



FROM LONDON TO JUBA

A UK-REGISTERED COMPANY'S ROLE IN ONE OF THE
LARGEST ARMS DEALS TO SOUTH SUDAN

AMNESTY
INTERNATIONAL



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Cover: Soldier of the Sudan People Liberation Army (SPLA) brandishes an RPG-7 while standing in trenches in Lelo, outside Malakal, northern South Sudan, on October 16, 2016.

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EXECUTIVE SUMMARY

“If you look at South Sudan, last year this Council had a real chance to take steps to lessen the carnage caused by the uncontrolled flow of weapons there. And yet, when we voted to impose an arms embargo, we failed. The United Kingdom maintains that it is long past time for us to return to that issue.”

Permanent Representative of the UK to the UN, addressing the UN Security Council, August 2017¹

The brutal conflict in South Sudan starkly illustrates the devastating impact that irresponsible arms transfers have on a country disintegrating under the pressure of civil war and armed violence. All parties to the conflict have used a range of weapons to horrific effect, killing, raping and maiming thousands of civilians, and displacing countless more. Arms are spilling over into neighbouring countries, further destabilising a fragile region. Yet weapons continue to flow to the perpetrators of these serious human rights violations, entrenching and worsening the conflict.

Regional arms embargoes and arms control laws and standards remain unable to stop fresh weapons supplies, both legal and illegal. Some of these transfers are being facilitated by governments and companies in states that are signatories and, in one instance, a State Party to the Arms Trade Treaty. Meanwhile key members of the UN Security Council continue to veto a comprehensive international arms embargo on South Sudan.

The UK government has been one of the most vocal proponents of such an embargo. Yet documents seen by Amnesty International name a UK company called S-Profit Ltd, registered to an address near London’s Covent Garden, amongst the commercial actors in what, if implemented, would constitute one of the largest single arms deals that the South Sudanese government has entered into since the outbreak of fighting in December 2013. If these documents are accurate, involvement in such a deal could violate UK export controls that prohibit involvement in the supply of weapons to South Sudan.

S-Profit is named in South Sudanese government documents seen by Amnesty International as the prospective “supplier” to South Sudan of Ukrainian small arms and ammunition worth over US\$46m. It is one of three companies named, alongside the UAE-based International Golden Group and the Ukrainian state-owned arms exporter, Ukrinmash. The deal appears to have formed one part of a much larger 2014 commercial deal worth US\$169m, including thousands of machine guns, mortars, rocket-propelled grenades and millions of rounds of ammunition.

The documents reviewed by Amnesty International show that the UAE-based company entered into a contract to obtain these weapons for the South Sudan Ministry of Defence. The UAE company in turn contracted Ukrinmash, based in Kyiv, to provide the weapons.

¹ Foreign & Commonwealth Office and Matthew Rycroft, Statement by Ambassador Matthew Rycroft, UK Permanent Representative to the United Nations, at the Security Council adoption of resolution 2370 on terrorism, 2 August 2017, <https://www.gov.uk/government/speeches/the-arms-trade-treaty-will-remain-central-to-the-united-kingdoms-approach-to-preventing-irresponsible-trafficking-in-arms>

The actual role of the UK company S-Profit in the “supply” of the US\$46million tranche is opaque. When contacted by Amnesty International, S-Profit’s director – who is a Ukrainian national based outside the UK – denied that the firm had supplied military products to South Sudan, but at the time of writing has not responded to a series of questions seeking further clarifications, including whether it played an intermediary role.

There are potential advantages to using a UK-registered company in a deal of this type. Establishing a UK-registered company may help companies negotiating a deal get access to the European and US banking systems, or help the deal be presented as respectable to arms control authorities. Importantly, the UK allows the registration of companies with no verification of their owners’ or directors’ identities, business activities or bona fides.

UK arms control regulations are thus being seriously undermined by regulatory gaps in UK company law that allow foreign arms dealers easily to set up UK companies with no real presence in the UK; no verification of their actual or intended business activities; and no checks on the background and identity of their directors, shareholders or ultimate beneficial owners. Anyone in the world can set up a UK company online within 24 hours for just £12 (US\$15), providing less verification of one’s identity, location and standing than is generally required to hire a car or join a gym. This makes it very difficult for UK authorities to detect fraud or wrongdoing.



The fact that people who set up or own UK companies have to provide very little verified information about their identities and activities, coupled with the sheer volume of companies incorporated annually (650,000 new companies in the UK last year) make it extremely difficult for the authorities to check whether UK companies are being used for illegal purposes, or are connected to known criminal enterprises. The fact that companies can be set up without any substantial presence in or connection to the UK also creates the potential for foreign directors and shareholders to be effectively beyond UK law.

The appearance of a UK-registered company in this prospective deal is not an isolated case. Over the past eight years, Amnesty International and UN investigators, among others, have exposed UK-registered ‘shell companies’ being used by overseas arms dealers to broker arms supplies to Sudan, South Sudan, Syria and Eritrea in contravention of UK arms control laws and, in some cases, EU and UN arms embargoes. UK company regulators and export control authorities have repeatedly been made aware of such unlawful activities, yet they have allowed these companies to remain as UK-registered and to continue operating unimpeded.

