



ماعت للسلام والتنمية وحقوق الإنسان
Maat For Peace, Development, and Human Rights

ARMS ILLICIT FLOW AND DIVERSION TO ARMED CONFLICT AREAS





Arms Illicit Flow and Diversion to Armed Conflict Areas

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Introduction:

Widespread proliferation of armed conflicts resulting from the reproduction of conventional weapons in the world, and the ensuing surge in the number of victims and the violation of human rights led the United Nations to strengthen its efforts to confront the phenomenon by issuing a legally binding instrument aimed at monitoring and controlling the spread of conventional arms and preventing their access to human rights violators, and to prevent their diversion to the illegal market or their use to commit terrorist acts, by setting international standards and legal rules to regulate the process of transferring conventional weapons and monitoring their use, through the adoption of the Arms Trade Treaty signed on April 2, 2013 and effective from December 24, 2014.

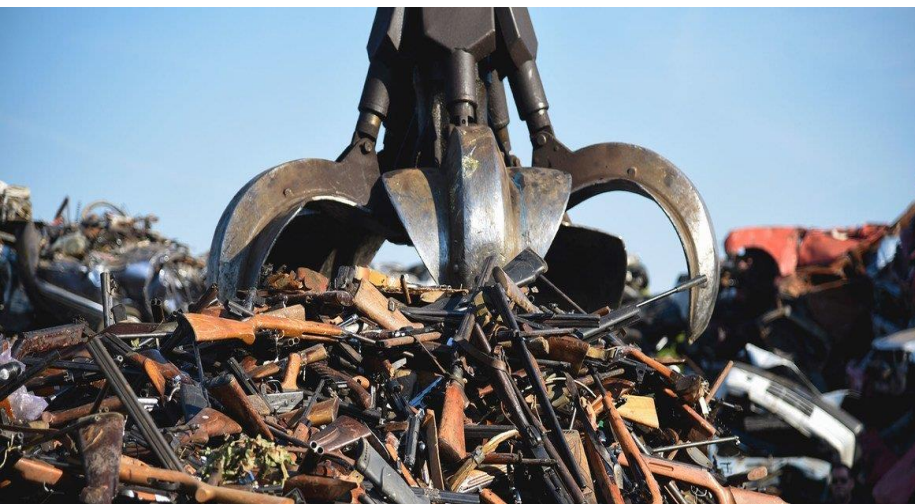
The Arms Trade Treaty is the first international agreement to establish regulatory rules for all operations related to international trade in conventional arms. After dozens of treaties in the field of prohibition and disarmament of arms of mass destruction, the international community has focused on conventional arms, which are also considered among the most prominent threats to international and regional peace and security, given their dire impacts on human security and human rights. This was echoed in many international reports that confirm the interrelationship between the proliferation of conventional arms without controls and restrictions, as well as the illegal trade and the hotbeds of internal armed conflicts and the activity of organized crime groups and terrorist organizations. The organization of arms transfer operations, which is expressed in international trade and the prohibition of illegal trade in conventional arms, is considered the most important factor in promoting international peace and human security. This importance reflects the international efforts made by international community, led by the United Nations, both at the negotiation stage and the final drafting of the provisions of the treaty, leading to persuading countries to ratify its provisions.

Accordingly, illicit trade in arms and lack of regulation thereof is a major factor increasing the suffering of civilians in areas of armed conflict, loss of life and human rights violations. Moreover, the absence of unified and agreed upon international standards on the import, export and transfer of conventional weapons contributes to

fueling conflict, population displacement, crime, terrorism as well as undermining opportunities for peace, stability, and achieving sustainable development goals .

Legal Framework Governing the Prevention of Arms Diversion

Diversion of conventional arms, ammunition and related parts and components to unauthorized end users poses a significant threat to societies all over the world. Hence, Article 11 of the Conventional Arms Trade Treaty stipulates that every State Party participating in the transfer of conventional arms is obligated under the provisions of Article 2(1) to take measures to prevent diversion. This is through its national system of control and origin, in accordance with Article 5(2), and by assessing the risk of diversion of exports and considering mitigation measures such as confidence-building or programs developed by exporting and importing countries through cooperation between countries and the exchange of information in accordance with their national laws, in order to mitigate the risk of diversion of conventional arms covered by Article 2 of the Convention, with follow-up measures required through investigation and law enforcement, to prevent arms transfer to perpetrators of international crimes or terrorist groups¹.



