

Fatal Freight

Ships, Guns and Human Rights Abuses

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Editorial

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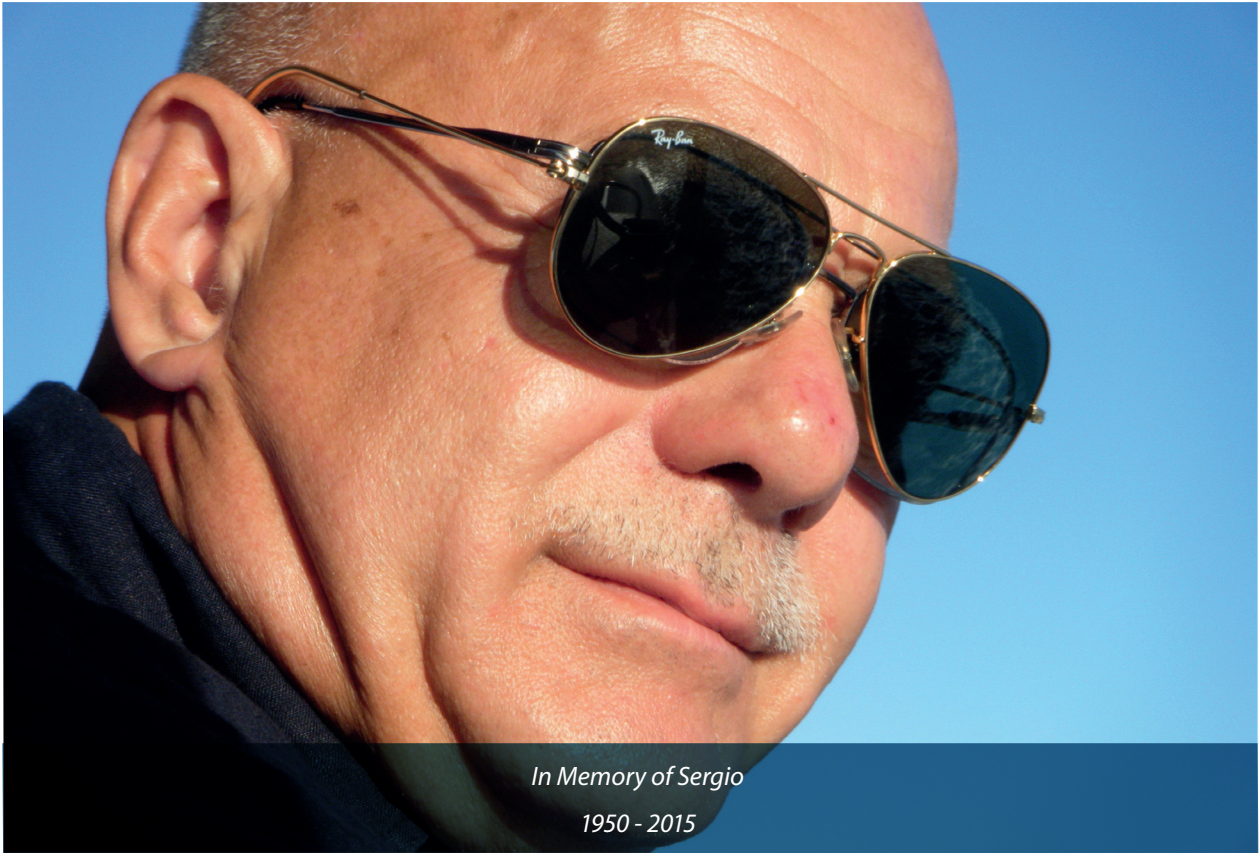
METHODOLOGY

Research for this report has been carried out by Sergio Finardi (TransArms, USA), in cooperation with Peter Danssaert (International Peace Information Service vzw). Information on shipments of arms and military commodities comes from TransArms and IPIS databanks (<http://transarmsusa.org/logtransdb/>), based on specialized maritime industry databases, transport documents, on-field research, media reports corroborated by evidence, among other sources. Information on individual ships, shipowners, and ship managers comes from maritime industry vessels databases. Information on ships voyages comes from a variety of satellite-based shiptracking technologies used by maritime traffic monitoring organizations.

EDITOR'S NOTE

The following publication was finished by Sergio Finardi in early 2015. It was his last wish to get this report published.

Cover photo: The first shipment of M1A1 Abrams tanks arrived today at the port of Umm Qasr, Iraq. This initial delivery of 11 is the first of 140 systems that will be delivered throughout the coming year as part of a foreign military sales agreement between the U.S. and Iraqi governments. (Photo by Department of Defense).



Glossary¹

Arms: All conventional military and civilian weapons, ammunition, parts thereof, and military support services, if not otherwise indicated.

Arms Trade Treaty: An international binding agreement on how States should regulate their arms trade, entered into force December 24, 2014.

Arms transfers: Transfers of military equipment and services of any nature from a country to another country, irrespectively of the legal or illegal nature of transfers.

Arms transfer types:

- *Government-to-government transfers:* transfers of military equipment and services directly arranged between two governments.
- *Commercial arms transfers:* transfers of military and non-military arms, weapons, and ammunition between either a manufacturer or a broker and a foreign entity.
- *Legal arms transfers:* transfers of military equipment and services of any nature that do not violate national and international laws and agreements at the date of transfers.
- *Illegal arms transfers:* transfers of military equipment and services of any nature that violate national and international laws and agreements at the date of transfers.
- *Irresponsible arms transfers:* transfers of arms that may contribute to severe human rights violations, irrespectively of the legal or illegal nature of such transfers.

Bill of lading, B/L: A document that serves three main functions: a) it is a receipt for goods shipped on board; b) it is a document of title for these goods; and c) although not a contract, it is evidence of a previous contract.

Brokers: Corporations or individuals directly involved in facilitating, arranging or negotiating arms transfers. Through direct involvement in arranging or negotiating arms transfers, arms brokers can also be involved in arranging financial and logistical support for a deal, including banking, insurance, storage and transport.

Carriers: Transport companies that own or manage transport assets and carry out the transfers

Dealers: Corporations or individuals whose activities consist of buying and selling arms. Corporations or individuals in command of large stock of arms are often involved in brokerage activities.

Deadweight Tonnage (DWT): is a measure of a ship's maximum carrying capacity. It is the difference between the number of tons of water a vessel displaces when submerged to her summer loadline (fully laden) and the number of tons of water a vessel displaces when 'light' (non-laden). It includes cargo, consumables (bunker oil, fresh water, drinking water, ballast water, provisions, lubricating oil), and crew and passengers and their possessions.

Hazardous materials/Dangerous Goods: Materials that pose a danger to human life and the environment if improperly handled and transported, divide by the United Nations in 9 categories (with subcategories) according to their content

Liners: Ships that perform scheduled cargo services from ports in one region to ports of other regions along established routes.

1 Source: Finardi, S., C. Tombola, *Ariadne's Thread*, J.D. and Catherine T. MacArthur Foundation, Chicago, 2003. Partly reproduced in Amnesty International and TransArms, *Dead on Time: arms transportation, brokering, and the threat to human rights*, Amnesty International, ACT 30/008/2006.

Logistics: Activity to plan, implement, control, and forward goods between the point of origin and the point of consumption, including related documentation and storage.

Military commodities: All commodities that support military operations and allow for their implementation.

Shipment: A load of goods that has been forwarded to a customer.



(Source: U.S. Customs and Border Protection)

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Introduction

The Report

This report looks at the responsibilities of states and companies involved in the transfer of military equipment by sea under customary international law. The maritime transport is by far the main modality for the transfers of military equipment and commodities.¹

The report considers cases of irresponsible shipments of arms and military commodities to countries with ongoing armed conflicts and escalating human rights violations at the time when the transfers took place. Those shipments would have fallen under the prohibitions established by one or more articles² of the Arms Trade Treaty, which came into force on 24 December 2014. All the concerned shipments were in effect at substantial risk of those arms and commodities being used to commit or facilitate serious violations of international human rights and humanitarian law. Military fuel and chemicals (such as white phosphorous) are not regulated by the ATT and the report wants to highlight their role in warfare with the aim to indicate a field for future improvements of the ATT.

Effective regulation of the global trade in conventional arms and military commodities must further include adequate provisions to control their physical movement across international borders. Without such requirements, the ATT will fail to address a significant gap in international military equipment transfer controls, and will deprive the international community of a key tool to prevent arms transfers from being used to commit and facilitate serious violations of human rights.

Chapter 1 highlights the role maritime transport plays in the world arms trade and its logistics. Chapter 2 analyses the legal and policy requirements for enhancing transparency and accountability in the transfer of arms and military commodities by sea. Chapter 3 focuses on container vessels as the backbone of the regular arms flows between exporting and importing countries. Chapter 4 illustrates the role of ships specialized in carrying dangerous cargoes and, in particular, ammunition. Chapter 5 focuses on the “arms ferries”, vehicles carriers called roll on/roll off that are able to transport thousands of military vehicles on wheel or tracks. Chapter 6 reports on cases of oil tankers that provided hundred of thousand tons of jet and diesel to a country involved in an armed conflict and severe human rights violations. Chapter 7 focuses on campaigns to stop irresponsible arms shipments.

The report concludes by making a series of recommendations aimed at promoting compliance with the ATT and customary international law. These include the integration of transport arrangements for ATT-controlled goods into the risk assessment procedures for arms transfers; the publication of documentation related to the shipment of arms.

Human Rights Responsibilities of States and Shipping Companies

The international community has decided, through a variety of covenants and agreements, that the promotion and protection of inherent human rights transcends national and cultural boundaries. The Universal Declaration of Human Rights calls on “every individual and every organ of society”³ to play its part in securing universal observance of human rights. Companies are “organs of society” and, as their operations come under scrutiny around the world, consumers, shareholders and the communities with whom they interact increasingly demand this observance.

1 See: Amnesty International and TransArms, *Dead on Time: arms transportation, brokering, and the threat to human rights*, Amnesty International, ACT 30/008/2006.

2 The provisions of article 4 and the prohibitions of article 6, in particular.

3 United Nations, Universal Declaration of Human Rights, adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948. Preamble, <http://www.un.org/>

All companies have a direct responsibility to respect human rights in their own operations, including direct consequences of their activities and labour practices.⁴ Those companies delivering arms or other military or security equipment also need to help ensure that their consignments will not serve to serious violations of human rights. Even in case such companies transport and deliver military equipment to end users who are not under United Nations embargoes they should undertake reasonable due diligence analysis of the potential human rights impact of their actions along their complete supply chain.

Servicing the supply of weapons to State and non-State actors involved in gross human rights abuses or servicing covert operations that violate international and humanitarian laws may amount to the crime of complicity. In public international law, the notion of “complicity” has been developed in two separate branches: state responsibility and individual criminal responsibility. The first exclusively concerns inter-State relations⁵ while the second relates exclusively to the responsibility of individuals. Rules of international criminal law prohibit persons from aiding and abetting in the commission of an international crime.⁶ For example, when committed as part of a widespread or systematic attack against the civilian population, a violation of the right to life or a violation of the prohibition of torture may amount to a crime against humanity.⁷

Maritime and shipping companies should also carefully examine solicitations from defence agencies, to provide logistics support for military operations, in relation to relevant international and humanitarian law. In effect, the legality of such support depends upon the types of operations involved. Clearly illegal in terms of international law is the logistic support of wars of aggression in violation of the U.N. Charter and in support of expeditionary missions abroad without the U.N. Security Council’s approval.

Both states and corporations have an important role to play in ensuring the physical movement of conventional arms and military commodities across international borders is open, transparent and carried out in compliance with customary international law.

Existing international regulation must be applied and consolidated to cover all aspects of the trade. Regulations cannot be limited to the sending and receiving state. The transport of conventional weapons through a states’ territorial waters/ports and on ships ‘flagged’ in their jurisdiction has to be regulated.

States must also regulate transport service providers operating from their jurisdiction to ensure they comply with the Arms Trade Treaty and relevant international law. Customs, border control and maritime authorities must work together to ensure consistency across the logistics chain and enhance transparency.

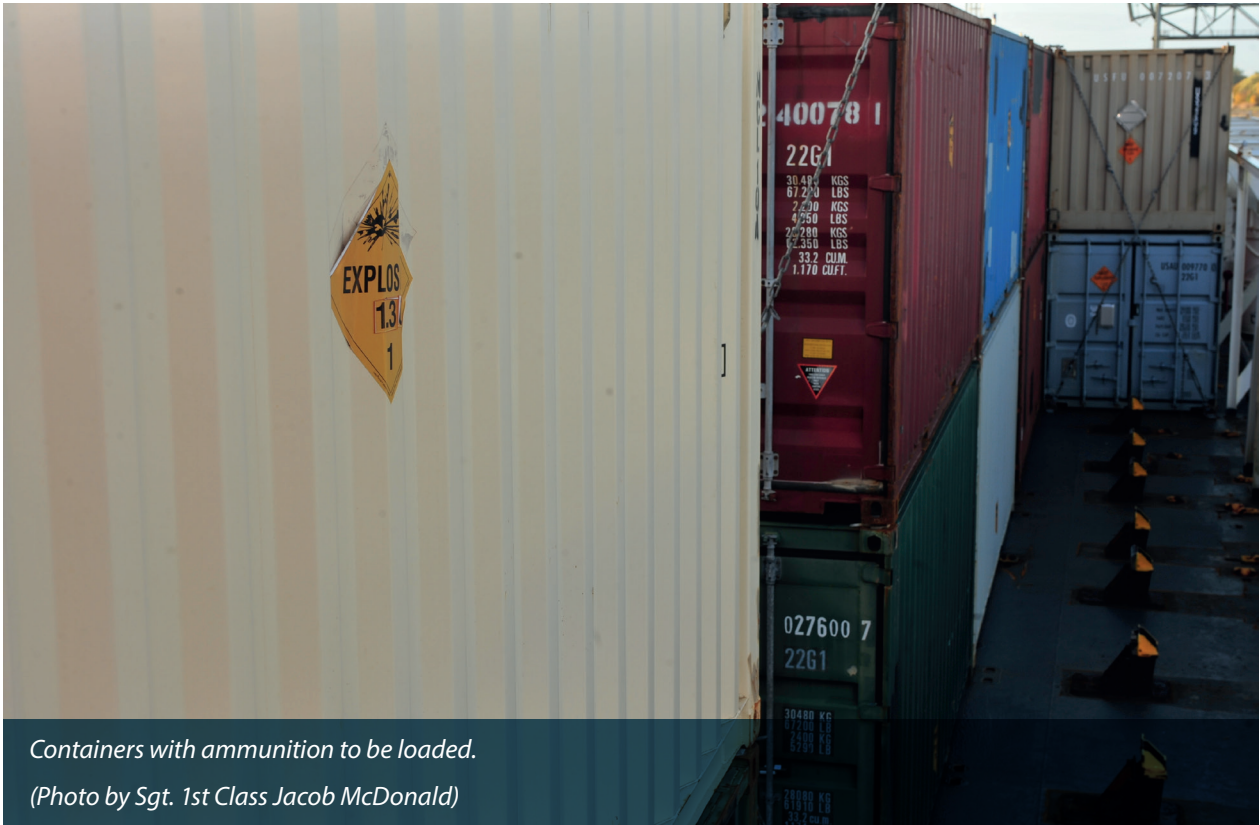
States must also ensure that their arms trade regulations have extra-territorial reach – so that the transport of international arms transfers by its own permanent residents and companies acting in a foreign country is an activity covered by national law. Such laws already exist for piracy, war crimes, genocide, crimes against humanity, torture, and trafficking.

4 Human rights include freedom from discrimination, the right to life and security, freedom from slavery, freedom of association, including the right to form trade unions, and fair working conditions. Particular care needs to be taken by companies to ensure that their security arrangements do not lead to human rights abuses. For example, standards relating to labour rights have been developed by a variety of international organizations, notably the International Labour Organisation (ILO). These include such matters as health and safety, freedom of association and the right to collective bargaining, non-discrimination, disciplinary practices, and avoidance of child labour and forced labour.

5 The participation of a State in illegal acts of individuals may raise questions of attribution but cannot be qualified as complicity in the law of state responsibility.

6 Boivin, A., Complicity and beyond: International law and the transfer of small arms and light weapons, in: *International Review of the Red Cross*, Vol. 87, nr. 859, September 2005.

7 Rome Statute of the International Criminal Court, 17 July 1998, article 7(1) “According to the Rome Statute, the following acts can form the basis of a crime against humanity: murder; extermination; enslavement; deportation or forcible transfer of population; imprisonment or other severe, deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; persecution against any identifiable group or collectively on political, racial, national, ethnic, cultural, religious, gender grounds, in connection with any crime within the jurisdiction of the Court; enforced disappearance of persons; the crime of apartheid; other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”



*Containers with ammunition to be loaded.
(Photo by Sgt. 1st Class Jacob McDonald)*



(Photo by Sgt. 1st Class Jacob McDonald)

1. MARITIME TRANSPORT AND ARMS SHIPMENTS

1.1 Maritime Transport: the Backbone of International Trade

In the last decades, the world of the freight transport industry experienced an enormous change that has helped make the arms trade very different from the past. Central to this change is the new role of transport companies in facilitating an increasingly differentiated world trade.

Transport companies have gradually applied new techniques that significantly cut transfer times and the costs to move goods. But, more importantly, most of them have increasingly offered to organize and manage all the processes involved in the supply chain that starts at the production point and ends in the consumer markets.

A significant portion of transport companies have moved up from the role of carrier to the role of “manager” of the whole physical supply chain, or logistician, a role that entails far more complex functions and responsibilities than simply carry goods.

