings of HSBA's tracing investigations, which are listed, together with other investigations conducted by Conflict Armament Research and by independent investigators

<sup>14</sup> | Conflict Armament Research interviews with former South Sudan Liberation Army elements (now SPLA 4th Division) in Rubkona, May 2014. See also Conflict Armament Research. 2015. Weapons and Ammunition Airdropped to SPLA-iO Forces in South Sudan. London: Conflict Armament Research. June, Gramizzi, Claudio. 2013. At an Impasse: the Conflict in Blue Nile. HSBA Working Paper 31. Geneva: Small Arms Survey. December, Leff and LeBrun. 2014. pp. 103-104.

## THE ARMS TRADE TREATY AND SOUTH SUDAN

The recent entry into force of the ATT has the potential to change the 'business as usual' approach to arms transfers to contexts like South Sudan. The majority of the countries of the world have signed up to abide by the Treaty – including many large exporters.<sup>15</sup> Continued efforts to universalise Treaty adherence will have a positive impact on crisis situations like South Sudan.

A closer examination of several Articles and provisions of the Treaty show that irresponsible arms transfers – of the kind that have taken place in South Sudan over the past decade – can be stopped.

For example, Article 7 (Export and Export Assessment) obliges exporting States Parties to "assess the potential that the conventional arms or items: (a) would contribute to or undermine peace and security; (b) could be used to: (i) commit or facilitate a serious violation of international humanitarian law; (ii) commit or facilitate a serious violation of international human rights law" prior to authorising an export of conventional arms.<sup>16</sup>

A thorough and comprehensive risk assessment of arms transfers to South Sudan would reveal that there is an overriding risk that the arms would be used in violation of human rights and international humanitarian law. Human Rights Watch, Amnesty International and UN observers have documented repeated cases of abuses by both the Government and the Sudan People's Liberation Army in Opposition (SPLA-iO) forces involving small arms, light weapons, tanks and other vehicles in Juba, Bor, Bentiu (Unity State), Malakal (Upper Nile) since the beginning of the current conflict in December 2013.<sup>17</sup>

Article 9 (Transit or transshipment) is also relevant when considering the prohibitions set out in Article 6. Under Article 9, States Parties are required to regulate transit and transshipment of covered items "where necessary and feasible". The Treaty leaves to the prerogative of individual States Parties to decide the circumstances and means of regulating transit/transshipment. However, Article 6 imposes binding obligations on all States Parties not to authorise transfers (including transit/transshipment) where it is known that the arms in question would be used in the commission of genocide or war crimes.



**SOLDIERS FROM THE SUDANESE PEOPLE'S LIBERATION ARMY DISPLAY MORTAR BOMBS, ROCKETS, ANTI-TANK RIFLES AND VARIOUS SMALL-CALIBRE AMMUNITION CAPTURED FROM SUDANESE ARMED FORCES, MAY 2012**

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<sup>15</sup> | There are currently 72 States Parties as well as an additional 58 State Signatories that have yet to ratify the ATT.

<sup>16</sup> | Arms Trade Treaty, Article 7(adopted 2 April 2013, entered into force 24 December 2014) \_UNTS (ATT) Art7(1).

<sup>17</sup> | See for instance Human Rights Watch. 2014. South Sudan's New War: Abuses by Government and Opposition Forces. Washington, D.C.: Human Rights Watch.



**CONFLICT ARMAMENT RESEARCH FIELD INVESTIGATOR DOCUMENTING AMMUNITION AIRDROPPED TO SPLA-IO FORCES. PHOTO TAKEN ON 11 DECEMBER 2014 IN MALAKAL, SOUTH SUDAN**

CREDIT: © CONFLICT ARMAMENT RESEARCH

Since the beginning of the conflict in December 2013 the UN, Amnesty International and Human Rights Watch have all expressed serious concerns regarding the commission of atrocities, including war crimes, within South Sudan. As a result, there would appear a prima facie case for all ATT States Parties and Signatories not to authorise any transfers of arms to South Sudan or to any state that is likely to divert arms into the conflict. The evidence in this case study further illustrates how arms transfers to South Sudan arrived there via neighbouring countries such as Kenya, Uganda and Sudan with the authorization or at times, direct involvement of those countries' governments.