Therefore, diversion of arms undermines the effectiveness of efforts to combat their proliferation and thwarts attempts to regulate international trade in these arms for purposes consistent with relevant international law and standards. Preventing arms diversion constitutes a global

challenge, especially in areas of armed conflict, where small arms and ammunition are illegally traded at the local level through theft, resale and corruption. This may take place as a result of unregulated transfers, unauthorized re-transfers, thefts from poorly

¹ The text of Article 11 of the Convention on Conventional Arms Trade can be consulted on the treaty website, <https://thearmstradetreaty.org/treaty-text.html?templateId=209884>

secured warehouses, aid to armed groups or civilian population, or trading-off for natural resources².

Illicit Arms Transfer to Conflict Areas

Illicit arms flows, especially in areas of armed conflict, play a major role in fueling conflicts and violations that range from infractions to insurrection and terrorist activities. Such flows have negative effects on national security, human rights, opportunities for sustainable development, and the threat to international peace and security are numerous. Many countries, as external parties, played a role in fueling conflicts in the Middle East and Africa in particular, through the military support they provided to the parties to the conflict without any regard for the humanitarian crises in these regions.

1. Yemen

Numerous reports documented that Iran does not only supply the Houthis with arms, but also with oil tanks, thus providing them money as well as drugs. Iranian weapons continue to flow to the Houthis, including missiles, drones, ammunition and machine guns. It appears that Iran is not in a hurry to achieve peace in Yemen. During the truce period, 5 arms shipments were seized coming from the Iranian port of Bandar Abbas to the Hawf district in the Yemeni governorate of Al-Mahra.³

The Combined Maritime Forces (CMF) managed to intercept 7 operations from December 2022 to February 2023 and seized 5 thousand weapons, 1.6 million rounds of ammunition, 7000 approximate fuses for missiles, 2100 kilograms of fuel used to



² Arms trafficking in Africa is an unstoppable phenomenon, Al Ain News, January 2022, link, <https://al-ain.com/article/arms-trafficking-africa-unstoppable-phenomenon>

³ Scepticism lingers over Iran's commitment to halt flow of arms to Houthis, Al Mashareq, 2 Jun 2023, link, https://almashareq.com/en_GB/articles/cnmi_am/features/2023/06/02/feature-05

launch rockets, 30 anti-tank arms, guided missiles and ballistic missile components. Security services at the Shahn Port were able to seize 100 drone engines that were on their way to the Houthi militia, in the 5th incident during January and February 2023.⁴ This confiscation is one of four illegal interceptions of goods during the cited period that prevented more than 5,000 arms and 1.6 bullets from reaching Yemen. Previously, on January 6, 2023, US Central Command forces intercepted a fishing vessel in the Gulf of Oman, and discovered that the vessel was smuggling more than 2,100 assault rifles along a sea route from Iran to Yemen.⁵

In June 2023, the security forces in the coastal city of Aden, southern Yemen, revealed that they had seized a new shipment of drone components heading to Iran-backed Houthis, where a number of closed boxes containing communications equipment, intended to be used for directing drones, were found hidden in a truck in the Mansoura area in Aden. The cartons were disguised as medical supplies, which were loaded from a warehouse of a local medical company in Aden. The seizure of drone-related material comes nearly a week after another security force in neighboring Lahj province seized a shipment of drone components — including motors, batteries and cameras — in a van that was hidden beneath toys and covered with motorcycles. Thus the continued flow of weapons including drones to the Houthis

indicates that the militias are preparing for military operations across the country, even as pressure is placed on them by international mediators and on the Yemeni government to renew the UN-brokered truce and reach a permanent peace agreement to end the war.⁶



⁴ Iran's smuggling of weapons to the Houthis is a flagrant violation of international resolutions, Al-Ain Al-Ain News, March 2023, link, <https://al-ain.com/article/sudan-houthi-smuggling-route>