These techniques have deeply affected the way civilian goods move around the world and have been increasingly applied to arms transfers, military supply chains, and military operations. The direct involvement in military deliveries of transport companies with significant experience in supply-chain management has helped facilitate this process.

Maritime transport⁸ is also the main modality used for the international transport of conventional arms. The typical vessels that carry military cargo are “general cargo” ships (including roll on/roll off vessels and vehicles carriers) and containerships.

In 2014⁹ the world merchant fleet of general cargo ships reached 20,265 units, with a total transport capacity of 77,552,000 Dead Weight Tonnage (DWT)¹⁰. Fully cellular containerships reached 5,115 units, with a capacity of 216,345,000 DWT. Around 60% of the containerships are registered in the top ten open registries (flags of convenience).



Merchant Vessel Hartland Point carrying military equipment. (Photo by LA(PHOT) Joel Rouse/MoD)

8 See: Finardi, S., P. Danssaert, Rough Seas. *Maritime Transport and Arms Shipments*, TransArms and IPIS, 2012,

9 UNCTAD, *Review of Maritime Transport 2014*, Geneva, December 2014 (ships of more than 100 GT). In the 2014 edition, UNCTAD changed methodology, making it difficult to compare 2014 data with previous series.

10 Dead Weight Tonnage, a measure of the ship cargo, fuel, and store capacity.

The most requested ships for heavy military equipment (trucks, trailers, armoured and tracked vehicles, weapon systems mounted on mobile equipment) are the roll-on roll-off (ro/ro) vessels that allow wheeled vehicles to drive straight on and off the ship.



Containerships are the most requested vessels for routine shipments of military equipment. The world's largest containership can carry 19,224 containers¹¹ - These vessels are the most advanced segment of the maritime transport industry, usually operated in scheduled services by major maritime companies which are capable to meet their high maintenance costs.

Multipurpose ships are the most flexible segment of the industry and include a variety of small and large ships, used in both the tramp shipping and charter markets.

General cargo/multipurpose ships also include dangerous cargo-specialized ships (fitted for transport of IMO Class 1 cargo such as explosives and ammunition, tear gas, smoke powders, white phosphorous, etc.), widely used by the military, the chemical and the fissile material industries.

Tankerships (9,204 units in 2014, with a total capacity of 482,017,000 DWT) also play an important role as providers of energy products (jet and diesel fuel in particular). Regular deliveries are indispensable to keep the armed forces operational.

Transport markets are nowadays organized on the basis of specialization (either for routes or means of transport), so the outsourcing by governments of defence logistics services for international transport has become limited to two main options: (i) to charter sea vessels (usually with their crews) over a period of time or (ii) a defence agency has a guaranteed space on vessels run by commercial carriers with a global network of routes.

In general, the first approach is the most common, but the world leader in outsourcing defence logistics services, the U.S. military, has increasingly chosen to use the second approach. Its cargo can be loaded virtually any time for all the destinations covered by the system, including war zones.

The above-mentioned options do not apply to private transfers of conventional arms, of course. Arms manufacturers, dealers and brokers are more likely to hire space on tramp ships, i.e. ships that take the cargo when and where it is offered, or place their containers on containership liners.

11 The MSC Oscar (Mediterranean Shipping Company) has been christened on January 9 2015 in South Korea.

The transport of arms across jurisdictions typically consists of either Government-to-government transfers (transfers of military equipment and services directly arranged between two governments); or commercial arms transfers (transfers of military and non-military arms, weapons, and ammunition between either a manufacturer or a broker and a foreign entity).

1.2 Arms Transport by Sea and by Air

The maritime transport modality is of particular significance when weight and volume of the shipments are decisive factors. The hazardous nature of the cargoes may be another factor but cargo aircraft regularly transport ammunition, provided certain conditions are met. The following table illustrates the relative weight maritime and air transport carries on the international shipments of infantry weapons and civilian arms (HS 93 “Arms and Ammunition”) by one of the leading suppliers, the United States.

Table 1 - US exports of arms and ammunition (HS code 93) by sea and air, 2013

Code	Item	Vessel (kg)	Air (kg)
930630	Cartridges and parts thereof, nesoi	11,538,844	1,100,265
930690	Bomb mines & other ammunition and parts	8,262,353	2,164,653
930621	Shotgun cartridges	1,529,887	439,570
930400	Arms nesoi, other than side arms	705,187	296,538
930591	Parts & accessories of military weapons	503,098	375,741
930110	Military artillery weapons	493,321	275,523
<i>Total above</i>		23,032,690	4,652,290
<i>Total incl. others</i>		25,116,224	7,148,960

Source: US Census Bureau.



Not surprisingly, maritime transport outpaces air transport in terms of weight by a factor of nearly four, in particular for the first two weapons categories (HS codes 930630 and 930690) that may include hazardous materials - such as bombs, grenades, torpedoes, rockets, cartridges (the air modality is mostly used to ship spare parts and components of items of the same codes that are in themselves not hazardous, such as parts of bombs, grenades, missiles, cartridges, etc.).¹²

12 This distinction is visible in data at 10-digit level, a specification that the arms trade data by international organizations and countries (except the United States) do not include. See: Finardi, S., P. Danssaert, *Transparency & Accountability. Monitoring and Reporting Methods Under An Arms Trade Treaty*, IPIS/TransArms, 2012.

2. TRANSPARENCY AND CONTROL OF ARMS SHIPMENTS BY SEA

2.1 Regulating Transparency

Maritime freight transport is a highly regulated industry, presided over by the International Maritime Organization, the UN agency with “responsibility for the safety and security of shipping and the prevention of marine pollution by ships”.¹³

Among the regulations promoted by IMO, there are the International Convention for the Safety of the Life at Sea (SOLAS) and the International Convention for the Prevention of pollution from Ships (MARPOL), whose detailed rules provide the base for the International Maritime Dangerous Goods (IMDG) Code that is of particular significance for the transport of ammunition, components and hazardous military commodities.

IMO and other international organizations have also promoted the standardization of the documentation accompanying the shipments, a vital instrument for facilitating the control of maritime arms transport. At present, despite the diffusion of internationally accepted standard models and forms for the description of goods, arms shippers (including governments), freight-forwarders, and carriers use a wide array of methods to represent (or misrepresent) what they are delivering.

Generically, conventional arms different from ammunition are just non-hazardous manufactured goods whose transport is not subject to the description rules of IMDG. Several arms transport documents analyzed for this report (in particular Bills of lading) show a large discrepancy between the usually meticulous descriptions of ammunition shipments and the far more generic description of non-hazardous conventional arms, ranging from laconic “mechanical parts” or “small arms” to “launchers”.

No international norms exist to regulate transparency in the field of transport documentation related to arms transfers. In most States, port and airport authorities, Custom officials, security personnel, and transport companies’ executives consider their business as off-limits for civil society representatives and often even for elected officials. “Security reasons” and “confidentiality of business information” are presented as grounds for justification to refuse the public scrutiny of transport documents, in particular after the September 11, 2001 events in the United States.

Paradoxically, the United States are one of the few countries in the world whose government allows business intelligence companies to collect and make public cargo manifests and bills of lading related to maritime shipments that use US ports. Import documents are made public one day after the arrival of the ship in a US port, whereas export documents are usually made public with a security-related delay. The practice includes shipments of conventional arms that use commercial ships. Such practices greatly enhance the transparency of at least a portion of the arms trade while posing no threat to the security of ports (or airports).

To the contrary, for example, European Union member states have no publicly accessible instruments that provide information on transport documents. It is therefore impossible for civil society organizations to scrutinize arms shipments, which originate in the EU, through shipping documentation such as the bill of lading.

The full publication of shipping documentation related to ATT-control lists would greatly facilitate the implementation of the treaty and could be used to aid and simplify its reporting mechanism requirements.

As this report will show, the only threat transparency poses is to irresponsible arms transfers to repressive regimes that are likely to facilitate human rights violations.

13 <http://www.imo.org/pages/home.aspx>

Documents Accompanying an Arms Shipment

Documentation

It is mandatory for commercial arms shipments to be accompanied by documents proving the legality of the export, its origin and destination, and the acceptance of the cargo by the authorities of the importing country. Among other documents, the following are the most important:

Export license, issued by relevant state authorities. In certain countries - for example those that are a member of the Europe Organization for Security and Cooperation in Europe (OSCE) - the export license is supposedly to be granted only after appropriate risk assessments have been carried out. As recent arms transfer agreements and the arms trade statistics of the EU countries abundantly show, also in the OSCE countries the risks assessments have been proved to be ineffective or were ignored.¹⁴

End-user certificate, stating the authorized user of the equipment. An export license most frequently includes the following information: "(i) date of issuance of the end-use/user certificate; (ii) contract number; (iii) details of the exporter (name, address); (iv) details of the end user (name, address); (v) details of the foreign consignee (name, address); (vi) country of final destination; (vii) description of the goods; (viii) quantity; (ix) value; (x) stated end-use of the goods; (xi) non-re-export clause; (xii) full name of person authorized to sign end-use/user certificate, signature of said person; and (xiii) seal of company or Government".¹⁵

Bill of Lading, a document that serves as a receipt for goods shipped on board, a title for these goods; and, although not a contract, evidence of a previous contract. It usually includes information such as the shipper, consignee, commodity description, date, origin and destination.

Cargo Manifest, a document required by customs, which describes the cargo, including its consignor, consignee, origin, destination, and quantity and value.

Import license, issued by the importing state, allowing the entry of goods.

Documents related to the payment of Insurance and Duties.

14 See: "Dassault remercie l'Egypte de sa confiance," *Le Figaro*, 12 February 2015; Clark, N., "Egypt to Purchase Fighter Jets and a Warship From France", *NY Times*, 12 February 2015.

15 See: Wood, B., P. Danssaert, *Study on the Development of a Framework for Improving End-Use and End-User Control Systems*. Chapter 3 and 4, UNODA Occasional Papers, n. 21, December 2011.

2.2 Mandating Adequate Descriptions of Shipments

The World Customs Organization, established in 1952 (then known as Customs Co-operation Council), represents 179 customs administrations and processes 98% of world trade. It is an independent intergovernmental organization set up to facilitate global trade, including the collection of duties and tariffs. To do this, it uses a coding system, known as the Harmonized System (HS) – used by more than 200 countries - which essentially classifies goods and logs their transfer by classification code. The UN statistical division has also developed the “Standardized International Trade Classification” (SITC) system to record trade data.¹⁶

Infantry weapons and civilian firearms and parts are for example included under SITC code 891 or HS Code 93 (Arms and Ammunition), further broken down by subgroups, e.g. 930119 = ‘Artillery weapons (e.g., guns, howitzers & mortars), other than self-propelled’. Using data drawn from SITC or HS classification, the UN Statistics Division releases global trade data through the open source database, COMTRADE.¹⁷

Unfortunately, as noted by Finardi and Danssaert,¹⁸ the level of specification used by COMTRADE (6-digit level, in comparison, for example to the 10-digit level of the published US trade statistics) is substantially inadequate to understand the real types and characteristics of the arms and components it is supposed to describe and those used for ships and aircraft are not sufficient to distinguish civilian from military items. Moreover many states do not record arms trade data on COMTRADE; those that do may not fully disclose government-to-government transfers.

Finardi and Danssaert conclude that “a rule requiring States Parties [to the ATT] to report in a full, timely and precise manner their arms imports and exports to COMTRADE and to mandate a 10-digit specification for relevant codes” would be one of the most useful measures to promote transparency and monitor treaty compliance.¹⁹

Reform of and compliance with the UN World Customs Organization’s tariff code system, along with full disclosure of all documentation related to the shipment of ATT-controlled items, are key to open the transfer of arms and ammunition up to public scrutiny and to improve, and streamline ATT reporting procedures.

16 UN Statistics Division, <http://unstats.un.org/unsd/default.htm>

17 Comtrade can be accessed at <http://comtrade.un.org/>.

18 For a comprehensive analysis of the World Customs Organisation’s tariff codes as they relate to arms transfers, see Sergio Finardi and Peter Danssaert, *Transparency and Accountability: monitoring and reporting methods under the Arms Trade Treaty*: pp. 21-23; 41-42.

19 Sergio Finardi and Peter Danssaert, op. cit., p. 42.

3. CONTAINERSHIPS, THE LIFELINE OF REPRESSION

3.1 Bahrain: the Crackdown on Protesters Does Not Stop Arms Flows

In spite of a pattern of human rights violations in Bahrain during and after the February 2011 crackdown on protesters, many governments authorized arms transfers to the Bahraini armed and security forces. The United States,²⁰ European Union member states such as France, Spain, and United Kingdom,²¹ and South Korea²² have been the main suppliers of military and security equipment to Bahrain after February 2011. In 2013, the Russian Federation exported to Bahrain US\$3.7 million of infantry weapons and civilian firearms.²³ As data show, the initial reactions to the events of February 2011 and the suspension of arms deliveries by some EU governments²⁴ has been overruled soon after those events.

On 14 September 2011, the US Congress was notified of a Foreign Military Sale by the US Department of Defense to Bahrain for a value of about US\$53 million. This proposed sale included 44 highly mobile armoured vehicles (High Mobility Multi-Purpose Wheeled Vehicles - HMMWV called "Humvees") and other military equipment.²⁵

20 US Census Bureau. According to US trade data, commercial exports to Bahrain of weapons under HS code 93 (Arms and Ammunition) reached US\$12.8 million in 2012 and US\$31.6 million in 2013. The exports included "Parts of military weapons other than pistols and revolvers", "Guided missiles and parts", "Military rifles", "Grenades and launchers", "Cartridges", and "Shotgun barrels". In addition, in the two-year period, Bahrain received tanks and armoured vehicles (HS code 871000) from the US for US\$8.7 million. In addition, in fiscal years 2011 and 2012, Foreign Military Sales (actual deliveries by the Department of Defense to foreign government entities) to Bahrain grew from US\$50.7 million and US\$98.1 million (US Dept. of Defense, Defense Security Cooperation Agency (DSCA), Fiscal Year Series, as of September 30 2012). The exact contents of these sales are not reported, but some major sales are notified to the US Congress). Direct Commercial Sales authorizations to Bahrain reached US\$280.4 million in fiscal year 2011 and descended to US\$42.6 million in 2012 (U.S. Dept. of State (Sec. 655 of the Foreign Assistance Act, Direct Commercial Sales Authorizations for Fiscal Year 2011, 2012). Licenses authorized in each year are usually valid for four years. DCS are sales by US arms manufacturers and dealers to foreign entities, licensed by the State Department.

21 European Union, Fourteenth and Fifteenth annual reports according to article 8(2) of Council common position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment, 2012 and 2013, respectively. According to the arms trade reports by the European Union, at least 10 member countries delivered various military and security equipment to Bahrain in 2011 and 2012. Prominent among them are France (€26.8 and 76.7 million, respectively) Spain (€6.3 and 21.1 million), and Sweden (€0.5 and 4.6 million). In the two-year period Belgium and United Kingdom authorized arms exports for about €14 and 8 million respectively.

22 Source: UN Comtrade.

23 Source: UN Comtrade for the HS code 93: \$3,723,490. No specification is available. HS Code 93 includes infantry weapons and civilian firearms.

24 On 17 February 2011, the French government suspended the export of security equipment to Bahrain; on 18 February, the UK government revoked 24 individual licenses and 20 open licenses for Bahrain; on 7 March 2011, the Spanish government suspended the licensing of arms exports to Bahrain; and on 29 March 2011, the Belgium Flemish Minister stated in Parliament that licenses for Bahrain had been put on hold.

25 Defense Security Cooperation Agency, News release, September 14, 2011, Transmittal n. 10-71; the notification to Congress on 14 September 2011 was as follows: "The Government of Bahrain has requested a possible sale of 44 M1152A1B2 Armoured High Mobility Multi-Purpose Wheeled Vehicles (HMMWVs), 200 BGM-71E-4B-RF Radio Frequency (RF) Tube-Launched Optically-Tracked Wire-Guided Missiles (TOW-2A), 7 Fly-to-Buy RF TOW-2A Missiles, 40 BGM-71F-3-RF TOW-2B Aero Missiles, 7 Fly-to-Buy RF TOW-2B Aero Missiles, 50 BGM-71H-1RF Bunker Buster Missiles (TOW-2A), 7 Fly-to-Buy RF Bunker Buster Missiles (TOW-2A), 48 TOW-2 Launchers, AN/UAS-12A Night Sight Sets, spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support." See <http://www.dsca.mil/>; The US Department of Defense makes such notifications through its Defense Security Cooperation Agency after the State Department has agreed a sale over \$1 million - see Section 36(b) of the Arms Export Control Act (AECA) which "requires the President to give Congress advance written notification of the intent to sell defense articles, equipment and services. DSCA prepares and delivers the notifications to Congress only with the approval of the State Department. Once Congress has been notified of a proposed arms sale under Section 36(b) AECA, the President must publish an unclassified version of the notification in the Federal Register." See for example: http://www.armyrecognition.com/september_2011_news_defense_army_military_industry



Various human rights NGOs urged the U.S. government to immediately suspend the proposed sale of armoured vehicles and to refrain from authorizing other transfers of weaponry, munitions, and related equipment to the Bahrain military, security and police forces.