The involvement of a Ukrainian state-owned arms company in prospective weapons supplies to South Sudan contradicts Ukraine’s international obligations: as a signatory to the Arms Trade Treaty it must not take any action that would undermine the object and purpose of the treaty to contribute to international and regional peace, security and stability, and to reduce human suffering, through the highest possible standards in arms trade regulation. The UAE, for its part, has failed to prevent a major

arms company operating in its jurisdiction from engaging in a deal to supply arms to a country where there is a substantial risk they would be used to commit or facilitate human rights violations. As with Ukraine, this may constitute a failure by the UAE to comply with its obligations as a signatory to the Arms Trade Treaty.

Amnesty International is calling for a cessation of these arms deliveries if they have not already occurred, and an immediate and comprehensive UN Security Council arms embargo on South Sudan. The scope of the embargo should include all indirect exports via other countries and any brokering, financial or logistical activities that would facilitate such transfers.

Pending the imposition of a UN Security Council arms embargo, Ukraine must adhere to its stated policies to promote regional and international security and stability through responsible arms transfers, and immediately cease transfers of arms and any logistical assistance to the South Sudanese government, including equipment, maintenance and training provided by its nationals. The UAE must ensure that companies based in its jurisdiction do not facilitate transfers of arms that are at substantial risk of being used to commit or facilitate serious violations of international human rights or humanitarian law. Both Ukraine and the UAE should ratify the Arms Trade Treaty as soon as possible.

The UK, which already adheres to a long-standing EU arms embargo on South Sudan, must urgently review its company registration procedures, and put in place measures to ensure that it is capable of preventing the use of UK 'shell' companies and partnerships to supply arms to serious human rights violators.

These measures should include, at a minimum:

- The creation of a central register of arms brokers which all UK natural and legal persons engaged in arms brokering, and all other natural and legal persons engaged in arms brokering within the UK, must join.
- A requirement for all registered arms brokers to report annually to the UK export control authorities on all their brokering activities.
- A requirement for UK companies or partnerships engaged in arms trading to declare this publicly as a business activity.
- The robust use or strengthening of existing legal powers to wind up UK companies shown to be engaged in activities in violation of UK arms control and sanctions laws.
- Measures to ensure that the directors, shareholders and ultimate beneficial owners of UK companies can be held accountable for their activities even when they are based overseas; including requiring directors, shareholders and ultimate beneficial owners to provide verifiable proof of a real address, and the authenticity of their identity documents.
- Measures to make it harder for individuals to use UK-registered companies for illegal activities which may lead to serious human rights abuses: for instance by requiring the UK company register to check whether the prospective directors of UK companies have been disqualified as directors in other jurisdictions, or convicted of serious crimes.

Ultimately all states, individuals and corporate entities involved in the arms trade must ensure that they do not facilitate, deliberately or otherwise, atrocities now taking place in South Sudan and in other countries suffering armed violence. Only through robust international and national controls on arms transfers, and on the entities that facilitate these transactions, will countries like South Sudan have any hope of emerging from the current chaos and achieving lasting peace and security in which respect for human rights prevails.



METHODOLOGY

This report is informed by two sets of commercial and official documents, which are published here for the first time, obtained by Amnesty International in the UK from two separate sources. These documents include draft and signed contracts, and internal commercial paperwork.²

To check their authenticity, in July and August 2017 Amnesty International sent copies of these documents to Ukraine's State Service of Export Control, copying the Minister of Foreign Affairs of Ukraine; the state-owned arms export company Ukrspецexport; as well as the Ukrspецexport subsidiary firm Ukrinmash (the corporate entity named in the documents as the prospective weapons supplier). Amnesty International also provided a summary of the report's findings requesting comments. At the time of writing neither Ukrinmash nor the State Service of Export Control had responded. The Deputy Director General of Ukrspецexport responded and the response is reflected in this report.

In the same period, Amnesty also sent the documents and the report summaries to the various companies and individuals named in the documents. The report reflects the responses of Ian Taylor, the individual named in UK company filings as S-Profit's founding shareholder; its current registered director and shareholder Artem Zabora; and the general director of Techimpex, Volodymyr Kalyna. Amnesty International also contacted the CEO of International Golden Group, the UAE arms company named in documents as the purchaser of weapons for the South Sudanese government, but had not received a reply at the time of writing.

Amnesty International contacted His Excellency Abdullah bin Zayed Al Nahyan, Minister of Foreign Affairs and International Cooperation for the UAE and His Excellency Deng Alor Kuol, Minister of Foreign Affairs and International Cooperation of the Republic of South Sudan, with report summaries and documents. At the time of writing none of these had responded.

In December 2016, Amnesty International's UK section met with UK customs enforcement officials to provide them with the evidence and documentation relating to S-Profit's activities. Amnesty International has also written to the UK government's Export Control Joint Unit, responsible for arms export controls; the UK government body responsible for company registrations (Companies House); and the Import Licensing Branch responsible for arms import controls. At the time of writing the Import Licensing Branch and Companies House had provided written responses. UK Customs (HMRC) also provided written comment. All these responses are reflected in the report.