⁵ U.S. Central Command Supports Partner Forces in Major Iranian Weapons Seizure, USCENTCOM, 1 Feb. 2023, link, <https://www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/3285024/us-central-command-supports-partner-forces-in-major-iranian-weapons-seizure/>

⁶ Aden authorities seize hidden drone components intended for Houthis, Arab News, 12 June 2023, link, <https://www.arabnews.com/node/2320456/middle-east>

On the other hand, security reports revealed an increase in the Houthis sending shipments of smuggled arms from the port of Al-Hodeidah to Sudan and Somalia. Reports confirmed that the militias are sending shipments of smuggled weapons from Al-Hodeidah governorate overlooking the Red Sea to the Sudanese coast on the other side of the sea, in conjunction with the continuation of the conflict in Sudan.

It should be noted that smuggling operations into Sudan and Somalia have increased significantly over the recent period and that the Houthis have already turned Hodeidah Governorate into a theatre for arms transfers and smuggling to conflict areas across the Red Sea. The militias transported over 7 thousand weapons, as well as offensive shells and mortar artillery shells, using 3 large fishing boats from Hodeidah to Sudan, and the shipments were launched from 3 coastal areas, including the Al-Jah area, administratively affiliated to the Beit Al-Faqih district, located in the south of Al-Hodeidah Governorate. It is also possible that the Houthi militia is preparing to smuggle a shipment of smart mines and anti-tank guided missiles to Sudan, which is the second shipment in less than two months. 3 senior leaders of the Houthi militia are responsible for the smuggling of arms shipments to Sudan and they undertake various tasks in the naval militias, the Houthis Security Service and Intelligence⁷.

According to a report by the Institute for Security Studies, arms smuggling into Somalia is facilitated by a network of local and international actors, with weapons worth millions of dollars often smuggled through sea routes. The UN Security Council committee, which oversees sanctions against Somalia, also reported that it met twice recently to address illicit arms smuggling between Somalia and Yemen and to investigate the financing of the terrorist group Al-Shabaab⁸.

Managing arms flow to the Houthis through Yemen can be addressed through the following measures:

- ☞ Unifying the various military and security forces from government-led provinces under one command.

Yemen to Somalia.. a smuggling line for Houthi weapons, Al-Ain Al-Akhbariya, April 27, 2023, link, <https://al-ain.com/article/sudan-houthi-smuggling-route>

⁸ The United Nations Commission Investigates Arms Smuggling and Al-Shabaab Financing in Somalia, Al-Qarn Daily, March 2023, link, <https://bit.ly/3J91vbl>

- ☞ Merging the military and security formations to address the security gaps that allowed the Houthis to smuggle weapons into the country.

2. Syria

During 2023, and especially in the period following the earthquake that struck northern Syria in February 2023, reports revealed Iran misused humanitarian aid



materials designed for helping victims of earthquakes by utilizing them as a means to transport weapons and military equipment to Syria, to reinforce Iranian defenses against Israel in the region. Iran sent numerous flights to Syria, providing aid for seven weeks after the earthquake that hit northern Syria. The aid included advanced communications equipment, radar

batteries, and spare parts for the Syrian air defense system. Reports revealed that the majority of the aid was delivered to Aleppo Airport in northern Syria. The shipments were organized by the Syrian Unit (18000) of the Quds Force and the Expeditionary Force of the Islamic Revolutionary Guard Corps (IRGC)⁹.

3. Somalia

Iran's involvement can be traced throughout the entire multi-million dollar arms smuggling operation between Iran, Yemen, and the Horn of Africa. The United States has already imposed sanctions on this network on November 1, 2022. Iranian arms and funds play a pivotal role in the illegal network, as it allegedly fuels the violence of Al-Shabaab in Somalia affiliated with Al-Qaeda, in addition to the Islamic State in Somalia (ISIS-Somalia)¹⁰. The US Navy intercepted a vessel smuggling more than 2,000 AK-47 assault rifles from Iran to Yemen. According to reports, shipments of thousands of

⁹ Iran sent weapons to Syria under the cover of air relief flights for earthquake victims, Iran Wire, April 12, 2023, <https://bit.ly/3oEctyN>

