



**control** arms

**ARMS TRADE TREATY:**  
GLOBAL CONTROLS FOR A GLOBAL TRADE

# THE ARMS TRADE TREATY: GLOBAL CONTROLS FOR A GLOBAL TRADE

Every day, thousands of people are killed, injured, raped, and forced to flee from their homes as a result of irresponsible arms transfers. The poorly regulated global trade in conventional arms and ammunition fuels conflict, poverty and human rights abuses. The problems are compounded by the increasing globalization of the arms trade – components being sourced from across the world, and production and assembly in different countries, sometimes with lax controls. State regulation of the arms trade has failed to adapt to these changes. While existing national, sub-regional, and regional regulations are important, the following cases show that these are not enough to stop irresponsible transfers of arms and ammunition between countries.

Under international law, states can lawfully sell, acquire and possess arms for legitimate security, law-enforcement and self-defense needs. However States must also comply with their obligations under international law when importing, exporting or transferring arms.

This is why NGOs and a growing number of governments are calling for an Arms Trade Treaty (ATT) to help save lives, prevent human rights abuses, and protect the livelihoods of people around the world. To achieve this goal, an ATT must establish binding criteria for analyzing international arms transfers on a case-by-case basis, and clearly determine when an arms transfer is prohibited.

The Global Principles outlined in the following pages are based on existing international law and illustrated with examples of irresponsible arms transfers that contribute to the kinds of abuses an ATT must help prevent.

#### CASE STUDIES WERE PRINCIPALLY DRAWN FROM:

- > 'Blood at the Crossroads; Making the case for a global Arms Trade Treaty',  
Internacional, septiembre de 2008
- > 'For a Safer Tomorrow: Protecting Civilians in a Multipolar World',  
Oxfam International, 2008
- > 'Democratic Republic of Congo, arming the conflict in the DRC East',  
Amnistía Internacional, julio de 2005
- > 'Fueling Conflict: foreign arms supplies to Israel/Gaza',  
Amnistía Internacional, febrero de 2009
- > 'Gun Violence – Global Crisis',  
IANSA, 2008
- > 'Shooting Down the MDGs: How irresponsible arms transfers  
undermine development goals',  
Oxfam, 2008
- > 'Making it Work: Monitoring and verifying implementation of an Arms Trade Treaty',  
Saferworld, 2008

# ARMS TRADE TREATY

## Timeline

1997 – Nobel Peace Laureates, supported by NGOs call for a Code of Conduct on international arms transfers.

1997

2000 – NGOs, with the help of international legal experts, develop the first draft "Framework Convention on International Arms Transfers" which later forms the basis of the "Global Principles for Arms Transfers."

2000

2003 – The Control Arms campaign, calling for a global Arms Trade Treaty (ATT), is launched in over 70 countries around the world. An Arms Trade Treaty is initially supported by three states: Cambodia, Costa Rica and Mali.

2003

June 2006 – After three years of campaigning, the Million Faces petition, including photos of one million people around the world demanding an Arms Trade Treaty, is handed over to United Nations (UN) Secretary-General Kofi Annan.

June  
2006

October 2006 – Seven states co-author a General Assembly resolution to begin work on an Arms Trade Treaty at the UN.

October  
2006

December 2006 – An overwhelming majority of UN Member States (153) vote for a UN process towards the establishment of an ATT.

December  
2006

2007 – The UN Secretary-General consults states on the 'feasibility, scope and draft parameters of an Arms Trade Treaty.' It is the most successful exercise of its kind within the UN, as 101 states submit their views. The majority of states call for a comprehensive treaty based on international human rights law and international humanitarian law (IHL).

2007

2008 – The Group of Governmental Experts (GGE) established by the UN Secretary-General meets three times. The GGE agrees that UN Charter principles must be central to an ATT and that work on an ATT should continue within the UN.

2008

The UN General Assembly establishes an Open-Ended Working Group (OEWG) for all UN Member States to further consider aspects of an eventual ATT, and that work should continue on an ATT within the UN.