Amnesty International's assessment of the human rights situation in South Sudan is based on its extensive field research conducted in the country since the outbreak of civil war in 2013. Most recently, Amnesty International conducted field research between May and June 2017, with delegates visiting areas in the Greater Equatoria and Upper Nile regions.

² Documents with Amnesty International on file; excerpts from contract documents and end user certificates can be viewed at <https://drive.google.com/open?id=0B64x9YQkQxyBTF8tME9McGISNUU>. Neither Amnesty International's Ukraine Section nor its researchers were involved in procuring these documents. Amnesty International has subsequently sought to verify their authenticity with the governments concerned and through internal verification.

1. THE CATASTROPHIC IMPACT OF THE ARMS TRADE ON SOUTH SUDAN

1.1 THE CONFLICT

South Sudan's latest civil conflict is now in its fourth year. Since December 2013 nearly one in three South Sudanese – some 3.8 million people – have been driven from their homes.³ Thousands of people have been killed and entire towns and villages left in ruins. In February 2017 the United Nations declared Africa's first famine in five years, in conflict-affected parts of South Sudan's Greater Upper Nile region.

The conflict began when a political dispute within the country's ruling party, the Sudan People's Liberation Movement (SPLM), escalated into an armed confrontation. On one side were forces loyal to President Salva Kiir, a Dinka, and on the other were those loyal to Riek Machar, a Nuer, who served as vice president from 2005 until his dismissal in July 2013. Fighting started in Juba, where government forces carried out targeted killings of Nuer men. The security forces split, with some maintaining allegiance to the government and others defecting to join the opposition, known as the SPLM/A-in-Opposition (SPLM/A-IO). While fighting was initially concentrated in Jonglei, Unity and Upper Nile states, it reached the southern Equatoria states and Western Bahr El Ghazal in 2015 and 2016.



VICTIMS OF ABUSE IN SOUTH SUDAN'S CIVIL WAR: SEXUAL VIOLENCE

Sexual violence has been a chronic and widespread element of the armed conflict in South Sudan. In December 2016, Yasmin Sooka, Chairperson of the UN Commission on Human Rights in South Sudan, reported to the Human Rights Council that a UN survey had found 70% of women in "protection of civilian" sites (encampments for tens of thousands of displaced civilians run by the United Nations Mission in South Sudan within their own premises) had been raped, the vast majority by soldiers.⁴

During and after a renewed outbreak of fighting in South Sudan's capital Juba in July 2016, government soldiers raped a large number of women. The circumstances of the rapes, and statements made by the perpetrators, indicate that rape was used as a tool of ethnic intimidation.

³ Includes IDPs and refugees. IDP figures (1,893,109) from UNOCHA as of July 2017 (<http://www.unocha.org/south-sudan>), refugee figures (1,886,684) from UNHCR news briefing as of 17 August 2017 (<http://data.unhcr.org/SouthSudan/regional.php>).

⁴ UN OHCHR, Statement by Yasmin Sooka, Chair of the Commission on Human Rights in South Sudan at the 26th Special Session of the UN Human Rights Council, 14 December 2016, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21028&LangID>

Nuer women were raped in order to hurt and subjugate them, punish their husbands, and humiliate their wider ethnic group for its perceived association with Riek Machar and the SPLM/A-IO.⁵

In an especially horrific pattern of sexual violence, many dozens of women from the UN's protection of civilians sites (POCs) were raped by government soldiers during an approximately one-week period that began just after a renewed outbreak of fighting in South Sudan's capital in July 2016. As has been common throughout South Sudan's conflict, with limited food stuffs inside the POCs sites and with their husbands, brothers and sons risking murder and disappearance if they leave, women often leave the POCs to buy food in local markets, knowing they may be raped, but needing to feed their families.⁶

Gang rapes by multiple soldiers seemed to be the rule. A 15-year-old Nuer girl told Amnesty International how she was raped by five government soldiers on 18 July. She had decided to join a large group of other women to go to the market because her family had no food and her older sister was seriously ill. On her return from the market, when she was in the midst of a group of about 20 women, soldiers grabbed her by the hand and pulled her away. "There was no one who could try to help me," she said. "When I was calling for help, all the women were running away. A soldier pointed his gun at me, threatening to kill me if I didn't stop crying."

She said that the soldiers brought her to a shop about five minutes away from a checkpoint at which they were stopped between the POC site and the market. There she was raped by five soldiers ranging in age from about 20 to 40 years old.

These sexual crimes impact women in numerous ways. They face the possibility of HIV transmission and unwanted pregnancy. Survivors spoke of insomnia and continuing nightmares—of waking up in the middle of the night believing that they were being raped again. They also face severe societal stigma, to the extent that some survivors of rape have avoided seeking medical treatment out of fear their situation could become known. "I don't want other people to know what happened because they will not respect me," one rape survivor told Amnesty International.⁷ She also said that she feared her husband might reject her because of the rape, and take another wife.