The US Administration claimed the armoured vehicles were for Bahrain's "external defence" and therefore couldn't be used against protesters. However, this was contradicted by photographic evidence showing the Bahraini military using Humvees to suppress civilian protesters.²⁶

26 See videos of the use of armoured vehicles being used against protesters at: <http://www.youtube.com/watch?v=9-Qn38ZSbs>

Following opposition by members of the US Congress to this sale due to human rights concerns, President Obama's administration put the planned sale on hold in an announcement on 18 October 2011.²⁷ However in late January US administration officials told several congressional offices that they would initiate a new and different package of arms sales.²⁸

In February 2011, the New York Times reported that the Bahrain Defence Force (BDF) opened fire on protesters from helicopters made by a US company and that one of its journalists and cameraman also came under helicopter fire while reporting from the Pearl Roundabout last February.²⁹ The Bahrain Independent Commission of Inquiry (BICI) noted that typical BDF deployments around Bahrain during both periods included armoured vehicles equipped with ".50 [calibre M2] Browning machineguns [sic]"³⁰ Video footage of several BDF deployments during mid February and again from 15 March to 1 June show BDF units using US-supplied M113 vehicles. These have .50 calibre M2 Browning machine guns as standard.³¹

During the brutal crackdown on protestors that began in February 2011, the Bahraini armed forces used tanks, armoured vehicles, small arms and projectile weapons to inflict deaths and injuries in repeated acts of excessive force. The arms were also used indirectly to facilitate other human rights violations. The misuse of weaponry in Bahrain in 2011 began during an early morning raid on 17 February on those camped at Pearl Roundabout (now called al-Farouq Junction). Massed ranks of riot police stormed the area to evict the mostly sleeping protestors, using tear gas, batons and rubber bullets to disperse them. Tanks and armoured vehicles later blocked access to the roundabout.

27 The Department of State announced the suspension of the sale to Bahrain on 18 October 2011 in the daily press briefing. The opposition to Bahrain arms sales was led by Senator Ron Wyden (D-OR) and Representative Jim McGovern (D-MA), and also includes Senate Foreign Relations Middle East and North Africa Subcommittee chairman Robert Casey (D-PA), Senate Majority Whip Richard Durbin (D-IL), and Sens. Robert Menendez (D-NJ), Benjamin Cardin (D-MD), and Marco Rubio (R-FL). Senator Wyden and Representative McGovern each introduced a resolution in their respective chambers to prevent the U.S. government from going through with the original sale, which would have included 44 armoured, high-mobility Humvees and over 300 advanced missiles. The Wyden McGovern Resolutions were introduced October 6, 2011 to the Senate and House of Representatives; 'Today, U.S. Senator Ron Wyden (D-Ore.) and U.S. Representative James McGovern (D-Mass.) have introduced resolutions in both the House of Representatives and the Senate to prevent the U.S. government from completing the planned sale of weapons to the Kingdom of Bahrain until meaningful steps are taken to improve human rights in the Middle Eastern country.' <http://www.wyden.senate.gov/news/press-releases/wyden-and-mcgvorn-introduce-resolutions-blocking-arms-sale-to-bahrain>

28 "Obama administration selling new arms package to Bahrain." Posted By Josh Rogin Friday, 27 January 2012, (http://the-cable.foreignpolicy.com/posts/2012/01/27/obama_administration_selling_new_arms_package_to_bahrain). On Friday 11 May 2012, after the Crown Prince of Bahrain had met Vice President Joe Biden, Secretary of State Hillary Clinton and CIA director Leon Panetta in Washington to reassure him of ongoing US support, the State Department announced in a briefing that the US Administration had given notice to Congress to send further military equipment to Bahrain ("Today, the Administration informed Congress that for national security interests we have decided to release additional items and services for the Bahrain Defense Force, the Coast Guard, and the National Guard for the purpose of helping Bahrain maintain its external defense capabilities...We will continue to maintain the holds on the TOW missiles and Humvees that were notified to Congress last October. Certain additional items for the Bahrain Defense Force, as well as all items for the Ministry of the Interior, excepting the Coast Guard and units deployed in Afghanistan, will also remain on hold. The items that we are releasing are not used for crowd control."). The US Administration did not reveal specific details of the equipment to be sent or mention details of the equipment already being shipped to Bahrain from the US over the previous months since the announcement to hold certain exports in October 2011. The latest sale is reported to include patrol boats, air defence systems, fighter jet parts, and night-vision equipment. The sale also includes refurbishment for Bahrain's fleet of Cobra helicopters (US Presses Ahead with Arms Sale despite Ongoing Violations, *Bahrain Watch*, 16 May 2012).

29 http://www.nytimes.com/2011/02/19/world/middleeast/19bahrain.html?_r=2&pagewanted=all and also <http://theledelogs.nytimes.com/2011/02/18/latest-updates-on-middle-east-protests-5/#shots-fired-at-protesters-and-media-in-bahrain>

30 Bahrain Independent Commission of Inquiry, p. 250, 252, 1101

31 Stockholm International Peace Research Institute's Arms Transfer Database; the United States is the sole supplier of M113 vehicles to Bahrain.



Five people were fatally wounded and at least 250 were injured, some critically. Among the injured were people clearly identifiable as medical workers, who were targeted by police while trying to help people wounded by the security forces. Amnesty International identified U.S.-made tear gas canisters amongst some of the ammunition collected by people following the 17 February raid by riot police on Pearl Roundabout.³²

At least 35 Bahrainis, including at least four policemen, lost their lives during the February – March 2011 protests and hundreds of protestors were arrested, very often without judicial warrant. Many were held in police stations or in the Criminal Investigations Directorate in Manama and were reportedly tortured during interrogation. Five people died in custody as a result of torture.

Since the events of February-March 2011, there have been several further protests in Bahrain against the authorities. The security forces have continued to use excessive force, employing shotguns and tear gas, among other means, to disperse demonstrators. Over 25 Bahrainis have been killed in those protests.

During the period January 2011-March 2014, the US authorities licensed the Embassy of Bahrain and some few other US-based shippers to send 1,178 tons of military equipment and components to Bahrain. The transport was carried out by 22 commercial ships in 56 voyages, according to 98 bills of lading (B/L) accompanying the shipments.

Most of the vessels were containerships that belong to, and are managed by, the United Arab Shipping Company (UASC), sailing under the Saudi Arabia flag³³ and managed by a team of Arab and Danish executives, the latter previously serving with Danish shipping companies.³⁴ The UASC containerships made a total of 44 voyages during the above-mentioned period,³⁵ carrying spare parts and components for tanks, other armoured vehicles and military aircraft, as well as rockets, radio communication equipment, and tires for armoured vehicles.

32 *Bahrain's use of tear gas against protesters increasingly deadly*, Amnesty International, 26 January 2012.

33 UASC was founded in 1976 as a Gulf States shipping company - based in Kuwait with corporate headquarters in Dubai (UAE) - by the Kingdom of Bahrain, the Republic of Iraq, the State of Kuwait, the State of Qatar, the Kingdom of Saudi Arabia, and the United Arab Emirates. On April 14th 2014 UASC won the Seatrade Global Performer Award at the 26th Seatrade Awards, with the "judging panel chaired by the IMO Secretary-General, Koji Sekimizu". <http://www.uasc.net>

34 A.P. Moller-Maersk and East Asiatic Company.

35 Fourteen voyages were performed in 2011, seventeen in 2012, ten in 2013, and three to March 2014. Some of the UASC ships changed name during the concerned period such as the MV Al Noof (became MV Sudair), the MV Mutanabbi (now MV Al Rain), MV Al Sabahia (MV Sabya), and MV Abu Dhabi (MV Sakaka).



Containership Al Sabahia (presently Sabya)
 (https://upload.wikimedia.org/wikipedia/commons/8/8e/MS_Al-Sabahia.jpg)

US arms exports to Bahrain, listed in the US Department reports for 2011 and 2013,³⁶ included close assault weapons, guns, various types of ammunition, rockets, rocket launchers, guided missiles, tanks and military vehicles, military electronics items, military aircraft and vessels. Among the weapons that were transported by sea there were millions of dollars in parts and accessories for military weapons (HS930591), bombs, mines and ammunition (HS930690), military weapons other than revolvers (HS930190), and cartridges (HS930630).³⁷

Between March 2011 and March 2014 the containership Al Sabahia (IMO 9154529, re-named Sabya in August 2013) made 5 voyages from Norfolk (US) to Manama, transporting in total 164 tons of “military goods” (whose nature was not further specified in the bill of lading), as well as “tanks and armoured vehicles components”, and “aircraft parts”. Substantial quantities of other US military equipment were transported by three other containerships (Hanjin Lima, Hanjin Shanghai, and Hanjin Wilmington), operated by Hanjin, K Line, and Wallenius Wilhelmsen. Vehicles carriers (ro/ro) and special general cargo ships also delivered a variety of equipment, including rockets, rocket launchers and flamethrowers.

3.2 Egypt: a Steady Flow of Arms Containers

From the “January 25 Revolution” in 2011 to the presidency of Mohamed Morsi and the military-presidential regime of Field Marshal (Ret.) Abdel Fattah el-Sisi, after the former head of military intelligence set up a coup against Morsi on July 3, 2013, US maritime companies transported thousands of tons of military hardware to Egypt.

The United States has been the main supporter of the Egyptian regime and military since the March 1979 Egyptian-Israeli peace treaty (Camp David). However, the U.S. arms shipments - including weapon components and parts that are assembled in Egypt and are of vital importance for keeping the Egyptian military viable - in fact constitute only a portion, even if substantial, of the cascade of arms that has reached Egypt since President Hosni Mubarak was ousted in 2011.

36 U.S. Dept. of State (Sec. 655 of the Foreign Assistance Act), Direct Commercial Sales Authorizations for Fiscal Year 2011, 2012.

37 US Census Bureau.

The United States, in effect, was not the only country to continue shipping military equipment - and in particular SALW - to Egypt despite the Egyptian authorities' horrific record of human rights violations before and after the coup. Egypt's authorities do not release figures on death sentences and executions, but it is well documented that Egyptian courts handed down at least 109 death sentences in 2013, after at least 91 death sentences in 2012, and at least 123 in 2011.³⁸ According to "WikiThawra, an initiative run by the Egyptian Center for Economic and Social rights, more than 40,000 people were detained or indicted between July 2013 and mid-May 2014".³⁹

Several governments that have often expressed concern for human rights violations and the "illegal flows of SALW" did not seem to care about the death sentences of the past years or the "mass death sentences handed down by Egyptian courts, a surge in arbitrary arrests, detentions and harrowing incidents of torture and deaths in police custody" since July 2013.⁴⁰

In 2011, the EU member countries⁴¹ delivered to Egypt military equipment worth €99 million euros and approved multi-year export licenses (authorizations) for €303 million. In 2012, the deliveries amounted to €138 million and the authorizations for new multi-year export licenses to €363 million. The Russian Federation exported at least US\$349 million of military hardware included in the HS code 93 ("Arms and Ammunition") in the three year period 2011-2013, with several more in the pipeline.⁴²

During the "25 January" 2011 protests, which lasted 18 days, more than 6,000 people were injured, some of them permanently, and at least 840 were killed. Egypt's security forces⁴³ used tear gas, water cannons, firearms such as shotguns and automatic weapons, lethal shotgun ammunition, rubber bullets and live ammunition to disperse crowds. Since then, further protests have been met with similar brute force. Egypt's security forces have in fact a decade-long record of widespread, systematic, and persistent human rights violations. This includes the use of lethal force to quell protests and the legitimate exercise of freedom of expression⁴⁴. The government has rarely held security officials accountable, and officials often operate with impunity.

Despite appalling evidence of the most severe violations of human rights by Egyptian authorities, during the period January 2011-March 2014, the US government, the US manufacturers, and the Egyptian Procurement Office (Ministry of Defence), based in Washington, DC, shipped hundreds of millions dollars of arms and ammunition to end-users in Egypt, including the military and security forces, by sea and air.

The containerships that transported part of the above-mentioned military equipment to Egypt were managed or leased by eight companies, based in France, Germany, Hong Kong, India, Singapore, Taiwan, and the US: American President Lines Maritime Ltd⁴⁵ owned by NOL's subsidiary APL (USA/Singapore); CMA-CGM (France); Hapag-Lloyd (Germany); Maersk Line Ltd (USA); Maersk Global Services (India); Neptune Ship Management Services (NSM, Singapore)⁴⁶; Orient Overseas Container Line (OOCL, Hong Kong); Yang Ming Line (Taiwan). Prominent among them for volume of cargo and voyages was the American President Lines⁴⁷ with 10 ships in service on the route US ports-Suez.

38 *More than 500 sentenced to death in 'grotesque' ruling*, Amnesty International, 24 March 2014.

39 *Rampant torture, arbitrary arrests and detentions signal catastrophic decline in human rights one year after ousting of Morsi*, Amnesty International, 3 July 2014.

40 *Rampant torture, arbitrary arrests and detentions signal catastrophic decline in human rights one year after ousting of Morsi*, Amnesty International, 3 July 2014; *Egypt's Human Rights Situation - UN Human Rights Council*, Human Rights Watch, 17 September 2014.

41 European Union, Fourteenth and Fifteenth annual reports according to article 8(2) of Council common position 2008/944/CFSP

42 "All Over Again: Egypt Looks Beyond the USA for New Arms", *Defense Industry Daily*, April 1, 2015.

43 The term "security forces" is used here to refer to the riot and public order police, the Central Security Forces (CSF).

44 *Uprising commemoration unleashes death and destruction*, Amnesty International, 28 January 2013.

45 Domiciled at Suite 200, 6901, Rockledge Drive, Bethesda MD 20817-1822, USA.

46 Based at 456 Alexandra Road #07-00, NOL Building, Singapore 119962.

47 Based in Scottsdale (AZ). The company is one of the oldest in the United States, its origin dating back to 1848 (as Pacific Mail Steamship Co.), subsequently acquired by Dollar Steamship Lines, passed under the US government control in 1938 and renamed APL. APL was bought by NOL in 1997. It is presently a US subsidiary of Neptune Orient Lines Group, Singapore.

Table 2 - Containerships named in the Bills of Lading – 2011-2014

Vessel	Imo	Flag	M.	Vessel	Imo	Flag	M.
<i>APL Agate</i>	9139713	USA	APL	<i>Maersk Iowa</i>	9298686	USA	<i>Maersk L.</i>
<i>APL Belgium</i>	9218686	USA	APL	<i>Maersk Virginia</i>	9235531	HK	<i>Maersk GS</i>
<i>APL Coral</i>	9139749	USA	NSMS	<i>New Delhi Express</i>	9301770	HK	<i>Hapag-L.</i>
<i>APL Cyprine</i>	9139725	USA	APL	<i>OOCL Oakland</i>	9367190	PAN	APL
<i>APL Japan</i>	9074391	SING	APL	<i>President Adams</i>	8616934	USA	APL*
<i>APL Pearl</i>	9139737	USA	APL	<i>President Jackson</i>	8616300	USA	APL*
<i>Berlin Express</i>	9229855	D	OOCL	<i>President Polk</i>	8616922	USA	APL *
<i>Hanjin San Diego</i>	9141302	D	Yang M.L.	<i>President Truman</i>	8616283	USA	APL*
				<i>Priwall</i>	9158965	LIB	CMA-CGM

Source: TransArms/IPIS database.

From March 2011 and March 2014, the Egyptian Procurement Office (EPO) and some few other shippers, based in the US, were licensed to ship thousands of tons of military equipment and components to Egypt by sea. The transport was carried out by 28 different ships (containership, ro/ro, and special ships) in 125 voyages, according to 1,000 bills of lading accompanying the shipments.



The total weight of those shipments amounted to 23,395 tons, with an approximated value of more than US\$100 million.⁴⁸ The bills of lading related to the above-mentioned shipments show a steady flow of equipment of vital importance to keep the Egyptian military viable.

48 The above-mentioned figures, however, do not fully reflect the total amount of military hardware shipped from the US by sea: they do not include voyages performed by commercial ships hired to exclusively transport cargoes departing from US military ports. In fact, US trade statistics for the years 2012-2014 show that substantial amounts of SALW were shipped by sea (see further below), but they are mostly un-accounted in the above-mentioned bills of lading.



The flow did not stop after the July 2013 military coup and did not relate to “spare parts” for “existing equipment” only, despite statements to the contrary by the US Administration⁴⁹. In fact, the post-coup shipments included the components to build new hardware at the Cairo-based Tank Plant⁵⁰ and to upgrade various aircraft systems, including the AH-64D (Block III) Apache helicopters⁵¹, whose new deliveries (10 helicopters) were suspended after the coup, but resumed in April 2014⁵². Ten Apache helicopters were delivered in November 2014.⁵³



- 49 “Arming Egypt”, by Nizar Manek, *Le Monde Diplomatique*, <http://mondediplo.com/blogs/arming-egypt> 1/4, November 2013; US State Department, <http://www.state.gov/r/pa/prs/dpb/2013/10/215296.htm#EGYPT>
- 50 See: <http://www.globalsecurity.org/military/world/egypt/tank-200.htm>
- 51 “The Block III Apache incorporates 26 new technologies, a vastly improved 3,400 shaft horsepower drive system with a split-torque face gear transmission, a new composite main rotor blade, an enhanced digital electronic control unit, better performance and more payload, which effectively equals either more range, or more firepower” (“AH-64D Apache Combat Helicopter gets upgraded”, by Jack Martin, <http://www.gizmag.com/ah-64d-apache-combat-helicopter-gets-upgraded/20369/>).
- 52 “U.S. to deliver Apache helicopters to Egypt, relaxing hold on aid”, by Phil Stewart and Arshad Mohammed, Reuters, 23 April 2014.
- 53 “Egypt receives ten Apaches”, DefenceWeb, Friday, 28 November 2014



The cargoes were not just destined to refurbish the Egyptian army arsenals but part of them were actually used on various occasions against demonstrators. In August 2013, for example, Egyptian security forces used a Boeing AH-64 Apache military attack helicopter to conduct surveillance over Cairo to facilitate command and control of operations.⁵⁴ On January 30, 2011, F-16s were used over Tahrir square.⁵⁵ In general, the cargoes included components for the M1A1 battle tank; dozens of High Mobility Multi-purpose Wheeled Vehicle (including HMMWV ambulances); ammunition (120mm) and gas grenades; components and spare parts for electronic and surveillance systems (including for SPS-48E radars); as well as parts and component for various military helicopters and airplanes, howitzers and missile systems (see also Chapter 5).