December  
2008

December 2008 – The UN General Assembly establishes an Open-Ended Working Group (OEWG) for all UN Member States to further consider aspects of an eventual ATT, and that work should continue on an ATT within the UN.

2009

**STATES MUST START NEGOTIATIONS ON  
AN EFFECTIVE ARMS TRADE TREATY. THE  
WORLD CAN'T WAIT..**

2010

# Global Principle 1: Responsibilities of States

States with jurisdiction over any part of an international transfer of conventional arms or ammunition should ensure, on a case-by-case basis, prior to the authorisation of any transfer that it is in accordance with national laws and procedures that conform to States' obligations under international law. Authorization should not be granted where there is a substantial risk that the arms or ammunition will be diverted from the specifically authorized legal end use or end user, or will be re-transferred contrary to the criteria set out in Principles 2 and 3 below.

## SOMALIA: inadequate national controls fail to stop inflow of arms

Civil conflict since 1991 has torn Somalia apart, resulting in massive violations and abuses of human rights and violations of international humanitarian law. In 2007, some 6,000 civilians were reportedly killed in fighting in the capital Mogadishu and across southern and central Somalia, while more than 600,000 Somali civilians were internally displaced. In 2009, the humanitarian and human rights situation has grown worse, and security in many parts of Mogadishu is non-existent.

Despite the 1992 UN arms embargo, arms and ammunition have continued to pour into Somalia. The supply of arms, particularly via Eritrea, Ethiopia and Yemen, has contributed to direct attacks on civilians and indiscriminate and/or disproportionate attacks, resulting in widespread killing and injuring of civilians. Inadequate arms control systems in the region and local arms markets controlled by warlords have consistently undermined the UN embargo. The flow of weapons into Somalia will not be stopped by the embargo alone, because many states that export or transship arms to Somalia do not have adequate national control systems or policies. Arms traffickers can all too easily exploit loopholes in national laws. States that supply arms to countries neighboring Somalia clearly do not fully consider the substantial risk that arms or ammunition may be diverted to parties subject to the embargo.

**This example illustrates the shortcomings of national control systems which fail to include states' obligations and responsibilities.** An ATT should ensure that states fully recognize and implement the international norms and commitments which they have already assumed regarding international arms transfers – for example under the UN Charter, IHL, and international human rights law. Transfers that would violate any of these obligations must not be authorized by states.



Hamar Bile, Somalia, 20 February 2007. Woman and child try to avoid the shelling on the opposite side of the building.

AMNESTY INTERNATIONAL PHOTO

## COLOMBIA: diverted small-arms supplies fuel grave human rights abuses

Civilians continue to be the main victims of Colombia's internal armed conflict, which has driven the demand for small arms for decades. All parties to the conflict – guerilla groups, paramilitaries, and the security forces – continue to commit serious violations of international human rights law and IHL. Some of these violations include taking hostages and extrajudicial executions. At least 1,400 civilians were killed in 2007 and hundreds of thousands of people were displaced by confrontations between the combatants.

The weapons used in these human rights abuses come from a number of sources: national production, government imports, and illicit trafficking by the paramilitaries and guerilla groups. Illicit supplies of arms enter Colombia from neighboring states or are diverted from the stockpiles of Colombia's security forces. Analysis of the small arms and light weapons confiscated by the Colombian authorities from paramilitaries and guerilla groups between 2005 and 2006 revealed that these groups were using small arms manufactured in at least five different countries. These arms had been exported to Colombia's neighbors and then illegally diverted into Colombia.

There is currently no global treaty requiring states to prohibit an international transfer if there is a substantial risk that the weapons or ammunition are likely to be diverted from the specifically authorized legal end use or end user, or if the items are to be re-transferred contrary to the criteria set out in Principles 2 and 3 below, including international human rights law and IHL. **The Colombia case illustrates why an ATT should require states to consider the risk of diversion to unauthorized users or to state forces that are likely to misuse those arms.**



Bogotá, Colombia, 20 July 2008. Hundreds of people from all walks of life at the "March for life and freedom" in Colombia ask for an end to the violence and the unconditional release of hostages.