THESE SEXUAL CRIMES IMPACT WOMEN IN NUMEROUS WAYS

THEY FACE THE POSSIBILITY OF HIV TRANSMISSION AND UNWANTED PREGNANCY, INSOMNIA, CONTINUING NIGHTMARES AND SEVERE SOCIETAL STIGMA

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- 5 Amnesty International, South Sudan: "Do Not Remain Silent: Survivors of Sexual Violence in South Sudan Call for Justice and Reparations, 24 July 2017, Index number: AFR 65/6469/2017, available at <https://www.amnesty.org/en/documents/afr65/6469/2017/en/>; Amnesty International, South Sudan: "We did not believe we would survive": killings, rape and lootings in Juba, 24 October 2016, Index number: AFR 65/5028/2016, available at <https://www.amnesty.org/en/documents/afr65/5028/2016/en/>
- 6 Amnesty International, South Sudan: "We did not believe we would survive", p.18.
- 7 Amnesty International, South Sudan: "We did not believe we would survive", p. 20.



A woman carrying luggage on her head walks through the Protection of Civilians site in Juba, South Sudan.
© Natalia Jidovanu

The conflict continues to be exceptionally brutal, accompanied throughout by abuses including unlawful killings, looting and destruction of civilian property, abductions and sexual violence. According to field research carried out by Amnesty International in May and early June 2017, renewed fighting in the South Sudan's Upper Nile region has forcibly displaced tens of thousands of civilians, as government forces burnt, shelled and systematically looted homes between January and May 2017.⁸ Amnesty International's report on violence in the Equatoria region also showed how both government forces and opposition groups were using food as a weapon of war, imposing restrictions on civilians' access to food – with each side accusing civilians of feeding, or being fed by the enemy.⁹ This has exacerbated the country's human-made humanitarian crisis, including food shortages and malnutrition.

1.2 THE ARMS

On all sides of the South Sudanese civil war, a wide range of light and heavy weaponry has been used to inflict violence on civilians, including assault rifles, light and heavy machine guns, mortar and artillery systems, armoured vehicles and battle tanks, and (on the government side) military aircraft, including attack helicopters and tactical reconnaissance aircraft. Amnesty International has documented government forces deploying tanks and artillery in densely populated neighbourhoods and using attack helicopters to bomb villages; all parties to the conflict are using small arms and light weapons to intimidate and kill civilians. In the face of this dire situation, Amnesty International has repeatedly called on the UN Security Council to impose and enforce a comprehensive arms embargo to halt this profoundly irresponsible flow of weapons.¹⁰

⁸ Amnesty International, South Sudan: "It was as if my village was swept by a flood": mass displacement of the Shilluk population from the west bank of the White Nile, 21 June 2017, Index number: AFR 65/6538/2017, available at <https://www.amnesty.org/en/documents/afr65/6538/2017/en/>

⁹ Amnesty International, South Sudan: "If men are caught, they are killed, if women are caught, they are raped": Atrocities in Equatoria Region Turn Country's Breadbasket into a Killing Field, 4 July 2017, Index number: AFR 65/6612/2017, available at <https://www.amnesty.org/en/documents/afr65/6612/2017/en/>

¹⁰ Amnesty International, UN: South Sudan arms embargo crucial after massive Chinese weapons transfer, 17 July 2014, <https://www.amnesty.org/en/latest/news/2014/07/un-south-sudan-arms-embargo-crucial-after-massive-chinese-weapons-transfer/>

Although this is a low-tech war, one of its features in comparison to some other sub-Saharan African conflicts is that much of the weaponry being used, particularly small arms and ammunition, is of recent manufacture. With few paved roads, a poor airport infrastructure and limited financial resources, South Sudan has nevertheless managed to import substantial quantities of arms and ammunition.

Elements of the Sudanese government provisioned SPLA-IO forces with newly-manufactured ammunition through airdrops and overland supplies in 2014 and 2015.¹¹ A Chinese shipment of US\$38 million-worth of small arms and ammunition, contracted by the South Sudanese government before the outbreak of fighting in December 2013, arrived via Kenya for the government in mid-2014; along with Israeli-made assault rifles supplied by Uganda, new armoured personnel carriers from a subsidiary of a Canadian-owned company, the Streit Group, based in the UAE, and attack helicopters from Ukraine supplied via a Ugandan intermediary at a cost of up to US\$73 million.¹² Ukraine's most recently issued arms export report which covers 2016 includes transfers of 170 light machine guns and 88 heavy machine guns to South Sudan; the 2015 report included transfers of 5 Mi-24V attack helicopters, with 830 light machine guns and 62 heavy machine guns reported for 2014.¹³



A Sudan People's Liberation Army (SPLA) soldier holds an AKMS type rifle outside Juba on April 14, 2016.
© SAMIR BOL/AFP/Getty Images

According to the UN Panel of Experts on South Sudan, in June 2014 two officers of the government's National Security Service signed a massive \$254 million contract with a company registered in the Seychelles to supply a wide variety of arms and ammunition, including 50,000 AK-47 assault rifles, though it is unclear whether this order was in fact filled and weapons subsequently delivered. There have also been unconfirmed reports of arms being flown from Egypt to South Sudanese government forces.¹⁴