Article 10 (on Brokering) is also relevant given that unregulated and criminal networks of arms brokers are known to be responsible for the diversion of arms from the legal to illicit markets, and into conflict affected countries in circumstances similar to those of South Sudan.<sup>18</sup>

Article 11 (Diversion) is of particular importance to the South Sudan context. The Treaty necessitates that all ATT State Parties are required to take a variety of measures to prevent and combat the diversion of arms, including denying export authorisations.

In South Sudan, the internal diversion of state-owned material as a result of weak stockpile security and insufficient inventory management is a main source of weapons and ammunition for rebel groups. Sudanese security forces have repeatedly diverted and re-transferred weapons and ammunition manufactured in China, Iran, Eastern Europe, and the former Soviet Union to South Sudanese rebels.<sup>19</sup> Despite clear evidence of such repeated diversion, China, Iran and the Russian Federation continue weapon shipments to Sudan.

So far, the measures discussed have largely focussed on preventing transfers to South Sudan in circumstances where the arms are likely to be used to violate the terms of the ATT. There are however a number of measures that the GoSS can take which would reduce risks associated with transferring arms to conflict-affected situations. It is here that Article 8 (on Imports) of the ATT can serve a useful purpose.

<sup>18</sup> | The United Nations Regional Centre for Peace and Disarmament in Africa (UNREC)/United Nations Office for Disarmament Affairs (UNODA) Regulating Small Arms Brokering in Eastern Africa. Lome: 2011. Page X. Available <http://unrec.org/docs/Small%20Arms%20Brokering%20in%20Eastern%20Africa.pdf>

<sup>19</sup> | Conflict Armament Research interviews with former South Sudan Liberation Army elements (now SPLA 4th Division) in Rubkona, May 2014. See also Conflict Armament Research. 2015. Weapons and Ammunition Airdropped to SPLA-IO Forces in South Sudan. London: Conflict Armament Research. June, Gramizzi, Claudio. 2013. At an Impasse: the Conflict in Blue Nile. HSBA Working Paper 31. Geneva: Small Arms Survey. December, Leff and LeBrun. 2014. pp. 103-104.

Article 8 provides guidance for importing states to develop systems and mechanisms – like end-use and end-user certificates for example – that will enable the importing state to manage their purchases safely and responsibly. To this end, there are encouraging signs, as the Government and the National Legislative Assembly of South Sudan are currently considering a number of laws and regulations that will enable agencies like the Bureau for Community Security and Small Arms Control (BCSSAC) to better regulate the flow of arms into and within the country.

### MOVING FORWARD

The international community has put into place measures specifically aimed at regulating arms transfers to South Sudan. Sudan has been under a European Union (EU) arms embargo since 1994 that was extended to South Sudan in 2011. The recent adoption of UN Security Council Resolution S/RES/2206 (2015) created a Panel of Experts to monitor and report on arms transfers to South Sudan.<sup>20</sup> Political and diplomatic pressure has already proven effective in limiting some arms transfers to South Sudan. For instance, after having delivered military equipment in June/July 2014, China stopped all deliveries to South Sudan in September 2014.

The ATT reinforces and complements these initiatives and, if properly implemented, will have tangible and real impact on arms flows into the crisis zone. Much work still needs to be done to convince the majority of suppliers of arms and ammunition to South Sudan to join the ATT, as many of them remain outside the Treaty. What is however abundantly clear is that meaningful implementation of the ATT in the East African region and internationally would positively impact the South Sudan peace process and the lives of thousands of people that are suffering and displaced within their own country.

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**A CHILD COLLECTS BULLETS FROM THE GROUND IN ROUNYN, A VILLAGE LOCATED IN NORTH DARFUR, SUDAN. MOST OF THE POPULATION IN ROUNYN FLED DUE TO CIVIL CONFLICT IN 2011**

CREDIT: © UN PHOTO / ALBERT GONZALEZ FARRAN

<sup>20</sup> | United Nations Security Council. 2015. Resolution 2206. New York. <[<http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2206%20\(2015\)>](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2206%20(2015))>