¹⁰ Tehran is involved in a network of arms smuggling for terrorist groups in Somalia and the Horn of Africa, Somalia Today website, November 3, 2022, link, <https://alsomalalyaum.com/40016/>

illegal weapons from the arms trade between Iran and Yemen are being transported via sea routes to Somalia. There they are sold to violent Islamic State extremist groups in Somalia and al-Shabaab¹¹

4. Libya

Libya and its extended borders with neighboring countries in North Africa and African countries are considered the most important arms smuggling routes in the Middle East, especially with the renewal of chaos in it. The insecurity that has hit Libya since the outbreak of the February 17, 2011 revolution has contributed to increased arms smuggling to and from the country at a time when security authorities in western Libya announced that they had seized a container on board a ship coming from Malta containing nearly 12,000 weapons. On March 4, 2023, Misrata Joint Operations forces and the Customs Service in western Libya announced the seizure of a 20-foot-long container carrying about 12,000 pieces of handguns (9mm pistol) after a close inspection of a container carrying house materials for camouflage, according to the Customs Service of Misrata Seaport, the container arrived on board the ship (Biltaky), which carries the flag of the State of Liberia coming from Malta. During the last period, Libya has become a station for supplying arms to the allies of some parties that seek to be present in the countries of the African Sahel, as the United Nations announced that Libya has the largest stockpile of uncontrolled weapons in the world, estimated at between 150,000 and 200,000 tons worldwide. In February 2023, the United Nations Office on Drugs and Crime confirmed that it had monitored that Libya had become a source of newly produced weapons supplied to the African Sahel region, furthermore, the countries in African Sahel have been re-supplied with weapons by Libya since 2019. Some of these weapons came from places far away, including on planes from France or Turkey via Nigeria, the majority comes from the African continent itself¹². Private military and security companies also play a prominent role in illicit arms transfers.

¹¹ An ocean of weapons: arms smuggling to Somalia, ISS, 07 Feb 2023, link, <https://issafrica.org/iss-today/an-ocean-of-weapons-arms-smuggling-to-somalia>

¹² Arms smuggling to and from Libya is a crisis deepened by political division, Asharq Al-Awsat, March 5, 2023, link, <https://bit.ly/42BZ1Z5>

5. Sudan

The Sudanese government and regional reports documented that the Russian mercenary group, Wagner, is providing the Sudanese Rapid Support Forces with missiles to help in their fight against the Sudanese Armed Forces. Surface-to-air missile (SAM) greatly supported the RSF fighters, as satellite images documented an increase in the activity of Wagner forces on the Libyan border, and a Russian transport plane was monitored traveling between two Libyan air bases used by the sanctioned Russian fighting group¹³.

It can be said that the region did not become an illegal arms hotbed in the world overnight. State-driven arms dumping, lack of oversight mechanisms, and limited law enforcement capabilities and international cooperation have all contributed to the region's most destabilizing actors exploiting arms proliferation. This has perpetuated the vicious cycle of conflict that has plagued the region for decades, and now the world is focused on Ukraine, where significant amounts of weapons have been imported. The lessons learned from the Middle East can serve as a warning note for what is at stake when arms market is left unregulated and noncontrolled, highlighting the need for stricter oversight.

6. Ukraine

The conflict in Ukraine illustrates the challenges that arise from the illicit arms trade, which gave rise to the emergence of black-market weapons trade and arms diversion. Just after the outbreak of the Ukrainian-Russian war, Kyiv called on Western countries and NATO to support it with the weapons and equipment necessary to confront Russian forces. The heavy influx of US arms supplies to Ukraine raises concerns about the revival of the illegal weapons trade in Europe due to the lack of regulation of arms transfer processes to Ukraine, and the particulars of the Ukrainian war.