REDEPAZ PHOTO

# Global Principle 2: Express prohibitions

States should not authorize an international transfer of arms or ammunition that violate their expressed obligations under international law. These include:

**A. Obligations under the UN Charter, including:**

- (i) Binding resolutions of the Security Council, such as those imposing arms embargoes;
- (ii) The prohibition on the threat or use of force;
- (iii) The prohibition on intervention in the internal affairs of another State.

**B. Any other treaty or decision by which that State is bound, including:**

- (i) Binding decisions, including embargoes, adopted by relevant international, multilateral, regional, and sub-regional organizations to which a State is party;
- (ii) Prohibitions on arms transfers that arise in particular treaties which a State is party to, such as the 1980 UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, and its Protocols.

**C. Universally binding principles of international humanitarian law, including:**

- (i) The prohibition on the use of arms that are of a nature to cause superfluous injury or unnecessary suffering;
- (ii) The prohibition on weapons or munitions incapable of distinguishing between combatants and civilians.

## DEMOCRATIC REPUBLIC OF CONGO: weak arms embargo and violations of international humanitarian law

Since 1998, an estimated 5.4 million people, or eight per cent of the population, have died in the conflict and the humanitarian crisis that it has unleashed in Democratic Republic of Congo (DRC). Fighting has continued in eastern DRC between heavily-armed groups and government forces in the North Kivu and Ituri regions, fuelled by weapons and ammunition from many countries outside Africa and supplied through intermediaries in Africa. This is despite a peace agreement in 2002 and a mandatory UN arms embargo to the region since 2003.

The UN arms embargo has had a limited effect. Daily abuses against civilians, including widespread killings, rapes and other serious human rights violations continue to be committed in DRC, due to the proliferation and diversion of weapons and ammunition used by the regular army, the police, and by armed groups.

This is just one example of why UN arms embargoes are necessary but not sufficient to stop weapons flooding into conflict areas. **An effective ATT would require all States to have national control systems for international transfers of conventional arms or ammunition based on agreed international standards, thus considerably reducing irresponsible arms transfers. An ATT would also strengthen the implementation of UN arms embargoes by requiring States to incorporate their international obligations, such as UN embargoes, into their national legislation.**



Nyabiondo, Democratic Republic of Congo, 04 April 2008. Members of the *Forces Armées de la République Démocratique du Congo* (FARDC) board a UN helicopter headed to the Demobilization, Disarmament, Rehabilitation and Reintegration (DDRR) base camp in Goma.



North Kivu, Democratic Republic of Congo, 07 February 2009. Internally displaced persons camp.

# Global Principle 3: Legal obligations and global norms

States should not authorize an international transfer of arms or ammunition where there is a substantial risk that they will:

- A. Breach the UN Charter and customary law rules relating to the use of force
- B. Be used in serious violations of international human rights law;
- C. Be used in serious violations of international humanitarian law;
- D. Be used to commit acts of genocide or crimes against humanity.
- E. Facilitate terrorist attacks;
- F. Facilitate a pattern of gender-based violence, violent crime or be used for the commission of organized crime;
- G. Adversely affect regional security or stability, or contribute to the excessive and destabilising accumulation of arms;
- H. Seriously impair poverty reduction or socio-economic development;
- I. Involve corrupt practices;
- J. Contravene other international, regional, or sub-regional commitments or decisions made, or agreements on non-proliferation, small arms, arms control, and disarmament to which States involved in the transfer are a party.

## ISRAEL – GAZA CONFLICT: arms used to seriously violate international humanitarian law

The three-week Israeli military offensive in 2008–09 in Gaza resulted in more than 1,300 Palestinians killed and over 5,000 injured. A large number of these casualties were civilians, including many children. Also, three Israeli civilians were killed and 182 were injured by Hamas and other militant Palestinian groups firing rockets and mortars from Gaza.