Table 3 - US Arms shipment by containership after the 2013 coup in Egypt - July 2013-March 2014

Ship	Voyages			
APL Agate	7/18/13	9/24/13	12/4/13	2/12/14
APL Belgium	8/28/13	11/5/13	1/16/14	3/31/14
APL Coral	8/15/13	10/23/13	1/5/14	3/15/14
APL Cyprine	7/2/13	9/12/13	11/19/13	2/2/14
APL Pearl	8/2/13	10/9/13	12/18/13	2/28/14
Berlin Express	7/19/13	10/3/13	-	-

Source: TransArms/IPIS database.

54 YouTube, “Low flying helicopter over Tahrir Square, Cairo, 30 January 2011 #jan25 egypt” (https://www.youtube.com/watch?v=ZBO69BX2_Fw)

55 “Egypt Tense As Protests Continue”, National Public Radio, US, 30 January 2011: “In a show of force, F-16 jets flew repeatedly fast and low over Tahrir Square, the epicenter of the demonstrations against Egyptian President Hosni Mubarak.”; “Military aircraft flying low over Cairo rally”, 30 January 2011, www.euronews.com.: “In Egypt, the authorities are apparently ramping up their scare tactics, with military fighter planes and helicopters buzzing over the heads of anti-government protesters gathered in Tahrir Square.”; “Military Fighter Jets fly low over Egypt’s capital Cairo - Protesters chant ‘The People want to overthrow the Regime’ in Tahrir Square”, <http://films7.com/>, *Al Jazeera*, 30 January 2011.

3.3 Israel: From “Cast Lead” to “Protective Edge”

Throughout Operation “Protective Edge”, the Israeli military have deployed or used a wide variety of conventional arms including missiles, large calibre artillery systems, military drones including for weapon systems and also surveillance, jet fighters, tanks, armoured vehicles, naval vessels and small arms and light weapons (SALW) with corresponding ammunition. Palestinian armed groups used or deployed rocket launchers, rockets and SALW with corresponding ammunition.⁵⁶ Other operations carried out by the Israeli Defence Forces (IDF) in the past years followed similar paths. For example, Israeli forces committed war crimes and other serious breaches of international law in the Gaza Strip during the 22-day military offensive code-named Operation “Cast Lead” that ended on 18 January 2009. Israeli violations documented by human rights groups included indiscriminate and disproportionate attacks against civilians, preventing medical workers from evacuating wounded civilians, in some cases targeting and killing medical staff; using Palestinian civilians as “human shields”; and firing white phosphorus indiscriminately over densely populated residential areas.⁵⁷ Within Gaza, Hamas forces abducted political opponents and former detainees alleged to have “collaborated” with the Israeli intelligence services, some of whom were summarily killed or beaten or shot in the legs.⁵⁸

In the last years⁵⁹, US seaborne exports of military and associated equipment fluctuated between 4 and 6 thousand tons yearly, not to mention similar quantities of maritime shipments of “diplomatic cargo” from the US, quantities that seem out of proportion for this category of “unchecked” goods (often by Israel’s defence ministry office in Washington). From October 2011 and July 2014, US-based manufacturers of military and security equipment shipped to Israel 19,233 tons of cargo, according to 1,695 bills of lading examined by TransArms. Those voyages involved 21 vessels and 157 voyages.

The containerships that transported the above-mentioned military equipment to Israel were managed by the Israel-based group “Zim Integrated Shipping” (Haifa) and by the US-based companies “American President Lines” (Bethesda, MD), “Maersk Line Ltd” (Norfolk, VA), and “Transatlantic Lines” (Greenwich, CT). Interglobal Forwarding Services - a company “specialised in [US] Foreign Military Sales”⁶⁰ based in Bayonne, New Jersey and a subsidiary of Interglobal Shipping - acted as a “shipper of convenience” on behalf of “Government of Israel’s ministry of Defense”⁶¹ so that the bills of lading did not report the name of the company that was actually shipping the military equipment (a common practice for many sensitive shipment).

Table 4 - Shipments of military cargo and associated equipment to Israel 2011-2014

TYPE	2011 *	2012	2013	2014	2015
B/L Cargo (N.)	248	601	297	549	1,695
Tons Cargo	3,168	5,954	4,063	6,048	19,233
Voyages	20	65	35	37	157

Source: TransArms/IPIS database, Elaboration on Bills of lading data - Data for 2011 are from October. Data include shipment carried out by some general cargo and ro-ro ships.

56 *Rockets from Gaza. Harm to Civilians from Palestinian Armed Groups’ Rocket Attacks*, Human Rights Watch, 6 August 2009.
 57 *White Phosphorus Use Evidence of War Crimes. Indiscriminate Attacks Caused Needless Civilian Suffering*, Human Rights Watch, 25 March 2009; *White Flag Deaths. Killings of Palestinian Civilians during Operation Cast Lead*, Human Rights Watch, 13 August 2009; *Israel’s use of white phosphorus against Gaza civilians “clear and undeniable”*, Amnesty International, 19 January 2009; *Operation “Cast Lead”: 22 days of death and destruction*, Amnesty International, Index number: MDE 15/015/2009, 2 July 2009.
 58 *Under Cover of War. Hamas Political Violence in Gaza*, Human Rights Watch, 20 April 2009.
 59 For previous arms transfers see *Fuelling conflict: foreign arms supplies to Israel/Gaza*, Amnesty International, Index number: MDE 15/012/2009, February 2009.
 60 <http://interglobalforwardingservices.com/>
 61 153 B/Ls for 2013 and 2014 report this definition of the shipper. Source: TransArms/IPIS database.

Differently from the standard practices, the bills of lading accompanying shipments of military and associated equipment to Israel on commercial vessels are poorly described and mostly in generic terms. Hundred of bills of lading only included “military equipment” as a description of the cargo.

3.3.1. Gaps in Reporting: 9,600 tons of Cartridges and Other Ammunition Missed

During the 2011-2014 (until July) period, US exports of munition of war and part of cartridges to Israel by sea amounted to about 8,000 tons of cartridges and parts thereof (HS 930630), and about 2,000 tons of bombs, mines, grenades, etc. (HS 930690).⁶² However, the bills of lading with an explicit reference to cartridges for small arms or items related to either the HS 930690 or the HS 930630 code do not reach more than 400 tons. Therefore, some thousand tons of ammunition were either hidden under generic descriptions (such as “40’ container hazardous and non-hazardous cargo”) or were shipped on board of ships contracted for the exclusive use of the US DoD for government-to-government transfers, whose transport documents are not available commercially.



Combined Tactical System (a branch of the US-based Combined Systems Inc.) tear gas canister recovered after a demonstration at Bil'in, Israel

(http://stopfundingisrael.org/csi_combined.html)

“Bassem Ibrahim Abu Rahmah, 30, was killed on April 17 (2009) when struck in his chest by a CSI 40mm model 4431 powder barricade-penetrating tear gas canister fired by an IDF soldier during protest in the Palestinian village of Bil'in. [...] Jawaher Abu Rahmah, 31, the sister of Bassem, was killed during another large protest in Bil'in against the Israeli apartheid wall on December 31 (2010). Israeli soldiers shot scores of CSI tear gas canisters at the more than 1000 protesters unleashing large clouds of toxic CS gas into the air, one of which overcame Ms. Abu Rahmah [...] She died from CS gas inhalation at 9am on January 1, 2011. Two manufacturers' CS gas products were used, and one or both are responsible for Ms Abu Rahmah's death.”⁶³

Between June 2012 and March 2014, various Zim vessels delivered in Ashdod and Haifa a total of 146 tons of cartridges for small arms from various US manufacturers, including Olin Corp. Winchester (based in East Alton, Illinois), Alliant Techsystems, and Ammunition Accessories Inc. (both based in Lewiston, Idaho). In 2013, the same ships delivered 32 tons of primers and between July 2012 and June 2014 delivered a total of 217 tons of smokeless powder for small arms cartridges and smoke grenades, transported in Haifa and Ashdod by the Zim vessels Constanza, Luanda, Monaco, Qingdao, Rio Grande and Tarragona.

62 US Census Bureau.

63 CSI: Merchant of Death and Servant of Tyranny, 6 January 2012, http://southeastasianews.org/sfiorg/csi_combined.html.

3.3.2. Trucks and Special Vehicles in Containers

Off-road vehicles for Special Forces, such as the military version of the “Polaris Sportsman MV 850”⁶⁴ and other similar Polaris vehicles, were shipped in October 2011 and April 2013, for a total of 121 vehicles, transported by the container liners APL’s Agate, Coral, and Cyprine and APL’s President Polk and President Truman.

Between April and May 2014, Israel’s MoD also imported 32 trucks Dodge RAM 3500 and more than 120 Polaris special vehicles that were transported by the APL’s ships Agate, Cyprine, Coral, and Pearl.



Israel’s MoD also imported 7 armoured vehicles (APCs) - delivered in July 2014 - and 20 Land Rover Combat Defenders - delivered to Haifa in 2011 and 2012 by the Zim Constanza and Tarragona -, as well as 17 Land Rover trucks - delivered in 2013 and 2014 by the same vessels. A variety of other trucks and pick-ups, such as the Ford 550, were imported between 2012 and July 2014, for a total of 90 units (all delivered by the Zim Tarragona in Haifa), 24 target drones (for a total of 34 tons), delivered in Haifa by the Zim Tarragona in early March 2014, as well as 25 rocket motors, delivered in Ashdod by the Zim Qingdao in early July 2014. Sizeable amounts of missile and grenade launchers parts had been delivered in 2012 in Haifa.



Land Rover Defender in action <http://www.youtube.com/watch?v=nuJfFaBfJg>

64 Built by Polaris Industries, Minneapolis (MN), see: <http://polaris.hs.llnwd.net/o40/mil/2015/img/model-overview/modal/sportsman-mv-850/eps.jpg>

3.4 December 2009: Arms for Gaddafi's Security Apparatus

Gaddafi's security apparatus had a notorious reputation. For decades the security forces had acted with impunity. There was a high risk that arms sent were used to commit serious human rights violations. The capacity of police and security forces to adhere to international standards on the use of force and firearms was not institutionalized, as demonstrated by the flagrant and persistent abuses they perpetuated.

Notwithstanding, the Italian government continued to support the Libyan military and security forces until the end. In the last months of 2009 the Italian government allowed a 16.5-ton shipment of rifles and pistols to reach the Libyan security forces. The weapons were coded as "civilian firearms" and sent to Libya's General People's Committee for Public Security via a transit shipment through Malta, as firstly revealed by a joint inquiry by the *EU Observer and Rete Italiana Disarmo*,⁶⁵ with assistance by TransArms and IPIS vzw.

The case of those "civilian firearms" sent to Gaddafi's security forces surfaced because one of the companies involved in the transit through Malta by mistake reported⁶⁶ to the Maltese authorities that the goods in transit had a value of about €79 million, instead of the real value of €7,936,900. For still unexplained reasons, the Maltese authorities recorded the transit shipment as an export of military firearms to Libya by Malta, for about €79 million. The record was included in the EU annual report on the military arms trade of EU member states⁶⁷ and raised surprise and various questions among NGOs that monitor the arms trade.

W.J. Parnis England Ltd (based in La Valletta) - the Maltese agent of the British shipping company Brointermed Lines⁶⁸ that organized the shipment from La Spezia⁶⁹ (Italy) on behalf of the Italian company *Fabbrica d'Armi Pietro Beretta* - admitted it made a mistake, but expressed surprise that its declaration for the transit permit was transformed in an export record.⁷⁰

The ship that in November 2009 transported the four 40" marine containers loaded with the semi-automatic rifles, shotguns, and pistols destined to Libya was the Antigua & Barbuda-flagged containership MV *Holandia*⁷¹, owned and managed by BBC Burger Berederungs, based in Burg, Germany. The ship had changed name from *Cala Phoenicia* to *Holandia* just before (October 1, 2009) the shipment to Libya.

According to TransArms and IPIS vzw, who investigated the shipment, the four containers were loaded on 29 November onto the MV *Holandia* in La Spezia, bound for Malta and Libya. The ship arrived on 30 November 2009 at La Valletta, Malta and departed for Libya on 1 December 2009. It arrived at Misrata December 3 and Tripoli December 4, leaving for Homs December 7, 2009.⁷²

On 24 September 2010, nearly one year after the rifles and the pistols had arrived in Tripoli, Colonel Abdelsalam Abdel Majid Mohamed El Daimi, director of the General People's Committee for Public Security, confirmed receipt of the shipment. This was verified by the Italian embassy on 10 October 2010, as demonstrated by documents Rete Italiana Disarmo obtained. Usually a document verifying the delivery of the arms shipment is issued at the time the arms are received.

65 A. Rettman, 'Italy-Libya arms deal shows weakness of EU code', *EU Observer.com*, 3 March 2011; F. Vignarca, "La vera storia delle armi italiane in Libia: Ecco come è avvenuta – nel 2009 – la fornitura di 7500 pistole e di 3700 fucili 'made in Italy' al regime di Gheddafi", *Altreconomia*, 6 March 2011.

66 K. Stagno-Navarra, "'Typing error' by Maltese agent causes Malta embarrassment over arms exports to Libya", *Malta Today*, 2 March 2011.

67 Twelfth annual report according to Article 8(2) of Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment, Council of European Union, 3 December 2010 (the publishing of the report was delayed until February 2011).

68 Headquartered in Harwich (Essex).

69 The local agent of Brointermed was A.M. Transmar, based in La Spezia.

70 Emails to International Peace Information Service vzw from WJ Parnis England Ltd received 4 March 2011 and 15 March 2011, in which a company representative stated that "The figure in our application was €79,369,000.00 however the correct amount should have read €7,936,900.00."

71 IMO number : 9204506. The ship has a cargo capacity of 9,113 dwt and 907 TEUs.

72 TransArms/IPIS database on port and ship movements.

Fabbrica d'Armi Pietro Beretta, which shipped the rifles and pistols, marked them as non-military items. Therefore the permit was issued by the Ministry of Interior's local authority (Prefecture) in Brescia (the same province where Beretta is located) instead of the Ministry of Foreign Affairs in Rome.⁷³ As such, the export was not subject to the Italian law regulating the export/import of military weapons (L.185/1990), but instead subject to the law regulating the possession, use, and import/export of civilian arms as defined in Article 2 of the Law 110/1975. Thus, there was no requirement to undertake a risk assessment against the arms export licensing criteria, including Criterion 2 which requires EU Member States to "deny an export licence if there is a clear risk that the military technology or equipment to be exported might be used for internal repression" or "might be used in the commission of serious violations of international humanitarian law."⁷⁴

According to documents obtained by Rete Italiana Disarmo and published by the magazine *Altraeconomia*,⁷⁵ the shipment was for 1,800 Benelli calibre 12 mm shotguns, 7,500 semi-automatic Beretta pistols cal.9x19 mm series PX4 Storm, each equipped with one extra magazine and accessories, and 1,900 semi-automatic carbines cal.9x19 mm series CX4 Storm, each equipped with one extra magazine and accessories. The end user certificate, dated 10 June 2009, confirmed that the exporter was Beretta and the recipient was Libya's General People's Committee for Public Security in Tripoli.

Malta's Commerce Department stated on 2 March 2011,⁷⁶ after the case had come to light, that it had issued a transit authorization for the shipment. According to the Maltese laws even in case of a mere transit a license should be requested and issued and this explains why a Maltese broker was necessary.

In Malta, the brokering and transit of small arms and light weapons are governed by three pieces of legislation: the Military Equipment (Export Control) Regulations (L.N. 269/2001); the Subsidiary Legislation 365.13, January 1, 2002), for the aforementioned export control regulation; and the Amendment to the export control regulation (L.N. 376/2003).⁷⁷ The legislation establishes that (art. 1) "items in transit' means items which only pass through the territory of Malta, that is those which are not assigned a customs approved treatment or use other than the external transit procedure or which are merely placed in a free zone or a free warehouse and where no record of them has to be kept in an approved stock record" and (art. 4) "Subject to the provisions of these regulations no person shall make any export of items specified in the Manual, to any destination except under and in accordance with an authorization as specified in regulation 3. (2) These regulations apply also to items in transit."

Malta has no military industry but its brokers are apparently very active in importing military arms destined for subsequent export (or - alternatively - all arms shipments in transit are recorded as exports while the real exporter just exported ...to Malta). In the 2009 EU Annual Report, Malta was reported as exporter to the followings countries:

73 F. Vignarca, "La vera storia delle armi italiane in Libia: Ecco come è avvenuta – nel 2009 – la fornitura di 7500 pistole e di 3700 fucili 'made in Italy' al regime di Gheddafi", *Altraeconomia*, 6 March 2011.

74 EU Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.

75 F. Vignarca, 6 March 2011, quoted.

76 Document provided by Andre Rettman.

77 The full titles of the legislation are: National Interest (Enabling Powers) Act (Cap. 365), Military Equipment (Export Control) Regulations, 2001; Subsidiary Legislation 365.13, Military Equipment (Export Control) Regulations, 1st January, 2002; L.N. 376 of 2003, National Interest (Enabling Powers) Act (Cap. 365), Military Equipment (Export Control) (Amendment) Regulations, 2003.