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- 11 Conflict Armament Research, Weapons and Ammunition airdropped to SPLA-IO forces in South Sudan. Equipment captured by the Sudan People's Liberation Army in Jonglei State in November 2014, June 2015, https://www.conflictarm.com/wp-content/uploads/2015/06/Weapons_and_ammunition_airdropped_to_SPLA-io_forces_in_South_Sudan.pdf
 - 12 UN Security Council, Final report of the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015), S/2016/70, 22 January 2016, http://www.un.org/ga/search/view_doc.asp?symbol=S/2016/70
 - 13 Information on the volumes of international transfers of certain categories of weapons carried out by Ukraine 2016, http://www.dsecu.gov.ua/control/uk/publish/article?art_id=53195&cat_id=51343; 2015: http://www.dsecu.gov.ua/control/uk/publish/article;jsessionid=E898F1542910A71CD1A66398EECCA35?art_id=49055&cat_id=49054; 2014: http://www.dsecu.gov.ua/control/uk/publish/article?art_id=48545&cat_id=48544
 - 14 See UNSC, S/2017/326, Final report of the Panel of Experts on South Sudan, 13 April 2017, Section VI, The Procurement of Arms, available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2017_326.pdf

1.3 SANCTIONS

South Sudan has been under an EU arms embargo since its inception as an independent state in July 2011,¹⁵ but despite several proposals at the UN Security Council since 2014, amid pressure from civil society groups including Amnesty International, there has been no comprehensive, internationally-binding arms embargo following the nationwide outbreak of fighting in December 2013. The United States, which is responsible for drafting Security Council resolutions on South Sudan, initially declined to include an arms embargo in its draft resolutions, but changed its position in September 2015. Since then, however, draft embargo resolutions presented by the United States have failed to the required nine votes without veto votes from the Permanent Five member states. Most recently, on 23 December 2016 eight of the fifteen Security Council members abstained on a draft embargo resolution, including Japan (which has peacekeeping troops in the UN Mission in South Sudan), Russia, China, Malaysia, Venezuela, Angola, Egypt and Senegal.



THE EUROPEAN UNION ARMS EMBARGO ON SOUTH SUDAN

The European Union (EU) first imposed a comprehensive arms embargo on Sudan in 1994, in the midst of the second Sudanese Civil War pitting Sudanese government forces and allied militias against the rebel Sudan People's Liberation Army (SPLA) across southern Sudan. This embargo prohibited EU Member States from supplying to Sudan any “weapons designed to kill and their ammunition, weapon platforms, non-weapon platforms and ancillary equipment... spare parts, repairs, maintenance and transfer of military technology to Sudan”.¹⁶ In 2004 the EU expanded this embargo in line with the newly-imposed UN arms embargo on Darfur (though in the EU's case applying similar measures to the whole of Sudan, north and south, rather than just the western states of Darfur).¹⁷ This expanded embargo encompassed not only the supply of arms by EU member states, by their nationals, or on ships and aircraft flagged in their jurisdictions; but also the provision of technical advice and assistance relating to embargoed weapons, and financial assistance for arms supplies. In July 2011, following the secession of South Sudan from Sudan, the EU embargo was extended to South Sudan in order to maintain its previous geographical coverage.¹⁸



THE EU EMBARGO IN UK LAW

Under UK law, unless permitted by UK authorities it is prohibited for any UK natural or legal person (including UK-registered companies), and any other natural or legal persons carrying out activities in the UK, to directly or indirectly “supply or deliver”, “agree to supply or deliver”, or “do any act calculated to promote the supply or delivery of” any goods subject to UK trade controls (which includes any weapons or military equipment) from one third country (such as Ukraine) to any country under a UN or EU embargo.¹⁹ This prohibition covers UK nationals and UK-registered companies not just present in the UK but acting anywhere in the world.

15 In July 2011 the EU amended its existing arms embargo on Sudan to cover both Sudan and South Sudan by Council Decision 2011/423/CFSP, available at https://www.sipri.org/sites/default/files/2016-03/CFSP_13.pdf

16 European Union, *Council Decision 94/165/CFSP* (15 March 1994).

17 European Union, *Common Position 2004/31/CFSP* (9 January 2004).

18 European Union, *Council Decision 2011/423/CFSP* (18 July 2011).

19 The Export Control Order 2008 (Statutory Instrument 2008 No. 3231), Part 4, s. 20, 25, 26.

The UK government specifically introduced legislation to include South Sudan in the list of embargoed countries covered by its trade control law.²⁰ Since December 2011, therefore, it has been a UK criminal offence for anyone in the UK, or any UK natural or legal person anywhere in the world, to contravene the EU arms embargo on South Sudan.²¹ It is also a criminal offence for a person to be knowingly involved in contravening the EU arms embargo on South Sudan with the intent to evade that prohibition.²²

The UN Security Council's failure has meant that all sides of the conflict have seen cross-border resupplies of weapons since 2014 – particularly from Sudan and Uganda. The latest UN Panel of Experts Report on South Sudan concluded that the continuing large-scale human rights violations were “directly related to the supply of arms and ammunition”.²³ The gravity and routine nature of the violations, the growing humanitarian crisis, the precariousness of life in many parts of the country and the enormous impacts that even relatively small quantities of arms and ammunition can have on the lives of civilians caught up in the conflict make the failures to achieve a UN Security Council arms embargo all the more acute.