Amnesty International has documented the use by the Israel Defense Forces of white phosphorous and other weapons supplied from abroad to carry out serious violations of IHL. This shows that many attacks were disproportionate or indiscriminate, and others were directed at civilians, schools and humanitarian operations. At least 11 different States have supplied arms and related materials to Israel since 2001, and others have served as major transit countries. Hamas and other Palestinian armed groups fired hundreds of rockets at civilian population centers in southern Israel; the rockets had been smuggled in or made of components from abroad. Such indiscriminate rocket attacks constituted serious violations of IHL.

An effective ATT should require States to ensure that their national laws and procedures conform to their existing obligations under international law. This includes the obligation to ‘respect and ensure respect for’ international humanitarian law, which prevents States from transferring weapons where there is a substantial risk that they will be used for serious violations of IHL. This responsibility should apply to all States involved, including importers, exporters, transit or transferring states.



Ashkelon, 17 January 2009. Palestinian rockets launched from Gaza collected at the Ashkelon police station; the larger rockets (on top) is a Grad-type rocket apparently smuggled through tunnels. The remaining rockets are home-made Qassam-type rockets.



Gaza, 29 December 2008. The home of the Ba'alusha family after the next-door mosque was bombed in the middle of the night, killing five sisters Jawaher, Dina, Samar, Ikram and Tahrir Ba'alusha, aged 4 to 17, in their sleep.

## BURUNDI: arms transfers seriously impair poverty reduction and socio-economic development

From 1993 to 2006, Burundi experienced a civil war in which 300,000 people were killed and at least one million displaced. The total economic cost of the conflict has been estimated at \$5.7bn. There is no arms production in Burundi, so most arms were brought into the country by military and armed groups from neighboring countries.

Despite the end of the civil war, armed violence continued to be fueled by easy access to weapons, leading to more than 1,000 lives being lost in 2008. This constitutes a severe challenge to meeting the Millennium Development Goals (MDGs), in particular by draining what little health-care resources remain. Since the 2006 ceasefire, 75 per cent of the cost of treating violent injuries is spent on treating gunshot wounds. On average, each firearm injury costs the health system \$163 – in a country where per capita government health spending is only \$5 a year.

Irresponsible transfers of arms, including those diverted from their intended end-user to other countries, undermine many countries' poverty reduction efforts. **An effective ATT incorporating Global Principle 3 would help address this by including criteria for examining on a case-by-case basis the negative impacts of each arms transfer on the socio-economic development of the recipient country.**



Mbanda, Burundi, 03 February 2005. United Nations Operation in Burundi Disarms Burundian Rebel Forces. Burundian military groups signed up voluntarily to be disarmed under the auspices of United Nations peacekeepers and observers.



Muramvya, Burundi, 02 December 2004. Military weapons being burnt during the official launch of the Disarmament, Demobilization, Rehabilitation and Reintegration (DDRR) process.

# Global Principle 4: Comprehensive scope

An Arms Trade Treaty should establish control mechanisms to cover all of the following:

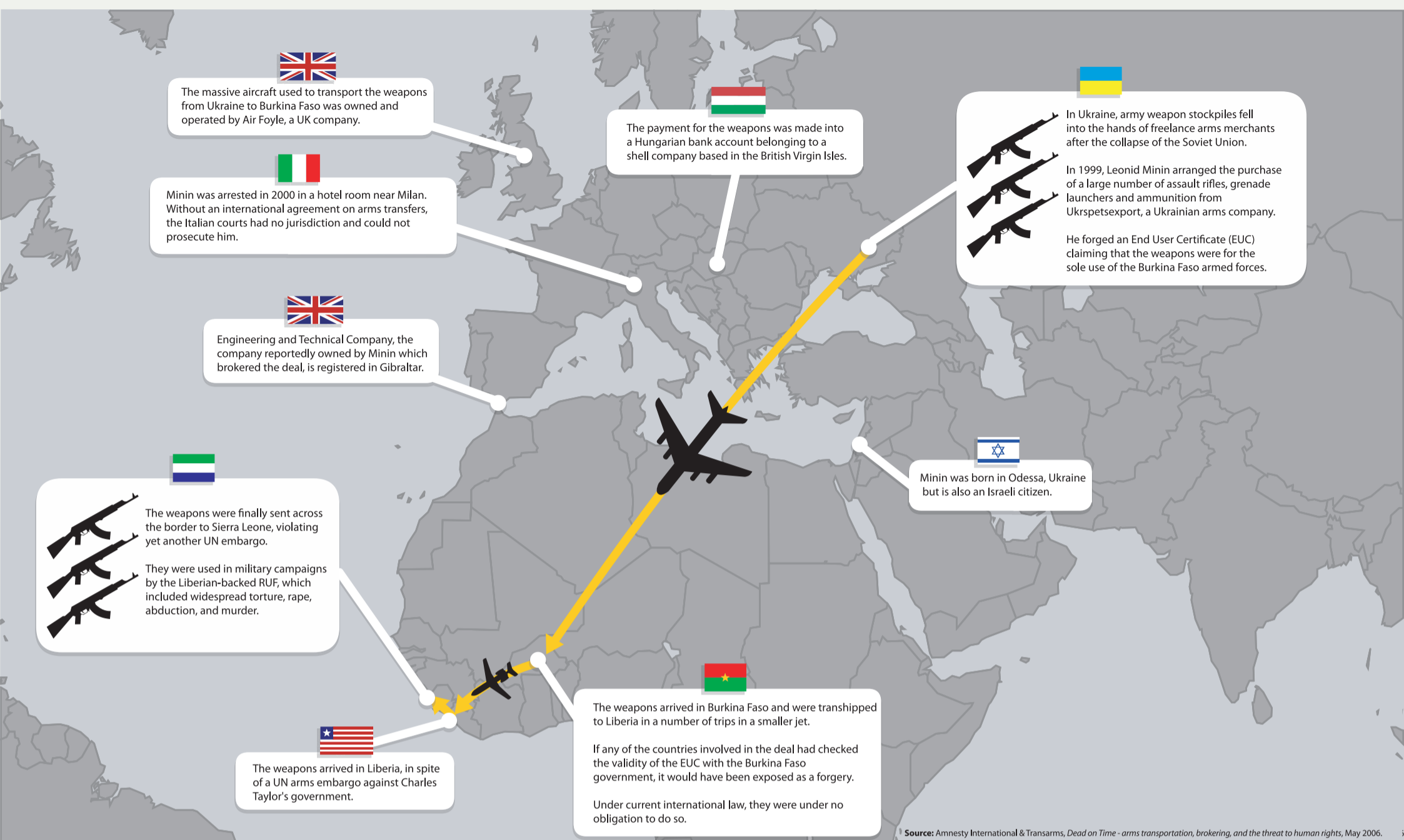
- All conventional military, security and police armaments, weapons and related materiel of all types, including small arms and light weapons; conventional ammunition and explosives used for the aforementioned; internal security weapons, ammunition and equipment deployed in the use of force; components, expertise and equipment essential for the production, maintenance and use of the aforementioned; and dual-use items that can have a military, security and police application;
- All conventional arms and ammunition imports, exports, re-exports, temporary transfers, transit, transshipments, retransfers, state-to-state transfers; state-to-private end-user transfers, commercial sales; leases; transfers of licensed foreign arms production and technology; loans, gifts or aid; or any other form of international transfer of arms and related materiel of all types;
- All transactions for the international transfer of conventional arms and ammunition by: dealers or sales agents; arms brokers; those providing for technical assistance, training, transport, freight forwarding, storage, finance, insurance, maintenance, security and other services integral to such transfers;

## Navigating through legal loopholes from Ukraine to Liberia

In violation of the UN arms embargo in place since 1992, Israeli arms broker Leonid Minin exploited weak international controls to supply weapons to Liberia. In one example in 1999, Minin used forged documents to transfer 68 tons of surplus military weapons from Ukraine to Liberia via Burkina Faso, using a shell company located in Gibraltar and registered in the British Virgin Islands.