Table 5 - Exports of military arms by Malta in 2009, in €

To Country	EU Military categories	Value
<i>Thailand</i>	<i>ML3</i>	<i>25,815,800</i>
<i>Germany</i>	<i>ML6</i>	<i>13,123,937</i>
<i>France</i>	<i>ML6</i>	<i>4,552,000</i>
<i>Saudi Arabia</i>	<i>ML6</i>	<i>4,440,877</i>
<i>Denmark</i>	<i>ML6</i>	<i>2,800,000</i>
<i>Turkey</i>	<i>ML6</i>	<i>817,371</i>
<i>Algeria</i>	<i>ML15</i>	<i>498,801</i>
<i>Afghanistan</i>	<i>ML6</i>	<i>471,255</i>
<i>Tunisia</i>	<i>ML3</i>	<i>413,686</i>
<i>USA</i>	<i>ML6</i>	<i>231,209</i>
<i>Pakistan</i>	<i>ML6</i>	<i>183,259</i>
<i>Ukraine</i>	<i>ML6</i>	<i>110,651</i>
<i>Montenegro</i>	<i>ML6</i>	<i>78,753</i>
<i>Thailand</i>	<i>ML1</i>	<i>46,338</i>
<i>Djibouti</i>	<i>ML1</i>	<i>30,000</i>
<i>Maldives</i>	<i>ML3</i>	<i>16,170</i>

Source: Elaboration by TransArms on data from EU Annual Report for 2009. Note: ML1 = Smooth-bore weapons with a calibre of less than 20 mm, other arms and automatic weapons; ML3 = Ammunition and fuse setting devices, and specially designed components therefor; ML6 = Ground vehicles and components; ML16 = Imaging or countermeasure equipment and accessories therefor.

The MV *Holandia* usually served Black Sea/Mediterranean routes but, between 29 October 2009 and 2 February 2010, the ship made seven trips back and forth between La Spezia, La Valletta, Tripoli, Misrata, and Homs, TransArms and IPIS ascertained.⁷⁸

Holandia's seven voyages from Italy to Libya outside of its normal route gives the impression that the ship was under a particular contract to transport goods to Libya on behalf of some Italian customer. Therefore: was the 29 October 2009 shipment the only arms shipment?

⁷⁸ TransArms/IPIS database on port and ship movements.

4. “EXPLOSIVE” CARGOES TO ARMED CONFLICTS

4.1 What Is Dangerous Cargo?

The transport by sea of explosives and ammunition is highly regulated. Given the potential risks involved in transporting these goods,⁷⁹ special documentation must accompany the cargo before it could be accepted on board to allow for the proper placement of the cargo on deck or inside the compartments.

The regulation related to the transport of dangerous goods stems from the work of the United Nations agencies and their committees of experts.⁸⁰ The UN “Transport of Dangerous Goods, Model Regulations (or Orange Book) has in its various editions provided suggested regulations for all transport modalities⁸¹ (except for bulk maritime transport). The Orange book includes the “list of dangerous goods most commonly carried and their identification and classification; consignment procedures: labelling, marking, and transport documents; standards for packaging, test procedures, and certification; standards for multimodal tank-containers, test procedures and certification.”⁸²

During the years, the Orange Book has been supplemented by regulations that have specific recommendations and mandatory measures for each modality and at national level. The maritime modality - presided over by the International Maritime Organization - has in addition its own tradition of regulation of dangerous goods, stemming from two international legal instruments: the International Convention for the Safety of the Life at Sea (SOLAS, 1914/1974, adopted in 1980) and the International Convention for the Prevention of pollution from Ships (MARPOL, 1973/1983), whose detailed indications provide the base for the International Maritime Dangerous Goods (IMDG) Code.⁸³



The Orange Book and the IMDG divide the dangerous goods in nine Classes. For example, Class 1 includes, among others, gunpowder, smoke bombs, munitions, and dynamite. Class 2 includes gases, with 2.2 as the code for toxic gases.

79 See, for example, the tragic destiny of the MV Thor Emilie in: S. Finardi, P. Danssaert, *Rough Seas – Maritime Transport And Arms Shipments - Transport Services Under An Arms Trade Treaty*, TA/IPIS, July 2012: p. 6 and 7.

80 See: <http://www.unece.org/trans/danger/what.html>

81 United Nations Recommendations on the Transport of Dangerous Goods. Model Regulations and Manual Tests and Criteria, United Nations, 2013.

82 See: <http://www.unece.org/trans/danger/what.html>

83 See: <http://www.imo.org/Publications/IMDGCode/Pages/Default.aspx>

Class 6 includes toxic substances (such as the ones that are used in tear gas canisters that are listed under Class 6.1 and UN1700 code). Special dispositions apply to the storage on board the ship of all dangerous goods and the crew must have qualification for the handling of the various categories of dangerous cargo.

Some general cargo ships have been particularly designed and their crews selected and prepared to handle military shipments of munitions, explosives, and toxic agents. The transport of military explosives and ammunition therefore entails premium freight rates and is lucrative. The fact that the carriage of dangerous goods is highly regulated throughout the world by a rigorous and consistent international system of regulations shows that it is possible to implement uniform maritime regulations which police the transfer of a given category of commodities.

4.2 Ammunition and Explosives for the Syrian Government

In March 2011, protests against the government of President Bashar al-Assad began against a backdrop of unrest across the region. In the southern city of Dera'a, on March 18, security forces violently confronted a largely peaceful⁸⁴ demonstration, killing at least 55 protesters. In the wave of repression that ensued, the security forces rounded up and arbitrarily detained journalists, activists and lawyers who allegedly supported the demonstrations.⁸⁵

The crackdown sparked further protests, which quickly spread across the country; demonstrations took place in Damascus, al-Hasakah, Baniyas, Dera'a, Hama, Homs, Idleb, Latakia and Qamishly. The military responded with force, with tanks indiscriminately firing on towns and snipers targeting protesters. By August Amnesty International had collected the names of at least 1,800 people – virtually all civilians – believed to have been killed by Assad's forces. Thousands of others had been arrested, many were held incommunicado and some subjected to torture and ill-treatment. As the conflict intensified, refugees began streaming into neighbouring countries.⁸⁶

On January 8, 2012, a St. Vincent and Grenadines-flagged general cargo ship, the Chariot (IMO: 8302882), was bound for the Syrian ports of Tartous when it encountered a storm near Cyprus' northern coast. The ship inverted course and sought refuge in the port of Limassol in Southern Cyprus.

According to Turkish Customs,⁸⁷ who checked the stowage cargo plan of the ship when it later docked at the Turkish port of Iskenderun, the ship was transporting some 59 tons of dangerous cargo in four containers destined to the port of Tartous for the Syrian military. The containers were no more onboard.

84 It should be noted that this sequence of events is disputed by several sources. It is claimed that the security forces came under fire from armed opposition groups, and responded with force. (Tim Anderson "Daraa 2011: Syria's Islamist Insurrection in Disguise", Global Research, 16 March 2016; "The day before Daraa: How the war broke out in Syria", *American Herald Tribune*, 10 August 2016). Questions can also be raised about the 'spontaneity' of the Syrian uprising. In April 2011 the Washington Post revealed information about a long-running covert US program to destabilize Syria (U.S. secretly backed Syrian opposition groups, cables released by WikiLeaks show, *Washington Post*, 17 April 2011).

85 *At least 55 killed as protests spread*, Amnesty International, 25 March 2011.

86 *Deadly Detention: deaths in custody amid popular protest in Syria*, Amnesty International, Index number: MDE 24/035/2011, 31 August 2011.

87 "Ship unloads dangerous cargo in Syria: officials", *Hurriyet Daily News*, 17 January 2012; "Turkey says Russian ship delivered 60 tons of 'dangerous cargo' to Syria", *Today's Zaman*, 16 January 2012

The cargo onboard the Chariot was one of several shipments that Russia was organizing purposely in “fulfilment of old contracts.”⁸⁸ However, at the time of that shipping, over 7,000 people had been killed in Syria since mass protests began in March 2011⁸⁹, in a pattern of human rights violations categorised by the independent international commission of inquiry established by the UN Human Rights Council as crimes against humanity.

The ship was managed by a Russian company, Westburg Ltd,⁹⁰ located in St. Petersburg, Russia. The registered owner of the ship was Westberg Management AG, located at the same address of the ship manager, but registered in the Marshall Islands.⁹¹

The company that chartered the ship was Balchart St. Petersburg, a brokering company who stated⁹² that the owner of the cargo was Rosoboronexport, the Russian official arms trading company.⁹³ The Russian Federation was, at the time of the arms shipping, Syria’s biggest arms supplier with 8 to 10 per cent of all Russian arms exports going there.⁹⁴

The Chariot, with a cargo capacity of 922 DWT and 40 TEUs and a maximum speed of 11 knots, left St. Petersburg, Russia, on December 9, 2011 and on December 27 passed the Strait of Gibraltar. January 9 it was near Cyprus.

The ship, short of fuel and in distress in a storm, managed to reach Limassol in emergency and arrived January 10, 2012 at 5:30 am local time. Cypriot authorities - aware of the European Union Council Decision 2011/782 on an arms embargo against Syria (May 2011) - ordered the inspection of the cargo and its documentation.

According to Cypriot ministry of Foreign Affairs, “the Customs and Ports Authorities of the Republic of Cyprus carried out the procedures as dictated by the law and examined the documents of the ship and the cargo. Moreover, external checks of the four containers and of the electric generator on board were also carried out. Actual examination of the content of the containers was not possible due to the narrow confines of the ship. It was concluded that the ship carried dangerous cargo with destination to Syria and Turkey.”⁹⁵ The ship was allowed to leave Limassol at 06:44 (local time) on 11 January 2012.

88 For attempted and alleged shipments of military equipment around the time of MV Chariot voyage to Tartous, see “Case 19: MV Alaed” and “Case 13 - Four anonymous vessels and the port of Oktyabrsk” in S. Finardi, P. Danssaert, “*Rough Seas*”, TA/IPIS, July 2012, and Grove T., E. Solomon, “Russia boosts arms sales to Syria despite world Pressure”, *Thomson Reuters*, 21 February 2012 (for a discussion on questionable sources in the article by T. Grove and E. Solomon, see “Case 13”. For more recent cases of alleged arms shipments see H. Meyer, S. Kravchenko, D. Abu-Nasr, “Putin Defies Obama in Syria as Arms Fuel Assad Resurgence”, *Bloomberg Business*, 3 April 2014; J. Saul, “Russia steps up military lifeline to Syria’s Assad”, *Reuters*, 17 January 2014. For a discussion of Russia’s arms deliveries to Syria see R. Pukhov (director of the leading defence trade think-tank and Moscow-based Centre for Analysis of Strategies and Technologies, CAST), “Why Russia is Backing Syria”, *New York Times*, 6 July 2012. News on weapons deliveries and arms trade figures given by Pukhov in the NYT article (translated from Russian) seem different and lower than data reported by the same CAST in January 2012 (*Eksport Vooruzheniy Journal*, January 27 2012), as reported by *Reuters* (“Russia count on Syria to keep arms exports”, *Reuters*, 31 January 2012).

89 This figure was current as of March 2012.

90 IMO Company number 5256503. Domiciled at Vasilivskij Ostrov 13 linia, 6-8 A, Office 87 H, St. Petersburg, Russia

91 Fairplay record for company IMO number 5572626

92 <http://www.vz.ru/news/2012/1/11/552696.html>

93 The company that chartered the ship, “Balchart St. Petersburg”, said that the owner of the cargo was Rosoboronexport, the Russian official arms trading company. This was reported in, for example: Управляющая компания: Судно Chariot везло груз от Рособоронэкспорта, 11 января 2012, <http://www.vz.ru/news/2012/1/11/552696.html>; Российское судно Chariot с 60 тоннами боеприпасов прибыло в Сирию. Несмотря на обещания, данные Кипру, NEWSru.com, 12 January 2012, <http://newsru.com/world/12jan2012/chariotrules.html>, which states that the cargo belonged to Rosoboronexport; and “The owner of the cargo was one of the Russian state corporations, the cargo consignor, the Balchart St. Petersburg company, told Interfax. ‘We are not the cargo owner. Go to the Russian government, one of the state corporations, for comments,’ a source with Baltchart St. Petersburg said.” *Interfax News Agency*, 12 January 2012.

94 CAST [Moscow Defense Brief], says 8%, quoted in “Russia count on Syria to keep arms exports”, *Reuters*, 31 January 2012; 10% has been reported in, for example, Interfax-AVN military news agency, “Syria sanctions would hit Russian arms producers hard – expert”, Moscow, 23 August 2011; and, *Jane’s Defence Weekly* “Russia’s determination to fulfil Syrian contract may affect relationship with Israel”, 4 March 2011.

95 See Press Release by the Ministry of Foreign Affairs regarding the Chariot ship, “<http://www.mfa.gov.cy/mfa/mfa2006.nsf/0/5DF2BC1D3625EB47C22579820040F31E?OpenDocument>”



The MV Chariot leaving Cypriot port of Limassol, 11 January 2012

(Source: <http://www.voanews.com/a/cyprus-releases-suspected-syrian-arms-ship-137092243/173361.html>)

European and US media and some NGOs pointed out that the Cypriot authority was violating the EU Decision 2011/78 when they decided to allow the ship to leave the port with its cargo. In fact, it was actually the dispositive of the EU Decision in force at that time that justified the decision of the Cypriot authorities. None of the conditions set up by the Decision applied to the case, thus illustrating how non-European parties could easily ignore it in absence of a UN embargo:

Why the eu decision 2011/78 did not apply to the case of the mv chariot

1. The owner and manager of the ship were not EU nationals or residing in an EU country;
2. The shipper was not an EU national or residing in an EU country;
3. The cargo was not exported from an EU territory;
4. The cargo was not "in Transit" through the territory of EU countries and was not trans-shipped in the territory of EU countries;
5. The reason the ship was in port was a distress situation in which no voluntary docking at Limassol was involved, nor any transit or trans-shipment of the cargo;
6. The provision of fuel was in fulfilment of the obligation to assist a ship in distress according to the Law of Sea;
7. No entities owned or controlled by the persons on the EU List were involved in the payment for the fuel;
8. The "promise" not to deliver the cargo to Syria, a pledge apparently made by the captain of the Chariot to the Cypriot authorities, was legally baseless because he was not in breach of any law.
9. Port and Customs authorities of a country have the right to inspect a ship and its cargo no matter the reason the ship is in a port under their authority, but they have not the right to seize the cargo if the same cargo is not in breach of applicable regulations and international laws.

Taking account of the ship's average speed and the 199 nautical miles between the Cypriot port and the port of Iskenderun, the MV Chariot should have arrived in Iskenderun on the same day - 11 January 2012. However, according to TransArms, which tracked the ship's voyage from St. Petersburg to Tartous, the ship was 27 nautical miles from Iskenderun in the early morning of 14 January 2012, nearly 60 hours after leaving Limassol.

Turkish and Cypriot media reported that the Turkish Navy discovered that the ship had docked at the Syrian port of Tartous - where the Russian Federation leases naval facilities from the Syrian authorities - in the morning of the 12 January 2012.⁹⁶

In the meantime, the official website of the port of Tartous updated its traffic records to reflect ship movements up to 14 January 2012, but there was no trace of the MV Chariot. The ship eventually moored in the bay of Iskenderun at 14:46 on 14 January 2012.⁹⁷

Rosoboronexport - the intermediary agency for the Russian Federation imports and exports of military and dual-use products and technologies - neither confirmed nor denied the reports that it was the owner of the cargo onboard the MV Chariot⁹⁸ but the Russian authorities did not deny that the MV Chariot had docked in Tartous. Russian Foreign Minister, Sergei Viktorovich Lavrov, said at a press briefing in Moscow on 18 January: "We do not think it is necessary to explain and justify that a Russian ship has been unloaded in a Syrian port, because Russia does not break international agreements and UN Security Council resolutions. Our country trades with Syria only that which is not prohibited by international law." [Translation]⁹⁹ Russia and China had blocked efforts to impose a UN Security Council arms embargo on Syria.

4.3 Ammunition for the South Sudan Armed Conflict

In July 2014, it was reported that China had supplied 1,000 tonnes of small arms and light weapons worth US\$38 million to South Sudan.¹⁰⁰ This weapons shipment was the last in a series.¹⁰¹

In May, the Security Council had amended the mandate of the UN peacekeeping force in South Sudan (UNMISS) to focus on protection of civilians, support the implementation of the cessation of hostilities agreement, investigate human rights abuses and violations and to create conditions for delivery of humanitarian assistance. China pledged a full battalion of some 850 troops to join this peacekeeping

96 Quoting a Turkish Navy source, the ΠΟΛΙΤΗΣ ONLINE, reported that the MV Chariot docked at Tartus at 10:50 on 12 January, see "The ship went to Syria, say the Turks", ΠΟΛΙΤΗΣ ONLINE, 12 January 2012; see also: "Russian ship carrying arms to Syria reappears near Turkish port", *Today's Zaman*, 14 January 2012; "Ship unloads dangerous cargo in Syria: officials", *Daily News*, 17 January 2012; The news were broadcasted in Greek by Radio 107.6 "Το πλοίο "Chariot" στις 10.50 το πρωί έφτασε στο λιμάνι Ταρτούς της Συρίας σύμφωνα με την Αγκυρα, η οποία αναφερόμενη στις πληροφορίες περί πλεύσης του πλοίου προς το λιμάνι της Αλεξανδρέττας στην Τουρκία δηλώνει ότι οι τουρκικές λιμενικές αρχές ανέφεραν ότι δεν υπάρχει τέτοιο πλοίο που να έχει δηλώσει πορεία προς την Αλεξανδρέττα. Ο εκπρόσωπος του τουρκικού Υπουργείου Εξωτερικών Σελτσούκ Ουνάλ δήλωσε ότι το πλοίο έφτασε στη Συρία, ενώ είπε "δεν γνωρίζω ποιο είναι το φορτίο του πλοίου, αλλά αν αληθεύουν οι πληροφορίες περί οπλισμού, πώς η ελληνοκυπριακή διοίκηση επέτρεψε τον απόπλου παρά τις περί αντιθέτου αποφάσεις της Ευρωπαϊκής Ένωσης;" Πηγή: Ράδιο 107,6 12 January 2012 - 16:42 [Radio 107.6]

97 After leaving Iskenderun, the MV Chariot docked at the container terminal of Ilichevsk, in the Ukraine, then sailed to Suez, entered the Red Sea, passed Ormuz, on the northern coast of Iran, and docked at Assaluyeh, in Iran. According to the AIS transponder tracking, the cargo was non-hazardous.