THE UN: CONTINUING LARGE-SCALE HUMAN RIGHTS VIOLATIONS IN SOUTH SUDAN ARE “DIRECTLY RELATED TO THE SUPPLY OF ARMS AND AMMUNITION”

On the eve of the latest attempt to impose a UN Security Council arms embargo in late 2016, the then Secretary General Ban Ki-moon said that without immediate action he feared genocide. Stephen O'Brien, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator said that “Sudan was on the brink” and that there needed to be immediate collective action to avert a “cataclysmic” event.²⁴ In comments after the unsuccessful vote, the UK's permanent representative to the UN Security Council, Matthew Rycroft lamented that “the Council had done nothing to prevent the commission of unspeakable acts” and warned that “if genocide occurred, everyone would have to examine their conscience”.²⁵ The Ukrainian ambassador to the UN Volodymyr Yelchenko said:

“We must not let the South Sudanese people share the grief of Srebrenica, Rwanda or Aleppo... we are convinced that the arms embargo and additional targeted sanctions would reduce the ability of the parties to continue fuelling the conflict in South Sudan. It will help to silence the already procured military equipment and to stop spending desperately needed financial resources for new weaponry.”²⁶

Yet entities in the UK, Ukraine, and the United Arab Emirates, are all implicated in one of the largest arms contracts to supply South Sudan to date.

20 The Export Control (Sudan and South Sudan Sanctions) and (Miscellaneous Amendments) Regulations 2011 (Statutory Instrument 2011 No. 2925), s. 8.

21 The Export Control Order 2008 (Statutory Instrument 2008 No. 3231), Part 6, s. 34(1).

22 The Export Control Order 2008 (Statutory Instrument 2008 No. 3231), Part 6, s. 34(5).

23 See UNSC, Final report of the Panel of Experts on South Sudan, Section VIII, Recommendations, par. 136 (b).

24 UN Security Council, South Sudan on Brink of ‘Cataclysmic Event’, Top United Nations Officials Warn Security Council, Calling for Targeted Sanctions, 19 December 2016, SC/12642, available at <https://www.un.org/press/en/2016/sc12642.doc.htm>

25 UN Security Council, Security Council Decides against Imposing Arms Embargo on South Sudan, Designating Key Figures for Targeted Sanctions, 23 December 2016, SC/12653, available at <https://www.un.org/press/en/2016/sc12653.doc.htm>

26 Statement reproduced on website of Permanent Mission of Ukraine to the United Nations, <http://ukraineun.org/en/press-center/156-eov-on-south-sudan-arms-embargo>

2. ANATOMY OF AN ARMS DEAL

No. 43 Bedford Street is a narrow Victorian building in the heart of London's West End, 5,500 km from South Sudan. Its ground floor is the small office of a mailbox rental company. It is also listed in UK company records as the registered office of a UK company called S-Profit Ltd. There is no sign or notice indicating the company's presence at that address. Yet the company registered at this building is named in commercial documents seen by Amnesty International as importer and exporter of a range of military equipment to African, Asian and European governments and companies; and in a South Sudanese government document as the prospective "supplier" of 60,000 small arms and light weapons, 30,000 rocket-propelled grenades and five million rounds of small arms ammunition to the Ministry of Defence of South Sudan.

The paper trail seen by Amnesty International connects a web of entities in London, Kyiv, Abu Dhabi and Juba. This body of documentation is incomplete, referencing other documents to which Amnesty International has not had access. The picture of the commercial activity that emerges is also, therefore, partial. Nonetheless it indicates that during 2014 these entities entered into a sequence of contracts for the delivery of arms from Ukraine to South Sudan, procured by a UAE-based company.

Amnesty International is unable to determine how much – if any – of this weaponry has yet been delivered to South Sudan. UK law prohibits UK individuals or companies from any involvement in supplying or agreeing to supply weapons to South Sudan, as it is subject to an EU arms embargo (see Chapter 2 above).²⁷



43 Bedford Street, London

²⁷ The Export Control Order 2008 (S.I. 2008 No. 3231) prohibits any UK individual or company from "do[ing] any act calculated to promote the supply or delivery" of military items from a third country to an embargoed destination.

2.1 THE DEALS

According to the documents seen by Amnesty International, in early 2014, following the outbreak of violent conflict across South Sudan, the Government of South Sudan contracted with one of the Middle East's largest private arms suppliers, the UAE-based International Golden Group (IGG), to procure weapons.

To enable an arms supplier to obtain authorisation to export weapons, and for them to procure weapons from other suppliers, the importing state – in this case South Sudan – normally issues one or more official documents, known as end user certificates (EUCs), which confirm the ultimate recipient of the equipment, the types and quantities of equipment being transferred, and the contracting parties in the sale.