This case illustrates the need for comprehensive national control mechanisms based on agreed common standards set out in Global Principles 1, 2 and 3. These national controls should cover brokering activities as well as closely related activities such as transport, logistics, technical services and finance. A strong and effective ATT would require that each transaction of an arms broker or other intermediary be authorized by all States involved before a transaction is allowed to proceed (in this case the Ukraine, the UK and Burkina Faso).

# Navigating through legal loopholes from Ukraine to Liberia



## Global Principle 5: Transparency and implementation mechanisms

**A. Transparency - States should submit comprehensive national annual reports on all international transfers of all arms and ammunition covered by the Treaty to an international registry, which should:**

- (i) Analyze the data and publish a comprehensive annual report, and
- (ii) Provide support and guidance to state parties in the production of their national reports.

**B. Implementation - to monitor compliance and ensure effective functioning, an Arms Trade Treaty should include:**

- (i) Provisions for meetings of states parties and a formal review mechanism;
- (ii) Mechanisms for monitoring and verifying compliance;
- (iii) Provisions for adjudication, dispute settlement and sanctions.

**The credibility and success of an ATT will depend heavily on the extent to which States, and the broader public, can see how Treaty obligations are being implemented in practice.** This will require all parties to the ATT to produce a comprehensive national report each year, including steps taken to implement the Treaty at national level. Most critically, national reports should contain sufficient detail on international arms transfers to allow for accurate assessment of the Treaty's implementation. An independent and impartial international institution should be tasked to collate the national reports and publish the information; it should also assist States in meeting their reporting obligations under the ATT.

# Global Principle 6: International cooperation and assistance

The Arms Trade Treaty should include a comprehensive framework for international cooperation and support, within which States can request and receive assistance from other interested States and relevant international, regional, and sub-regional organizations in order to facilitate full implementation of their Treaty obligations.

## Examples of international cooperation and assistance

Multilateral and regional organizations have developed international assistance programs in key areas of action on small arms and light weapons (SALW) that can act as examples to further develop practical cooperation to improve the control by States of all conventional arms under an ATT. For example, the United Nations Development Program (UNDP) has helped States in virtually all areas covered by the UN Program of Action on SALW. The Nairobi Protocol process and the Regional Centre on Small Arms (RECSA) also offer important opportunities for sub-regional cooperation and international assistance to improve the control of SALW through information sharing and harmonization of legislation.



## AN ATT IS URGENT – MAKE IT HAPPEN NOW!

It is in every State's own interests to ensure that conventional arms and ammunition do not fuel conflict, poverty and violations of human rights around the world. The cases in this booklet illustrate why and how an ATT, based on these six "Global Principles", is essential to stop irresponsible arms transfers. The world can't wait any longer. Around two thousand people die every day from armed violence; the time to negotiate an effective ATT is now.







[www.controlarms.org](http://www.controlarms.org)

## Calling for a global, legally binding Arms Trade Treaty to stop irresponsible transfers of arms and ammunition that fuel conflict, poverty and serious human rights abuses.

This publication has been produced by the Control Arms Campaign with particular input from Saferworld and Instituto Sou da Paz, and in cooperation with the ATT Steering Committee - an international group of NGOs formed in 2000 and comprised of:

Africa Peace Forum, Amnesty International, Asociación para Políticas Públicas (APP), Arias Foundation, Caritas, The Friends Committee on National Legislation (FCNL), Instituto Sou da Paz, International Action Network on Small Arms (IANSA), Non-Violence International, Oxfam, Project Ploughshares, Saferworld, Schweitzer Institute, Swedish Fellowship of Reconciliation (SweFOR), Viva Rio and Women's Institute for Alternative Development (WINAD).