98 The news was broadcast on Greek radio 107.6, on 12 January 2012 - 16:42 [Radio 107.6] see footnote 96. Also see, "Rosoboronexport spokesman Vyacheslav Davidenko said the arms exporter would neither confirm nor deny the report. 'We do not comment on where our deliveries go, when they leave port or how.'"; and, "Russian-operated ship with bullets reaches Syria", *Reuters*, 13 January 2012, <http://www.reuters.com/article/2012/01/13/syria-russia-ship-idUSL6E8CD4DD20120113>; and, "Rosoboronexport cargo unloaded at port of destination - ship owner": "The Russian-operated ship Chariot has unloaded state arms trader Rosoboronexport's cargo at the port of destination, a spokesman for Westberg, the ship's owner, told Interfax on Monday. 'It is empty after the cargo was unloaded at the port of destination,' he said but did not elaborate. The Chariot is now anchored at Iskenderun in Turkey waiting for a good weather forecast." *Interfax News Agency*, 16 January 2012.

99 See Responses of the Russian Foreign Minister, S.V. Lavrov, to questions from the media during a press-conference on the results of Russian diplomacy in 2011, Moscow, 18 January 2012. http://www.mid.ru/brp_4.nsf/newsline/2E2C9EBA19FF4BE-14425798900637AEA

100 *UN: South Sudan arms embargo crucial after massive Chinese weapons transfer*, Amnesty International, 17 July 2014.

101 "Amnesty International is aware of reliable reports that Chinese ammunition manufactured in 2013 for Chinese-made CQ assault rifles has recently been used by armed opposition fighters as well as government-aligned armed groups. CQ 5.56x45 assault rifles were first observed in South Sudan in 2013 with South Sudanese rebel groups, some of whom stated they had been armed by Sudan. In addition, Chinese heavy machine-gun ammunition manufactured in 2013 has been found in the hands of fighters of the Justice and Equality Movement (JEM), a Darfuri rebel group that has fought alongside South Sudanese government forces and committed grave human rights abuses." (*UN: South Sudan arms embargo crucial after massive Chinese weapons transfer*, Amnesty International, 17 July 2014.)

operation. Since the armed conflict erupted on 15 December 2013, the USA and European Union have suspended military support to South Sudan. The decisions came amid ongoing crimes against humanity and war crimes committed by both South Sudanese government and opposition forces.

Human rights groups have documented how both sides have targeted people, including women and children, based on their ethnicity. They have killed individuals seeking refuge in hospitals and places of worship. These atrocities have generally involved the use of small arms and light weapons.¹⁰²

On July 8, 2014 human rights group representatives located in South Sudan obtained transport documents related to an arms shipment destined for the South Sudanese government. These documents were shared with the authors of this report. Two NORINCO companies were identified as shippers, and the Hong-Kong-flagged general cargo ship "Feng Huang Song"¹⁰³, managed by COSCO Hong Kong Shipping Co. (a subsidiary of the Beijing-based COSCO Group), as the ship that transported the containers with the weapons. The cargo, documents show, was destined to the South Sudanese government in Juba, through the mediation of a company, "Loid [sic] Investments Ltd" located at the Jebel Centre in Juba.

On July 9, the Bloomberg news agency broke news of the Chinese arms transfer and also released the shipping documents to *Jane's Defence Weekly*.¹⁰⁴ According to these sources the equipment was shipped from the port of Zhanjiang (Guangdong) and the government of South Sudan confirmed the procurement. However, TransArms and IPIS traced the ship voyage and analysed the transport documents, discovering that the cargo was actually loaded partly in Dalian and partly in Zhanjiang, mostly in fulfilment of a contract dated 3 April, 2013 but partly also for a contract labelled "MOD 001/2011" that included anti-tank weapon systems and missiles.



102 *South Sudan: Nowhere safe: Civilians under attack in South Sudan*, Amnesty International, 8 May 2014; *South Sudan's New War: Abuses by Government and Opposition Forces*, Human Rights Watch, 7 August 2014.

103 IMO number 9416757, with a cargo capacity of 27,300 DWT, including 1,391 TEUs.

104 "China Sells South Sudan Arms as Its Government Talks Peace" by Ilya Gridneff, <http://www.bloomberg.com/news/2014-07-08/norinco-sells-south-sudan-arms-as-chinese-government-talks-peace.html>; "South Sudan takes delivery of Chinese ATGWs" by Jeremy Binnie, *IHS Jane's Defence Weekly*, 09 July 2014.

The cargo was listed in three bills of lading and packing lists, two for Dalian and one for Zhanjiang, for a total of 71 containers (TEUs) and 1,077 tons, with a declared cost (in c.i.f. terms) of US\$37.7 million.

The two bills of lading for Dalian included: Hj-73D anti-tank weapon systems; Hj-73D launching device and guidance systems; Hj-73D first echelon tester, training simulators; battery; spare parts and missiles (1,200 rounds; 7.62x39mm (type 56, 3.1 millions); Type 69-I Rocket Launchers (319 sets), for a total of 176 tons and a cost of about US\$21 million, including about US\$1.9 million for transport and insurance. The bill of lading for Zhanjiang included: 7.62mm automatic rifles Type 56 (9,574); 40 mm grenade launchers (2,394 sets); 7.62x51 mm ball Type 53 (2 million rounds); 9x19 mm pistol ammo (2 millions rounds); Type 80 machine gun (319); NP-12 9 mm pistol (660); 7.62x39 mm ball Type 56 (2 million rounds); 40 mm anti-personnel grenade Type BGL.2 (20,000 rounds); 40 mm H rocket Type 69 (40,000 rounds), for a total of 901 tons and a cost of about US\$16 million, including 2.4 million for transport and insurance.

4.4 “As long as it’s legal...”

The Danish company H. Folmer & C.,¹⁰⁵ based in Copenhagen, specializes in the transport of military ammunition and explosives and its Danish-flagged fleet is composed of ships (all their names include “Danica”) fitted for various classes of IMO cargo, i.e. dangerous cargo. In the last years, several Folmer’s ships have transported explosives and ammunition for the security and defence forces of African, East Asian, European, and Middle Eastern countries, including Algeria, Bahrain, Egypt, Oman, Saudi Arabia, Tunisia, and the United Arab Emirates during the “Arab Springs”.¹⁰⁶

Compelling examples of the company’s activity are the shipments to Egypt of US-made crowd-control ammunition and toxic agents it delivered in the period 2011-2013. Journalists who carried out an inquiry on Danish-flagged ships that transported arms and ammunition to the Middle East/North Africa countries during the “Arab Springs” questioned Mr. Jørgen Folmer, owner of the company:

“Q: How do you feel about the fact that you are providing ammunition to help to beat civilians to death?
A.: As long as it’s legal, I cannot see any problem in it.”¹⁰⁷

According to US State Department statistics, in 2011 the US government authorized more than US\$100 million worth of arms sales to Egypt.¹⁰⁸ This included some 73,000 items – worth in excess of US\$1.7 million – listed as “toxic agents”, the category which includes tear gas. A bill of lading obtained by TransArms and IPIS vzw show that, on April 8 2011, the US company Combined Systems, Inc., then owned by the Carlyle Group¹⁰⁹ and manufacturer of crowd-control ammunition, shipped around 19 tons of ammunition (for an estimated value of US\$1.3 million) to the Egyptian military port of Adabiya on the Red Sea (according to transport documents obtained by the Omega Research Foundation, the United States shipped a similar amount of toxic agents to Egypt in 2010).

The voyage was performed by the Danish-flagged special cargo ship MV Danica Brown,¹¹⁰ owned by Folmer, and was organized by Nico Shipping Corp.,¹¹¹ a US-based defence logistics company.¹¹² The ship left the US Army’s Ocean Terminal Sunny Point (North Carolina), on April 3 2011 and arrived at Adabiya on June 9, 2011.

105 <http://www.folmer.dk/thefleet>

106 Transport documents obtained and examined by TransArms.

107 K. Kornø, T. Gösta Svensson, D. Rebouh, “Kan Ikke Se Problemet”, *Ekstra Bladet*, 17 March 2013. The article was part of a series that illustrated the involvement of Danish shipowners in questionable shipments. TransArms provided the information on ships and cargoes.

108 *USA repeatedly shipped arms supplies to Egyptian security forces*, Amnesty International, 7 December 2011.

109 The Carlyle Group “believe it is important to consider the environmental, social and governance (ESG) implications of our investments.” <http://www.carlyle.com/Company/item10633.html> Last Accessed 12 March 2012.

110 IMO 8421872. The ship is managed by H. Folmer & C., with registered owner Invest VII and the Danish company Erria A/S. as safety manager. The ship has a capacity (DWT) of 1,563 t and 49 TEUs, it is IMO 1 fitted and special bulk cargo fitted, and has a service speed of 11 knots.

111 Domiciled in Wilmington (NC).

112 TransArms/IPIS database, Questionnaire dated June 19, 2001, answer by Carsten Steenberg.



On October 10, 2011, Combined Systems, Inc. shipped 7.2 tons of “ammunition smoke” - which includes chemical irritants and riot control agents such as tear gas – to Adabiya port for the Egyptian Ministry of Interior.¹¹³

The cargo was loaded onto another Folmer’s special ship, the MV Marianne Danica¹¹⁴ at Sunny Point and arrived in Adabiya November 26, 2011.

On 24 January 2013 the Egypt Independent¹¹⁵ reported a Ministry of Interior spokesman as saying that a large amount of tear gas has been acquired and was “en route” from the USA. The day after the media reports of the shipment, a US State Department spokesman confirmed that the US had approved an export license to ship US-made riot control agents such as tear gas to the Egyptian government: “No U.S. security assistance funds have been used for the purchase of these products [which] used appropriately...can save lives and can protect property. And so we condemn any misuse of ... teargas that can result in injury or unlawful death, and any such misuse would jeopardize future exports.”¹¹⁶

P16 - Combined Tactical Systems tear gas ammunition identified by researchers at the Egyptian Initiative for Perso



Source: Four corner Media <https://vimeo.com/34526996>

113 USA repeatedly shipped arms supplies to Egyptian security forces, Amnesty International, 7 December 2011; Information by Omega Research Foundation, Manchester; industry database.

114 IMO number: 9006241. Registered owner Danica XV, Danica Care of H. Folmer & Co., Fredericiagade 57, 1310 Copenhagen, K, Denmark; safety manager Erria A/S, domiciled at Marstal, domiciled at Enighedstraede 1, 5960 Marstal, Denmark. The ship is IMO 1 fitted and special bulk cargo fitted, with a capacity (DWT) of 2,200 t (and 78 TEUs) and a service speed of 12.5 knots.

115 <http://www.egyptindependent.com/news/interior-ministry-still-waiting-tear-gas-shipment-us>;
<http://www.egyptindependent.com/news/egypt-imports-140000-teargas-canisters-us>

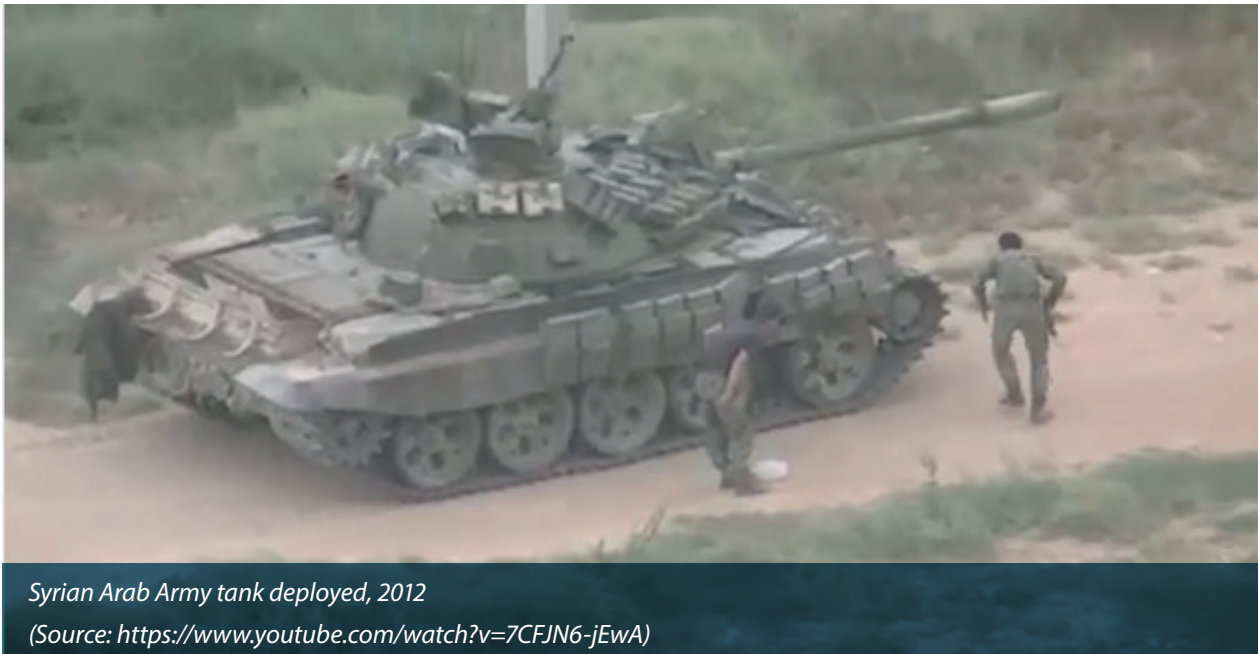
116 Patrick Ventrell, Deputy Spokesperson, Daily Press Briefing, Department of State, 25 February 2013.

5. “FERRYING” THE WHEELS OF REPRESSION

The following cases show the use of ro/ro ships (vehicles carriers) to ferry military vehicles, bulldozers, and spare parts for tanks used to intimidate and block demonstrations, remove barricades and provide logistic assistance to soldiers and policemen. Roll on/Roll off ships, with their built-in ramps that allow vehicles to roll on directly into the ships, are particularly fitted for the transport of heavy military vehicles but also for concealing undeclared cargo in container trucks, in vehicles or in containers loaded on their multi-deck platforms.

5.1 T-72 Tank Components and Spare Parts for the Syrian Army

Since early 2011, the Syrian security and armed forces have brutally suppressed the predominantly peaceful protest movement with excessive force, mass arbitrary arrests, and widespread torture and other ill-treatment. Tanks and artillery have been widely used by the armed forces to fire rounds and shells into civilian residential areas in towns and cities which have seen mass protests. Security forces - including snipers - have shot people dead and among those targeted have been individuals trying to help the wounded on the streets.¹¹⁹



Syrian Arab Army tank deployed, 2012

(Source: <https://www.youtube.com/watch?v=7CFJN6-jEwA>)

On 20th December 2012, the Finnish-flagged ro-ro ship MV Finnsun¹²⁰ (IMO 9468918) docked in St. Petersburg to embark vehicles and cargo destined to various ports. The ship, with a capacity of 470 containers in addition to vehicles, was managed by Finnlines PLC¹²¹, based in Helsinki (Finland). Ro/ro ships are often fitted for loading containers on their decks, in addition to those loaded on trucks. Among the containers loaded in St. Petersburg, there was one that was destined to the port of Latakia in Syria.

The container “travelled” from St. Petersburg, Russia, to the port of Antwerp (Belgium) via the port of Kotka (Finland). Finnish customs subsequently warned Belgian customs that a container for Latakia (Syria) was present on the m/v Finnsun and did not have the necessary transit licence.¹²² As was later discovered, the container was packed with several boxes of undeclared spare parts for battle tanks destined to Syria’s military.

¹¹⁹ *Syrian military assault against protesters must end*, Amnesty International, 25 April 2011.

¹²⁰ The MV Finnsun is a car carrier ship with a cargo capacity of 11,029 DWT and a speed of 12 knots. Its Registered Owner is Finnlines North Sea SA, based in Luxembourg.

¹²¹ <http://www.finnlines.com/freight/>

¹²² Email IPIS vzw with Belgian Ministry of Finance, 4 March 2013.



The container loaded in Saint Petersburg on board the MV Finnsun on December 2012

(Source: <https://www.sttinfo.fi/>)

The Finnish shipping company stated in a February 15, 2013 press release, that: “The real state of the cargo being military vehicle equipment and the final destination in Syria was detected in Antwerp on the 3rd of January based on the normal re-checking procedure of the contents of the cargoes on board. Therefore the cargo was not unloaded in Antwerp and under Finnish law Finnlines could not take the container back to St. Petersburg. Finnlines decided immediately to keep the container on board and bring it back to Helsinki for discharge and deliver the cargo promptly to the Finnish Customs”.¹²³

Inspection of the container in Finland revealed spare parts for the T-72 tank. Further investigations revealed that the owner of the cargo was a company in the British Virgin Islands.¹²⁴ The Finnish Customs stated: “According to a report from the Ministry of Defence, the seized tank spare parts must be considered defence materiel whose transit requires a licence provided for in the Finnish Act on the Export of Defence Materiel. According to information from the Ministry of Defence, a licence for the transit of the consignment had not been applied for or granted in Finland.”