Reports on the arming Ukraine process revealed that only 30% of the weapons the West sends to the Ukrainian army reached their final destination since the start of the Russian war. Press reports quoted Ukrainian military officials that their country has lost nearly 50% of the weapons supplies that have flowed in since the outbreak of the

¹³ Evidence emerges of Russia's Wagner arming militia leader battling Sudan's army, CNN, 21 Apr 2023, link, <https://edition.cnn.com/2023/04/20/africa/wagner-sudan-russia-libya-intl/index.html>

war, which increases the possibility of selling them to third parties. The influx of Western weapons into the Ukrainian army has also led to the emergence of alternative markets on the Internet through which some weapons can be purchased at very low prices. Ukrainian arms smugglers have also established contacts with the border guards so that they can cross to and from Poland without complications.

During January 2023, intelligence reports confirmed that US arms supplies to Ukraine created a new black market for weapons in Europe and that the most crowded black market for American weapons is now in Poland and France, as well as the market in the countries of the Middle East; Thus, there is a possibility that black market weapons may fall into the hands of terrorist organizations located in at least 10 to 15 countries.

The outbreak of the Ukrainian war also raised fears in Africa that the Continent would be affected by the boom in the illegal arms market as well as the increase of arms trade and smuggling in Africa, which is linked to organized crime gangs and terrorist organizations, which would escalate the dangers of terrorism on the Continent, fueling conflicts and posing many security challenges, especially since the Russian-Ukrainian war allowed the flow of weapons and fighters to the Lake Chad region, diverting the weapons of the war to West Africa and eventually reaching terrorist organizations¹⁴.

On the other hand, reports confirmed that the US military is studying the possibility of diverting the smuggled and seized Iranian weapons before they reach the Houthis and send them to Ukraine. It considers sending thousands of weapons and more than a million rounds of ammunition to Ukraine destined for the Iranian-backed Houthi militia in Yemen. US officials said they consider sending to Ukraine more than 5,000 assault rifles, 1.6 million rounds of small arms ammunition, a few anti-tank missiles, and more than 7,000 explosive devices seized in the past few months off the coast of Yemen from smugglers suspected working for Iran. Instead of leaving weapons in warehouses, Washington work to send them to Ukraine, despite being registered as evidence of Iran's violation of Security Council Resolution 2624, stored in US military

-1 How the Ukrainian war revived the black market for weapons, Interregional website for strategic analytics, February 2023, link, <https://www.interregional.com/%D9%85%D8%B9%D8%B6%D9%84%D8%A9-%D8%A7%D9%84%D8%AA%D8%AA%D8%A8%D8%B9/>

facilities. The American narrative believes that it is time to invest these weapons in the service of a more just cause. In January 2023, the US Department of Defense decided to use its stockpile of weapons in Israel, including artillery bombs, to support Kyiv.¹⁵

However, what prevents the implementation of diverting the destination for the second time to Ukraine is the difficulty of finding a legal justification related to the confiscation of weapons destined for the conflict in Yemen and directing them to another conflict. The United Nations arms embargo requires the United States and its allies to destroy, stockpile, or dispose of seized weapons.

The flow of arms in the form of donations made by countries to Ukraine due to Russian aggression has led to a flow of arms to Ukraine to an unprecedented level in light of the pledge of nearly 20 countries to send military equipment worth billions of dollars since the start of the conflict. Reports warn that the proliferation of weapons in Ukraine even before the Russian invasion reflects a fear that Ukraine will turn into a market for illegal weapons, given the fact that after the end of the war, there will be a huge challenge for the Ukrainian government to prevent the transfer of these weapons to terrorists or separatists, thus threatening peace and security in the region¹⁶.

Accordingly, the risk of diverting these weapons of war will be greater due to the expansion of international arms shipments. According to the Global Organized Crime Index, Ukraine's role in the global arms trade before the Russian invasion has been magnified since the intensification of conflicts in eastern Ukraine in recent years, which is ominous after the recent influx of international arms shipments into the country.