Amnesty International has seen two EUCs issued by the Embassy of South Sudan in the UAE and South Sudan's Ministry of Defence in April and June 2014 respectively, for a range of small arms, light weapons and ammunition. The 20 April 2014 EUC lists a portion of the weapons involved in the overall contract, as shown in the table below:²⁸






ITEM		QUANTITY
	7.62 mm AKMS (AKMS-F) assault rifle	50,000
	7.62 x 39 mm ammunition	50,000,000
	40 mm RPG-7 grenade launcher	10,000
	40 mm PG-7VM round	15,000
	40 mm PG-7VL round	15,000

Table 1: weapons listed in the South Sudanese EUC dated 20 April 2014

The EUC issued on 15 June 2014 lists these and other items.²⁹ In both cases, the end-user given is the South Sudanese Ministry of Defence.³⁰ Both EUCs have been stamped and signed by a South Sudanese official described as 'Advisor for Special Missions for the Minister of Defence'. This individual acted as an advisor to Kuol Manyang Juuk, South Sudan's current Defence Minister, during Kuol Manyang's governorship of Jonglei state from 2007 to 2013.³¹

Both the April and June EUCs specify that the 'Exporter' will be the Ukrainian state-owned arms company SSTIF Ukrinmash, and the 'Importer' will be International Golden Group for the 'End Use' of South Sudan's Ministry of Defence. However, the April EUC includes an additional intermediary as 'Supplier': the UK company S-Profit, of 43 Bedford St, London. The April EUC suggests, therefore, that S-Profit is to purchase some of the weapons from Ukrinmash, and supply them to IGG for the use of South Sudanese government forces.

28 EUC No. MD/GOSS/004/2014 dated 20 April 2014. These items correspond in their quantities to each of the corresponding entries in the IGG/Ukrinmash contract and the June 2014 EUC, with one exception: the June 2014 EUC is for it specifies the purchase of 10,000 rather than 2,000 RPG-7 grenade launchers.

29 EUC No. MD/GOSS/008/2014 dated 15 June 2014.

30 EUC No. MD/GOSS/008/2014 dated 15 June 2014.

31 According to leading Sudanese politician Bona Malual, this individual also worked with Malual during the 1970s as a diplomatic liaison on behalf of the High Executive Council of southern Sudan seeking development assistance from Dubai, Abu Dhabi and Oman for the southern Sudanese region. Bona Malual, *Sudan and South Sudan: From One to Two* (Palgrave: 2014).

END USER CERTIFICATE
№: MD/GOSS/004/2014 dated April 20, 2014

1. End User's full name and address
The Ministry of Defence and Veterans Affairs
Head Quarter
Bilpam Road
Juba, Republic of South Sudan
Tel: +211912351162

2. Exporter's full name and address
State Self-Supporting Foreign
Trade and Investment Firm «Ukrinmash» (Subsidiary of the
State Company «Ukrspesexport»)
36, Dehtiarivska Str., Kyiv, 04119, Ukraine,
Tel. (380-044) 461-92-75, Fax. (380-044) 461-92-76

3. Supplier's full name and address
S-Profit LTD
43 Bedford Street, Office 11
City: London
WC2E 9HA
Country: United Kingdom

4. Importer's full name and address
International Golden Group
Bani Yas Tower, P.O. Box 43999, Abu Dhabi, U.A.E

5. Name and full description of the goods:

1	7,62 mm assault rifle AKMS (AKMS-F)	50 000
2	7,62x39 mm ammunition	50 000 000
3	40 mm grenade launcher RPG-7	10 000
4	40 mm round PG-7VM for grenade launcher RPG-7	15 000
5	40 mm round PG-7VL for grenade launcher RPG-7	15 000

6. Place of installation (use) of the goods
Republic of South Sudan, the Ministry of Defence and Veterans Affairs of the Republic of South Sudan

7. The purpose of End-use of the goods
usage for own needs of the Ministry of Defence and Veterans Affairs of the Republic of South Sudan

8. The End User of the goods hereby guarantees that the goods stated in the Para. 5 will not be used other, than for purposes stated in the Para. 7, and will not be transferred to any other subject of business activity in the territory of the Republic of South Sudan or re-exported without a permission of the Exporter and the State Service on Export Control of Ukraine.

The Ministry of Defence and Veterans Affairs of the Republic of South Sudan,
On behalf of Minister of Defence and Veterans Affairs,
Mathiang Matual Mabur, Advisor for Special Missions for the Minister of defence.

Signature
April 20, 2014
Mat. Mabur (Mat) Mabur
Mathiang Matual Mabur
★ 20 APR 2014 ★
Advisor for Special Missions

Embassy of the Republic of South Sudan
Abu Dhabi - U.A.E.
CONSULAR SECTION
Sign. of: Mathiang Matual Mabur
Stamp of: Mathiang Matual Mabur
Sign. of: Mathiang Matual Mabur
Date: 20.04.2014

Mathiang Matual Mabur
★ 15 JUN 2014 ★
Advisor for Special Missions
for Minister of Defence

RSS/MoD & VA/OM/1

On 14 August 2014 the Ukrainian state arms exporter SSFTIF “Ukrinmash” signed a contract with IGG for the full range of weaponry listed in the June 2014 EUC.³² Valued at US\$169,280,000, these weapons include Kalashnikov assault rifles, medium and heavy machine guns, large quantities of ammunition for these weapons, as well as mortars and mortar shells, and thousands of RPG-type rocket-propelled grenades; all for delivery to the ‘Ministry of Defence of the Republic of South Sudan’.³³

The June EUC does not include S-Profit’s name. Both EUCs follow the same format, and use the same end-user declaration language (including with similar grammatical and punctuation errors) as other verified South Sudanese EUCs seen by Amnesty International.