Although Finnish law states that the transit of defence materiel through Finnish territory is only allowed if an authorization has been granted,¹²⁵ the main obstacle for the delivery was the EU arms embargo against Syria enacted on the 9th May 2011 (Council Decision 2011/273/CFSP of 9 May 2011) which prohibits the sale, supply, transfer or export of arms and related matériel and the use of flag vessels from Member States. In addition in July 2012 the EU decided that EU Member States should inspect all vessels and aircraft bound for Syria within their territories and with the consent of the flag state if they have reasonable grounds to believe that the cargo may include sanctioned items (Council Decision 2012/420/CFSP of 23 July 2012).¹²⁶

In October 2013 it was announced that Finnish Customs had forwarded an investigative report to the Finnish State Prosecutor who would conduct a separate inquiry.¹²⁷

5.2 HMMWVs and Bulldozers Against Cairo Protesters

From March 2011 to October 2013, the US authorities authorized the Egyptian ministry of Defence’s Procurement office in Washington to transport a variety of military vehicles to Egypt, including after the July 2013 coup. Part of the vehicles was shipped in containerships and part by ro/ro ships.

123 “Spare parts of tanks loaded on board MV Finnsun in St. Petersburg”, Press release Finnlines, 15 February 2013. Belgian Customs gave a different account. Belgian customs claimed that its involvement was limited to having informed and questioned the shipping company, Finnlines, in Antwerp. (Email IPIS vzw with Belgian Ministry of Finance, 4 March 2013.)

124 Finnlines employees suspected after discovery of Syria-bound tank parts, *Helsinki Times*, 24 October 2013.

125 Act on the Export and Transit of Defence Materiel.

126 Superseded by Council Decision 2012/739/CFSP 29 November 2012.

127 Finnish Customs forward T-72 report to prosecutors, *Defense News*, 30th October 2013.

During the several crackdowns on demonstrators which caused thousands of deaths, in particular as a consequence of the July 2013 coup d'état, armoured vehicles of various types and bulldozers were seen to attack and demolish demonstrators' camps and barricades.

Six ro/ro ships, belonging to American Roll-On Roll-Off Carrier (ARC, USA),¹²⁸ Liberty Maritime¹²⁹ (Liberty Global Logistics Inc., LGL, USA), NYK Line (Singapore), and Sealift Inc. (USA) transported to Egypt thousands of tons of military vehicles and bulldozers during the above-mentioned period.

Among the voyages carried out after the July 2013 coup there were two voyages by the US-flagged vehicles carrier Resolve, managed by ARC, a company jointly owned by the Norwegian Wilhelmsen and the Swedish Wallenius Lines. The vessel transported 478 tons of military vehicles, including 33 armoured HMMWVs.



*HMMWV and Caterpillar military bulldozer used against protestors, 2013
(Source: Mail Online (Mohammed Abdel Moneim/AFP))*



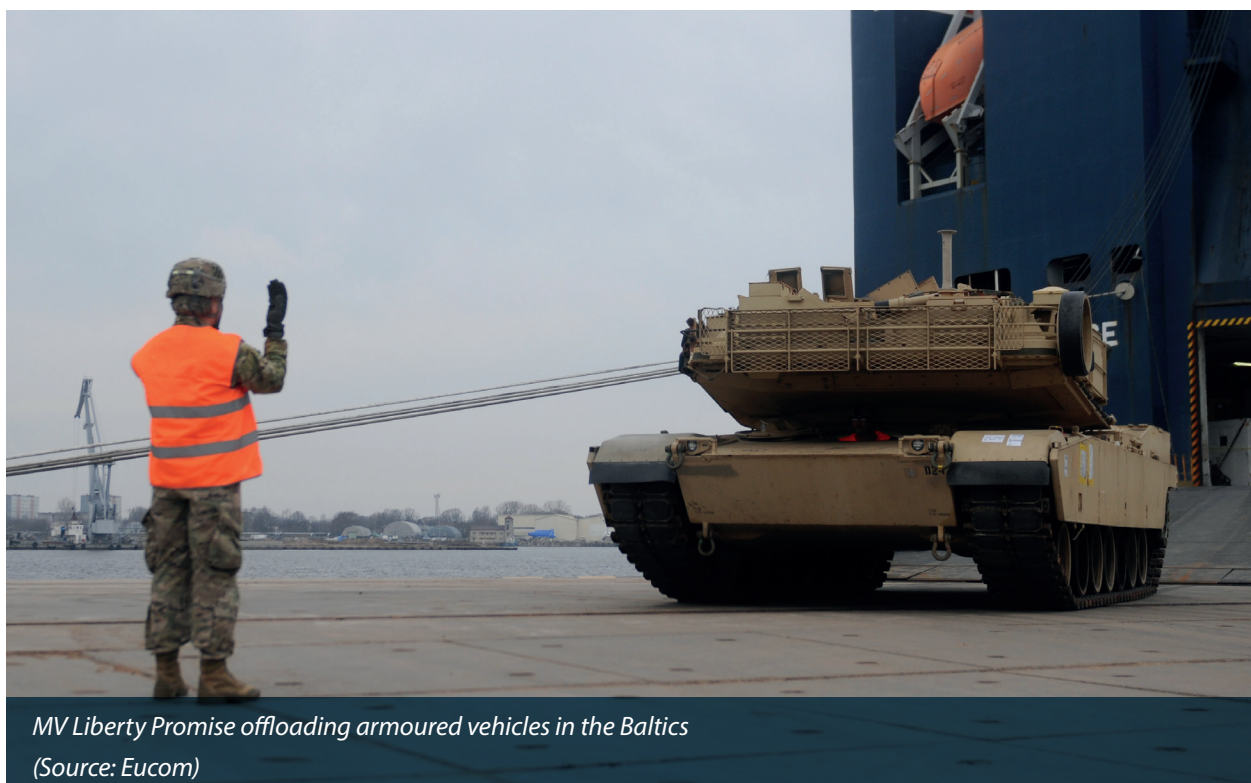
128 Based in One Maynard Drive, Park Ridge, NJ 07656.

129 Based in Lake Success, NY.

Table 6 - Ro/ro ships with cargo destined to Egyptian Ministry of defence – 2011-2014

Vessel	IMO	Flag	Manager	Depart	Main cargo
<i>Lyra Leader</i>	9284752	PAN	NYK L.	3/4/11	Aircraft fire fighting parts
<i>Freedom</i>	9129706	USA	ARC	3/11/11	Tiger tractor TC 100
<i>Liberty Pride</i>	9448114	USA	LGL	6/6/11	Aircraft, Tractors, HMMWVs
<i>Liberty Promise</i>	9448425	USA	LGL	7/11/11	Tractors, Tankers
<i>Courage</i>	8919922	USA	ARC	7/21/11	Antennas for fire control systems
<i>Liberty Pride</i>	9448114	USA	LGL	9/11/11	Helicopter
<i>Freedom</i>	9129706	USA	ARC	11/25/11	Caterpillar 938H
<i>Liberty Pride</i>	9448114	USA	LGL	11/25/11	Caterpillars, cars
<i>Liberty Pride</i>	9448114	USA	LGL	2/23/12	Trucks, Tankers, Cranes
<i>Liberty Promise</i>	9448425	USA	LGL	3/29/12	2012 Kenworth truck
<i>Freedom</i>	9129706	USA	ARC	5/9/12	Trucks, trailers, munition trailers
<i>Freedom</i>	9129706	USA	ARC	8/20/12	Kaman SH2G helos, Ford trucks
<i>Freedom</i>	9129706	USA	ARC	11/28/12	Military truck and ambulances
<i>Liberty Promise</i>	9448425	USA	LGL	12/31/12	Caterpillar Dozer
<i>Liberty Promise</i>	9448425	USA	LGL	6/14/13	Military HMMWV
<i>Resolve</i>	9080297	USA	ARC	7/23/13	Military HMMWV
<i>Resolve</i>	9080297	USA	ARC	10/21/13	Military trailers, tractors

Source: TransArms/IPIS database on B/Ls





6. LOOPHOLES AND THE DIPLOMATIC CARGO

International shipments whose nature is related to the activities protected by the provisions of the Vienna Convention on Diplomatic Relations,¹³⁰ in particular art. 27¹³¹ on the so-called “diplomatic bag or pouch”,¹³² have customarily enjoyed protection from inspections and seizures, except in some exceptional circumstances¹³³ and, after the terrorist attacks of September 11, 2001, in some countries, such as the United States, where random checks have been routinely carried out.

Regulations on the privileges and characteristics of the diplomatic bag, whose weight and dimensions are not specified and are consequently not regulated, mostly relate to “incoming” diplomatic bags¹³⁴ or with outbound diplomatic cargo shipped by the government of the country from where the shipments are forwarded to its diplomatic missions abroad. Nearly nothing has been said on diplomatic cargo-labelled shipments organized and forwarded by a diplomatic mission based in a host country, beyond the fact that they are allowed.



A diplomatic bag is intended to serve and facilitate privileged communications and materials for the functioning of a diplomatic mission, but abuses have been common.¹³⁵

The case of cargoes labelled as “diplomatic” and shipped to Israel and Egypt from the United States by the diplomatic missions of Israel and Egypt may illustrate the necessity to further regulate the matter.

130 http://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf

131 “Paragraphs 3 and 4 of article 27 of the Vienna Convention provide for the present status of the diplomatic bag. Under paragraph 3, the diplomatic bag may not be ‘opened or detained.’ Paragraph 4 provides that the diplomatic bag may be used for the transport of only official diplomatic documents or articles. In drafting these paragraphs, the delegates to the Commission and the Conference attempted to balance the opposing interests in, on the one hand, protection for diplomatic communications and, on the other hand, safeguards against possible abuse of the diplomatic bag.” Quoted from Nelson, Christine M., “Opening” Pandora’s Box: The Status of the Diplomatic Bag in International Relations”. *Fordham International Law Journal*, Vol. 12, Issue 3, 1988, p. 603, <http://ir.lawnet.fordham.edu/ilj>.

132 “The diplomatic bag is the means by which nations and their missions abroad convey official documents and articles. Most diplomatic bags are large canvas sacks 48 bearing external marks of their character. The bags are intended for the safe and confidential conveyance of articles for use by a mission such as classified documents, vital communiqués, encoding and decoding equipment, passports, and government seals. Quoted from Nelson, Christine M., “Opening” Pandora’s Box: The Status of the Diplomatic Bag in International Relations”. *Fordham International Law Journal*, Vol. 12, Issue 3, 1988, p.502, <http://ir.lawnet.fordham.edu/ilj>.

133 If the hosting State objects to the entry of a diplomatic bag, the shipping entity can give permission to inspect the bag or accept it back without inspection. Nelson, Christine M., “Opening” Pandora’s Box: The Status of the Diplomatic Bag in International Relations”. *Fordham International Law Journal*, Vol. 12, Issue 3 1988, <http://ir.lawnet.fordham.edu/ilj>.

134 <http://www.state.gov/ofm/resource/imp/roinfo/ny/20947.htm>; <http://www.state.gov/ofm/customs/>.

135 A review of cases and an essential literature related to the regulations and abuse of diplomatic cargo may be found in “Is There Such a Thing as a Diplomatic Pouch?” Staff writer, *The Straight Dope*, December 20, 2005. <http://www.straightdope.com/columns/read/2234/is-there-such-a-thing-as-a-diplomatic-pouch>

6.1 20,000 Tons of Diplomatic Cargo... and Counting

From 2011 to 2014, the Consulate of Israel in New York and the company “Interglobal Forwarding Services” (Bayonne, New Jersey) shipped a high volume of “diplomatic cargo” to Israeli ports, on behalf of Israel’s Defence ministry. A partial account from transport documents between January 2011 and June 2014 show a total “diplomatic” cargo of 16,883 tons. The shipments involved several containerships, all managed by the Norfolk-based **Maersk Line**¹³⁶, in 86 voyages.

Between 2011 and 2013 the Egyptian Procurement Office (EPO, Ministry of Defence), based in the Egyptian embassy in Washington (DC), shipped to Egypt at least 3,637 tons of cargo labelled as “Diplomatic Cargo” (excluding general merchandise items and personal effects). This according to the bills of lading accompanying the containers. The cargo was transported in 39 voyages by several containerships all managed by the Norfolk-based Maersk Line.

The diplomatic containers destined to Israel were often transloaded on other ships in ports such as Algeciras (Spain), Marsaxlokk (Malta), Damietta (Egypt), and Gioia Tauro (Southern Italy), whereas the containers destined to Egypt were mostly unloaded in Port Said. The Maersk containerships in scheduled service from the US East Coast to the Mediterranean served both countries.

The amount of cargo shipped by the diplomatic missions of Israel and Egypt hardly adapts to the definition of what a diplomatic cargo should be, i.e. documents, materials, and goods that are essential for the activities and functioning of the diplomatic mission. Those amounts, totalling more than 20,000 tons of cargo in few years, seem to configure a stable supply-chain of goods whose nature is hidden to the control of Customs authorities and the public. The use of diplomatic cover for shipping such quantities of cargo should be of high concern, in particular in presence of widespread human right abuses perpetrated by security forces in both Israel and Egypt.



Containership Maersk Virginia

Source: <https://www.youtube.com/watch?v=HO45Lz5HP2I>

The Maersk Virginia has been one of the most active carriers of diplomatic containers to both Israel and Egypt. It was in the fleet of the US-based Maersk Line until May 2013 and was later managed by Maersk Global Services Centres, based in Mumbai, India. The ship changed flag from US to Hong Kong, the headquarters of its Registered Owner, in the same month.

¹³⁶ <http://www.maersklinelimited.com/>. See also <http://www.maersklinelimited.com/services/government-ship-management/>.

7. STOPPING IRRESPONSIBLE SHIPMENTS

Human rights and anti-war organizations, trade unions, and religious group have organized several campaigns and demonstrations to try to denounce and possibly stop ships and shipments directed to countries involved in armed conflicts and severe human rights violations. The following are three examples of actions taken by human rights campaigners between 2008 and 2014 with the assistance of militant organizations and maritime experts.

7.1 An Yue Jiang: Arms to Zimbabwe

In April 2008, at a time when senior personnel in the Zimbabwean army were coordinating and participating in the mistreatment, torture and murder of anyone suspected of voting for opposition parties following the disputed elections in March, a Chinese ship arrived in South Africa with a deadly cargo of more than 3,000 cases of arms destined for the Zimbabwean Defence Force.



*The general cargo China-flagged An Yue Jiang photographed off Durban, South Africa, April 17, 2008.
Photos by Clinton Wyness*

At that time there was an unprecedented wave of state-sponsored human rights violations, perpetrated mainly by security forces, war veterans and supporters of the Zimbabwe African National Union (ZANU-PF) after elections in March 2008. At least 200 people died as a result; thousands were injured while tens of thousands were displaced in rural areas and had to seek refuge in urban centres.¹³⁷

A global campaign action started by trade unions, churches and lawyers in South Africa, and circulated by Amnesty International, IANSA and other organizations. This global campaign called on numerous governments in Africa, the EU and the USA to urge Beijing to stop the shipment.

On 10 April 2008 the Chinese-flagged cargo ship, the MV An Yue Jiang,¹³⁸ owned and operated by Chinese Ocean Shipping Company (COSCO), arrived from Tianjin, China, in Durban, South Africa, carrying six shipping containers filled with 3,080 cases of small arms, light weapons and ammunition all exported by the Chinese company Poly Technologies Inc of Beijing and destined for the Zimbabwe Defence Force.¹³⁹ The ammunition was to be trans-shipped on rail to Zimbabwe, with the assistance of AB Logistics, South Africa's state-owned Armscor's transport arm.¹⁴⁰

137 AI annual report 2009

138 The ship had a cargo capacity of 14,913 DWT and can carry 230 containers. The ship was broken up in November 2013.

139 According to the shipping documents and statements by the Zimbabwe Defence Force; See, *Deadly Movements: Transportation Controls in the Arms Trade Treaty*, Amnesty International, International Peace Information Service (IPIS) and Transarms, 19 July 2010, ACT 30/015/2010.

140 Sam Sole, "Armscor role in arms for Zimbabwe", Mail & Guardian, 18 April, 2008; See *Zimbabwe - Arms and Corruption: Fueling Human Rights Abuses*, IPIS, July 2009.

The cargo included¹⁴¹: 7.62 x 54mm Ball - 1000 cases containing 1 million rounds; 7.62 x 39mm Ball - 1331 cases containing 2 million rounds; RPC7, 40mm Rockets - 250 cases containing 1500 rounds; 60 mm mortar bombs - 227 cases containing 2703 rounds; 31mm mortar bombs - 176 cases containing 581 rounds; 31mm mortar tubes - 93 cases containing 31 items.

On 14 April 2008, the South African government granted a transit licence for the cargo to be moved on to Zimbabwe, however trade unions in South Africa nonetheless appealed to transport workers not to offload the cargo if the ship docked at any African port. Church leaders backed by lawyers in South Africa obtained a court order to stop the shipment through South African ports. When the MV An Yue Jiang sailed away from South African ports with the arms cargo, transport workers in ports in Mozambique, Namibia and Angola, mobilised by national trade unions and assisted by the International Transport Workers' Federation (ITF) and lawyers in those countries, similarly refused to offload the military cargo destined for Zimbabwe's armed forces.