Anti-Arms Diversion Measures

In light of the spread of armed conflicts, especially in the Middle East and Africa, the massive proliferation of weapons of all kinds that pose a huge threat to international peace and security, and in order to prevent terrorists from obtaining

¹⁵ - Suspected Iranian Weapons Seized by U.S. Navy May Go to Ukraine, WSJ, 14 Feb. 2023, link, <https://www.wsj.com/articles/seized-weapons-bound-for-yemen-may-go-to-ukraine-2516b45d>

¹⁶ - Taylor Giorno, Risk of weapons vanishing as over 20 countries send arms to Ukraine, Responsible Statecraft, 7 March 2022, link <https://responsiblestatecraft.org/2022/03/07/big-risk-of-weapons-vanishing-as-over-20-countries-send-arms-to-ukraine/>

weapons, states responsibility in monitoring arms transfers and preventing arms diversion must be strengthened through the following measures:

1. Considering transportation licenses-related decisions that are based on international human rights obligations:

To create a more responsible trade in conventional arms and ammunition, decisions about licensing transfers based on international human rights obligations should be seen primarily as a means of preventing gross violations of human rights. Therefore, the decision-making process must take place within the framework of a preventive approach that aims to prevent arms transfers. There is credible information indicating a high risk that a particular group as security officials, whether the police, armed forces, or even armed groups in conflict areas, will use these weapons to commit serious human rights violations. In case there is such information about a significant risk, the assumption should be that the transfer of arms is prohibited until the risk of such or other violations is reduced. In this sense, international human rights law applies to arms transfer decisions, and it can be a tool for preventing irresponsible international transfers of arms and ensuring that the use of military and security equipment and related materials on the watch list is consistent with international standards¹⁷.

2. Fostering cooperation and building trust

Here, countries must activate cooperation among each other to promote respect for United Nations resolutions calling for a ban on the supply of weapons to countries or armed groups in conflict areas, especially since there are external parties, such as Iran, that violate the ban on the supply of arms to the Houthi militia in Yemen and the Al-Shabaab group in Somalia.

3. Form governmental committees to monitor import and export operations, inspect transfer of conventional weapons, and submit reports to the United Nations Register of Conventional Arms.

¹⁷ -How to apply human rights standards to arms transfer decisions, Amnesty International, link, https://www.amnesty.org.uk/files/how_to_apply_human_rights_standards_to_arms_transfer_decisions.pdf

These committees shall ensure transparency for the armament operations and address the illicit arms trade, taking into account the application of standards, such as human rights, regional conflict, the danger of arms diversion, UN Security Council resolutions, and national interests during the evaluation of arms export and transfer requests¹⁸.

In line with international standards, any transfers of arms and ammunition should include the following:

- Pre-transportation and post-shipment risk assessments such as on-site inspection and end-user verification.
- The need for cooperation and exchange of information between importing, transit, and exporting countries, as well as appropriate accounting practices, safeguarding measures, customs, and border control.
- The need to stress the importance of transparency in reducing tensions and misconceptions and to encourage all Member States to participate in the United Nations Register of Conventional Arms by reporting on exports and imports of equipment falling within its seven categories of major conventional arms.

To conclude, the irresponsible transfer of weapons and the ensuing diversion thereof that takes place outside international and UN controls would lead to their use in fueling wars and armed conflicts and committing serious crimes against humanity. The insufficiency and effectiveness of the legal mechanisms controlling the arms trade calls for further efforts to expand the implementation of the obligations imposed on countries under the Arms Trade Treaty, especially Articles 6, 7, and 11 thereof, and to find a legal, comprehensive and inclusive mechanism based on accurate international standards to regulate commercial transactions in this field.

¹⁸ - Post-shipment On-site Inspections: Multilateral Steps for Debating and Enabling Their Adoption and Use, SIPRI, October 2022, link, <https://sipri.org/publications/2022/sipri-policy-papers/post-shipment-site-inspections-multilateral-steps-debating-and-enabling-their-adoption-and-use>

Recommendations

Maat for Peace, Development and Human Rights affirms that the states parties to the Arms Trade Treaty should consider following recommendations:

- Developing legally-binding provisions on all countries, clarifying the procedures and measures necessary for the weapons transfer;
- Addressing the shortcomings and gaps allowing weapons to fall into the hands of non-governmental organizations, including terrorist and criminal organizations;
- Setting strict international rules on brokering and criminalizing violators thereof;
- Codifying procedures to prevent arms diversion to black markets.
- Cooperating to put in place mechanisms to abort illegal arms transfers and impose severe penalties on those who violate those resolutions and international treaties, even if they are not a party to them.