On 24/25 April 2008 the ship docked at Luanda, in Angola, and the Angolan authorities alleged that they only granted permission to unload cargo destined for Angola; not the arms containers.¹⁴² On 12 May 2008, the ship was spotted just off Cape Town, on its way back to China, reportedly with its military cargo.¹⁴³

7.2 Wehr Elbe: White Phosphorous to Israel

Operation "Cast Lead" ended on 18 January 2009 after 22 days in which Israeli military offensive killed some 1,400 Palestinians in the Gaza Strip, including some 300 children and hundreds of other civilians, and injured around 5,000. White phosphorus grenades were repeatedly fired indiscriminately over densely populated residential areas, killing and wounding civilians and destroying civilian property.

According to research by TransArms, Omega Research Foundation, and IPIS vzw, on 20 December 2008 - one week before the start of the Israeli attacks on Gaza - a German ship left the USA for Israel carrying extremely large quantities of ammunition.¹⁴⁴

From early December 2008, the US Military Sealift Command began organizing three large deliveries by sea of military ammunition and high explosives, including explosives with white phosphorus, from the US military port at Sunny Point, North Carolina, to an Israeli port near the Gaza Strip.¹⁴⁵ On 8 December 2008, the contract was awarded to a German shipping company, Oskar Wehr KG GmbH.

On 20 December 2008, 989 containers of "ammunition and other containerized ammunition supplies" were loaded onto the container ship, the Marshall Islands-flagged "Wehr Elbe"¹⁴⁶, owned by Oskar Wehr KG, which departed from Sunny Point Military Ocean Terminal, North Carolina to the Israeli port of Ashdod.

On 31 December 2008, just four days after the start of Israel's attacks on targets in Gaza, a second request was issued by the US Military Sealift Command for a cargo ship to transport two further shipments of ammunition, which explicitly included white phosphorus munitions, from Astakos in Greece to Ashdod, Israel. Following public protests in Greece, these two further shipments were cancelled on 9 January

141 According to the Arrival Notification, See *Zimbabwe: No supply of arms until state sponsored violence ceases*, Amnesty International, 24 April 2008.

142 According to Johnson-Thomas and Danssaert the military cargo was offloaded and delivered to Zimbabwe (Brian Johnson-Thomas & Peter Danssaert: *Zimbabwe - Arms and Corruption: Fuelling Human Rights Abuses*, IPIS vzw, 2009.

143 Sam Dawson (ITF), 'Arms embargoed', in Amnesty International UK, TU Alert, Spring 2009, pp. 8, 21. AI annual report 2009

144 The US military tender request indicated an extremely large quantity of ammunition and associated supplies: the first planned shipment consisted of the equivalent of 989 standard (20ft) shipping containers of cargo, and required the ship to carry at least 5.8 million lbs (around 2600 metric tons) of 'net explosive weight', a measure of the explosive content of the cargo. The ship was placed under the tactical control of the US Sealift Logistics Command for the duration of the voyage, and was required to have up to 12 US armed forces personnel on board.

145 On 4 December 2008, the USA's military shipping service, Military Sealift Command, issued a request to charter a commercial cargo vessel to move a very large consignment of "containerized ammunition and other containerized ammunition supplies" from Sunny Point (North Carolina) to Ashdod port in Israel.

146 IMO 9236688.

2009, but a US military spokesperson subsequently confirmed that the Pentagon was still seeking a way to also deliver those munitions.



According to a report from Reuters on 9 January 2009, a US naval spokesperson stated that the delivery was “to a pre-positioned U.S. munitions stockpile in Israel in accordance with a congressionally authorized 1990 agreement between the U.S. and Israel...This previously scheduled shipment is routine and not in support of the current situation in Gaza.” However, the portion of US Army Prepositioned Stocks (APS) maintained in Israel is the War Reserve Stocks for Allies – Israel (WRS-A-I) stockpile. According to information provided to Congress in 2003 by the US Department of Defense, this is a “separate stockpile of U.S.–owned munitions and equipment set aside, reserved, or intended for use as war reserve stocks by the U.S. and which may be transferred to the Government of Israel in an emergency, subject to reimbursement.”¹⁴⁷ On 22 March 2009, the Wehr Elbe docked at the Israeli port of Ashdod, just 40 km north of Gaza by road¹⁴⁸ and unloaded its cargo of reportedly over 300 containers.

7.3 Overseas Mykonos and Santorini: Fuelling the Gaza Bombing

In the early morning of 8 July 2014, Israel launched a military offensive on Gaza, named Operation “Protective Edge”.¹⁴⁹ The Israeli military launched hundreds of air strikes across the Gaza Strip, some targeting civilian homes they claimed belonged to the families of “ Hamas operatives”. However, in several cases no evidence has emerged to indicate that “ Hamas operatives” were in the homes at the time of the attack, nor that the homes were being used for military purposes – e.g. as munitions stores.

The Israel defence Forces’ air and land assault has caused overwhelming destruction. Thousands of homes have been destroyed and civilian buildings have been damaged, including medical facilities and vital infrastructure. More than 1,900 Palestinians have died, the vast majority of them civilians, including more than 450 children. At least 64 Israeli soldiers, two Israeli civilians, and one Thai national have also

147 US says arms shipment to Israel is not linked to Gaza’, Reuters, 9 January 2009. In August 2014 the Wall Street Journal revealed that during the July 2014 Gaza campaign Israel had secretly secured supplies of ammunition, from the pre-positioned stockpiles, with help from the Pentagon and without approval from the White House nor State Department (“White House Now Scrutinizing Israeli Requests for Ammunition”, Wall Street Journal, 14 August 2014).

148 *US munitions delivered to Israel*, Amnesty International, 2 April 2009.

149 Israel/Occupied Territories MSP Rapid Action, 17 July 2014.

been killed as Hamas and other Palestinian armed groups have fired indiscriminate rockets into Israel. One Israeli man was killed at Erez crossing when he was, according to the Israeli Ministry of Foreign Affairs, hit by a mortar grenade fired by an armed group, as he was delivering food supplies to soldiers.

According to documents obtained by TransArms and the International Peace Information Service , on 23 July 2014 the US-flagged oil tanker “Overseas Mykonos” left the port of Corpus Christi, Texas, after departing from Houston for its declared destination of Ashkelon, 12 miles south of Ashdod and 8 miles north of Gaza border.

The Overseas Mykonos¹⁵⁰ delivered its cargo, 62,116 tons of jet fuel, to the Ashkelon oil terminal on 12 August. Some weeks before, on 21 June 2014, another US-flagged oil tanker, the “Overseas Santorini”¹⁵¹, had departed from Corpus Christi, arriving in Ashkelon on 14 July 2014 and carrying 26,000 tons of jet fuel JP-8 (used also in diesel engines¹⁵²) under a contract with the U.S. Defense Logistics Agency Energy.



Transport documents show that Overseas Mykonos and its sister ship Overseas Santorini docked at Ashkelon oil terminal in Israel at least 7 times since January 2014, delivering a total of 223,000 tons of jet fuel and 64,000 tons of diesel fuel and gasoline for the Israeli Armed Forces.

Table 7 - US shipments of military fuel to Israel by commercial Tankerships in 2014, in tons

Source: TransArms/IPIS database, Elaboration on Bills of lading data. Shipper: US Government Defense Fuel Supply Center (Defense Logistics Agency Energy). O.M = Overseas Mykonos; O.S. = Overseas Santorini

Shipper	Ship	From	To	Date	Diesel	Jet fuel
USG DFSC	O.M.	C. Christi	Ashkelon	1/20/14	4,526	30,244
USG DFSC	O.S.	C. Christi	Ashkelon	3/4/14	4,536	30,295
GOI	O.M.	C. Christi	Ashkelon	3/25/14	9,789	24,648
USG DFSC	O.S.	C. Christi	Ashkelon	4/27/14	18,566	19,399
USG DFSC	O.M.	P.Comfort	Ashkelon	5/21/14	12,136	30,249
USG DFSC	O.S.	C. Christi	Ashkelon	6/20/14	7,667	26,029
USG DFSC	O.M.	Houston	Ashkelon	7/13/14	7,093	62,116
Total tons					287,293	287,293

150 IMO number 9435894, US-flagged, cargo capacity 51,711 DWT.

151 IMO number 9435909, US-flagged, cargo capacity 51,662 DWT.

152 JP-8 is used by NATO countries as the single fuel for all vehicles and aircraft.

The two US-flagged tankers belong to the US-based Overseas Shipholding Group, a troubled Delaware corporation with headquarters in New York (NY),¹⁵³ who underwent several structural and management changes¹⁵⁴ after filing voluntary petition for relief under the US bankruptcy laws (Chapter 11) on November 14, 2012, including the restructuring of the two main sections, US-flagged and Marshall Islands-flagged, of its fleet of 89 ships.¹⁵⁵ At the time of transport, the tankers were both managed by the Greek office of OSG (OSG Ship Management GR Ltd, based in Athens)¹⁵⁶.



The US-flagged Overseas Santorini

Source: <https://www.youtube.com/watch?v=IA0oo7VRVag>

All 2014 shipments were carried out on behalf of the U.S. Defense Logistics Agency Energy¹⁵⁷, except for the March 25 voyage, whose shipper - document show - was directly the "Government of Israel" via the Israeli Consulate in New York, carried out by the Overseas Mykonos, departing Corpus Christi on 26 March 2014 and arriving in Ashkelon on 17 April with 25,000 tons of jet fuel.

Other transport documents show that the DLAE was the shipper of jet and diesel fuel from the US government to Israel between 2011 and 2013. The fuel was transported by two other oil tankers managed by OSG Ship Management - Overseas Maremar¹⁵⁸ and Overseas Luxmar,¹⁵⁹ for a total of 313,392 tons.

153 According to the company website, "Overseas Shipholding Group, Inc. is a publicly traded tanker company providing energy transportation services for crude oil and petroleum products in the U.S. and International Flag markets. [...] OSG is recognized as one of the world's most customer-focused marine transportation companies". See: <http://www2.osg.com/>

154 See OSG's Security Exchange Commission filing k-10 (annual, 2013) and 10-Q (November 2014, available at: <http://www2.osg.com/>

155 See: <http://www2.osg.com/>

156 The "Registered Owner" of the Overseas Mykonos is "Mykonos Tanker LLC", registered in Delaware, and its International Security Manager is OSG Ship Management Inc., based in Tampa, Florida; the "Registered Owner" of the Overseas Santorini is "Santorini Tanker LLC", registered in Delaware, and its International Security Manager is OSG Ship Management Inc., based in Tampa, Florida.

157 On 16 April 2013 the US Congress was notified that the Israeli government had requested 864 million gallons of JP-8 ("jet propulsion") aviation fuel to the value of 2.7 billion dollars stating that: "the United States is committed to the security of Israel." The JP-8 fuel is used in jet fighter aircraft such as F-16s manufactured by the US defence company General Dynamics (now Lockheed Martin) which are used by at least 12 units of the Israel's defence forces (IDF/AF). See: "Israel - JP-8 Aviation Fuel, Diesel Fuel, and Unleaded Gasoline", Defense Security Cooperation Agency, Notification to US Congress, April 17, 2013, <http://www.energy.dla.mil/Pages/default.aspx>

158 IMO: 9165293, cargo capacity 47,236 DWT, presently Marshall Islands-flagged "Victory"

159 IMO: 9129940, cargo capacity 45,999 DWT, Marshall Islands-flagged.

The U.S. Defense Logistics Agency Energy (DLAE) based in Fort Belvoir, VA, awarded hundreds of million dollars to US energy companies in recent years and, in particular, to a subsidiary of the San Antonio-based Valero Energy, for the provisions of jet fuel to Israel's armed forces.¹⁶⁰

Israel has procured 362 F-16s since the 1980s and about half of those jet fighters are in service. Israeli F-16 units have carried out several combat missions¹⁶¹, including over Gaza in the Operation Protective Edge.¹⁶² From August 2014 to January 2015, Overseas Mykonos and Overseas Santorini have repeated their voyages from Corpus Christ several times.



160 Contract number SP0600-14-D-0451, DoD contracts No: 763-13 (31 October 2013). In October 2013, the DLAE awarded Valero Marketing and Supply Co. a \$331 million Foreign Military Sales contract (Contract number SP0600-14-D-0452) for the delivery of aviation turbine fuel for the military service of Israel and awarded Petromax LLC, based in Bay City, TX, a \$43 million contract for delivery of automotive gasoline for the military service of Israel. Previously, under the fiscal 2013 Foreign Military Sales funds, Valero Marketing and Supply Co. had been awarded a \$246 million contract for delivery of aviation fuel to the same customer (Contract number SP0600-14-D-0452).

161 http://www.f-16.net/f-16_users_article7.html

162 See: "Israel steps up bombardment of Gaza; territory's only power plant struck," *Washington Post*, by Sudarsan Raghavan, William Booth and Ruth Eglash, 29 July 2014; <http://globalaviationreport.com/2014/07/13/fourth-day-of-operation-protective-edge/>; "Israel says Gaza campaign will continue 'until mission is accomplished. House of Ismail Haniyeh, a senior Hamas leader, hit by missile after suggestions of a major escalation of military action in Gaza", by Harriet Sherwood, *The Guardian*, 28 July 2014; "Sharif Abdel Kouddous on Israel's Gaza Massacres: F-16 Kills 24 Relatives After 72 Die in Shejaiya", *Democracy Now*, 21 July 2014, http://www.democracynow.org/2014/7/21/sharif_abdel_kouddous_on_israels_gaza; "Qas-sam brigades says hit Israeli F-16 over Gaza", *Anadolu Agency*, 23 July 2014, <http://www.aa.com.tr/en/world/363110--qas-sam-brigades-says-hit-israeli-f-16-over-gaza>.

CONCLUSIONS

There is a clear need for the consistent and coherent incorporation of States' existing powers and obligations to regulate arms transportation, into an international instrument complementing the Arms Trade Treaty. In particular, national arms transportation controls should be used to prevent international arms transfers that would contravene the terms of the Treaty.

Ultimately, controls should be designed to enable States to prevent not only unauthorised or illegal arms shipments, but also blatantly irresponsible arms shipments within their jurisdictions, requiring all States to properly assess the risk that a particular shipment would contribute to serious violations of international law, especially of international human rights or humanitarian law. To do this, transportation controls must incorporate risk assessment mechanisms regarding the likely misuse or diversion of weapons, munitions or related equipment.

As much as possible, such controls should incorporate and enhance existing mechanisms and authorities regulating the physical movement of cargo, including customs, border control, and maritime authorities.¹⁶³ In particular, enhancing and incorporating uniform provisions for the Customs control of shipments of ATT-controlled items would not only assist in the control and verification of international arms transfers, but would also promote their transparency. States' reporting of international arms transfers currently lacks coverage and uniformity. In addition, many states' published national arms transfer reports do not contain information that precisely identifies the type of weapons sold or purchased beyond the level of broad categories, or the type of end user to which the arms transfer has been authorised. This makes it difficult to determine what arms are being transferred from which States and to which end users.

Developing uniform customs tariff codes for ATT-controlled items, and uniform standards for the control and verification of ATT-controlled items by Customs and licensing authorities, would provide common standards for states parties to collect information and report on international arms transfers under the ATT, which would be made easier for States to implement by taking advantage of systems of trade surveillance already undertaken by all national customs authorities. TransArms and IPIS vzw have researched and analyzed the problem of common standards and reporting best practices and their findings were published in the 2012 report "Transparency & Accountability".¹⁶⁴

163 These recommendations summarise those from *Deadly Movements: Transportation Controls in the Arms Trade Treaty*, Index: ACT 30/015/2010 Amnesty International July 2010.

164 Finardi, S., P. Danssaert, *Transparency & Accountability. Monitoring and Reporting Methods Under An Arms Trade Treaty*. TransArms and IPIS vzw, February 2012.

RECOMMENDATIONS

To be effective, the Arms Trade Treaty (ATT) should be complemented by a provision that enable states to regulate the physical movement of weapons. It should reinforce existing obligations and powers to regulate the transport of weapons (i) through states' territory (or airspace); (ii) by arms transport service providers operating from their jurisdiction; and (iii) on ships and (aircraft) 'flagged' in their jurisdiction.

1) Each State Party should:

Establish or maintain an effective national system for regulating the activities of transport service providers involved in transporting conventional arms covered by the ATT. Such a system should include:

- (a) registering transport service providers operating within their territory;
- (b) licensing each proposed transport service provision or activity relating to a transfer of conventional arms;
- (c) disclosing details of transport and transport service providers in applications for import and export licences or authorisations; and,
- (d) requiring transport service providers to maintain for inspection comprehensive and verifiable documentation, including cargo manifests, bills of lading and invoices, which at a minimum contain details of the export authorisation, consignee/consignor, end-user and the relevant customs tariff codes identifying each movement of ATT-controlled goods.
- (e) adopting United States' best practices in the field of transport documents publicity

At a minimum, take effective steps to ensure that transport service providers in their jurisdictions do not facilitate the supply of conventional arms in contravention of the ATT provisions.

At a minimum, require the operators of vessels registered in their jurisdiction to obtain a prior general authorisation to transport arms as part of a vessel's registration process, and to exclude carriers found to have been breaching arms embargoes or other arms export laws from obtaining authorisation to transport arms.

Inspect, in accordance with their national authorities and legislation and consistent with other international law (in particular the Law of the Sea) all cargo in their territory, if the State Party has information that provides reasonable grounds to believe the cargo forms part of an international arms transfer which is prohibited under the ATT.

Ensure that transport service providers are required to declare to customs authorities that they are transporting ATT-controlled goods; and ensure that customs authorities are required to verify that such shipments have obtained the necessary authorization.

- 2) Under the Arms Trade Treaty, State Parties' controls on the transport of weapons through their territories should incorporate a mechanism for prior risk assessment that evaluate if there is credible and reliable information indicating a substantial risk that the intended recipient is likely to use these arms to commit or facilitate serious violations of international human rights law or international humanitarian law.