32 This represented at least a portion of the materiel under IGG’s original 2014 contract with South Sudan mentioned above, which is referenced on page 8 in the August 2014 IGG-Ukrinmash contract.

33 Contract No. IGG/UKRINMASH/2014/1399/5/47, copy on file.



ITEM	QUANTITY	UNIT PRICE (USD)	TOTAL PRICE (USD)
7.62 mm PKM (PVT) machine gun	10,000	4,500	45,000,000
12.7 mm DShKM machine gun	1000	22,000	22,000,000
14.5 mm KPVT machine gun	1000	18,000	18,000,000
12.7 mm cartridges	5,000,000	1.20	6,000,000
14.5 mm cartridges	1,400,000	1.20	1,600,000
60 mm mortar	3,000	12,000	36,000,000
60 mm mortar shell	20,000	50	1,000,000
82 mm mortar	400	16,000	6,400,000
120 mm mortar	500	18,000	9,000,000
7.62 mm AKMS assault rifle	50,000	220	11,000,000
7.62 x 39 mm cartridges	50,000,000	80 per 1000 cartridges	4,000,000
40 mm RPG-7 grenade launcher	2,000	2,800	5,600,000
40 mm PG-7VM round	15,000	120	1,800,000
40 mm PG-7VL round	15,000	120	1,800,000
TOTAL			169,280,000

Table 2: Weapons and prices listed in the South Sudanese EUC dated 15 June 2014 and the contract between IGG and Ukrinmash dated 14 August 2014

Amnesty International has not seen full documentation showing that S-Profit subsequently purchased all the weapons listed in the April 2014 EUC. However, Amnesty International has seen a further contract, dated 22 October 2014, between Ukrinmash and S-Profit, under which S-Profit agreed to pay US\$3.66m to purchase 15,000 PG-7VL rocket-propelled grenades (RPGs) and 15,000 PG-7VM RPGs: the same quantities and types of RPG munitions as those listed in both the April and June 2014 South Sudanese EUCs, and in the IGG-Ukrinmash contract for supply to South Sudan.³⁴

³⁴ Contract No. 5/61-K, partial copy on file.

ARMS DEALS TIMELINE

DECEMBER 2013

Outbreak of fighting in Juba, South Sudan, spreading rapidly across the country's greater Upper Nile region.



EARLY 2014

(precise date unknown, but before April 2014)

IGG seeks to procure some or all of these weapons from Ukrimash in Ukraine.



EARLY 2014

(precise date unknown)

The Government of South Sudan signs a contract with the UAE-based International Golden Group (IGG) for the supply of weapons (Contract No. IGG/SS/2014/001).



20 APRIL 2014

South Sudanese embassy in UAE issues End-User Certificate for a portion of the weapons specified in the IGG-South Sudan contract, worth over US\$46 million. This official document specifies IGG (UAE) as the Importer, Ukrimash (Ukraine) as the exporter, S-Profit Ltd (UK) as the "supplier" and the Government of South Sudan as the End-User of the weapons.



Amnesty International has not been able to determine whether some or all of the weapons listed in these documents have yet been delivered to South Sudan. Their potential impact if deployed on the ground for civilians would be devastating. The quantity of weaponry envisaged under the IGG contract would constitute one of the largest publicly-disclosed arms deals that South Sudan has undertaken since the outbreak of fighting in December 2013. Ongoing weapons supplies – particularly of the core infantry weapons listed in these documents, which are used by ground troops and allied militias on all sides in South Sudan – have already allowed combatants in South Sudan's civil war to continue fighting and perpetrating atrocities in violation of the 2015 ceasefire. Moreover, security of weapons supply and the absence of a UN arms embargo have allowed the government to expand the war during 2016 and 2017 to new areas of the country beyond the oilfields of the greater Upper Nile region – with horrific consequences for those living in these areas.

15 JUNE 2014

South Sudanese Ministry of Defence issues another End-User Certificate for all the weapons specified in the IGG-South Sudan contract, worth over US\$169 million. This official document specifies IGG (UAE) as the Importer, Ukrimash (Ukraine) as the Exporter and the Government of South Sudan as the End-User of the weapons.



22 OCTOBER 2014

Ukrinmash signs contract valued at \$3.66m with S-Profit for S-Profit to purchase the same quantities and types of rocket-propelled grenades as those specified in the IGG-Ukrinmash contract and the two South Sudanese End-User Certificates.



14 AUGUST 2014



IGG and Ukrimash sign contract for Ukrimash to supply the Government of South Sudan with the \$169m of weapons specified in the June EUC.



Ongoing weapons supplies – particularly of the core infantry weapons listed in these documents, which are used by ground troops and allied militias on all sides in South Sudan – have already allowed combatants in South Sudan’s civil war to continue fighting and perpetrating atrocities in violation of the 2015 ceasefire.

2.2 THE COMPANIES INVOLVED

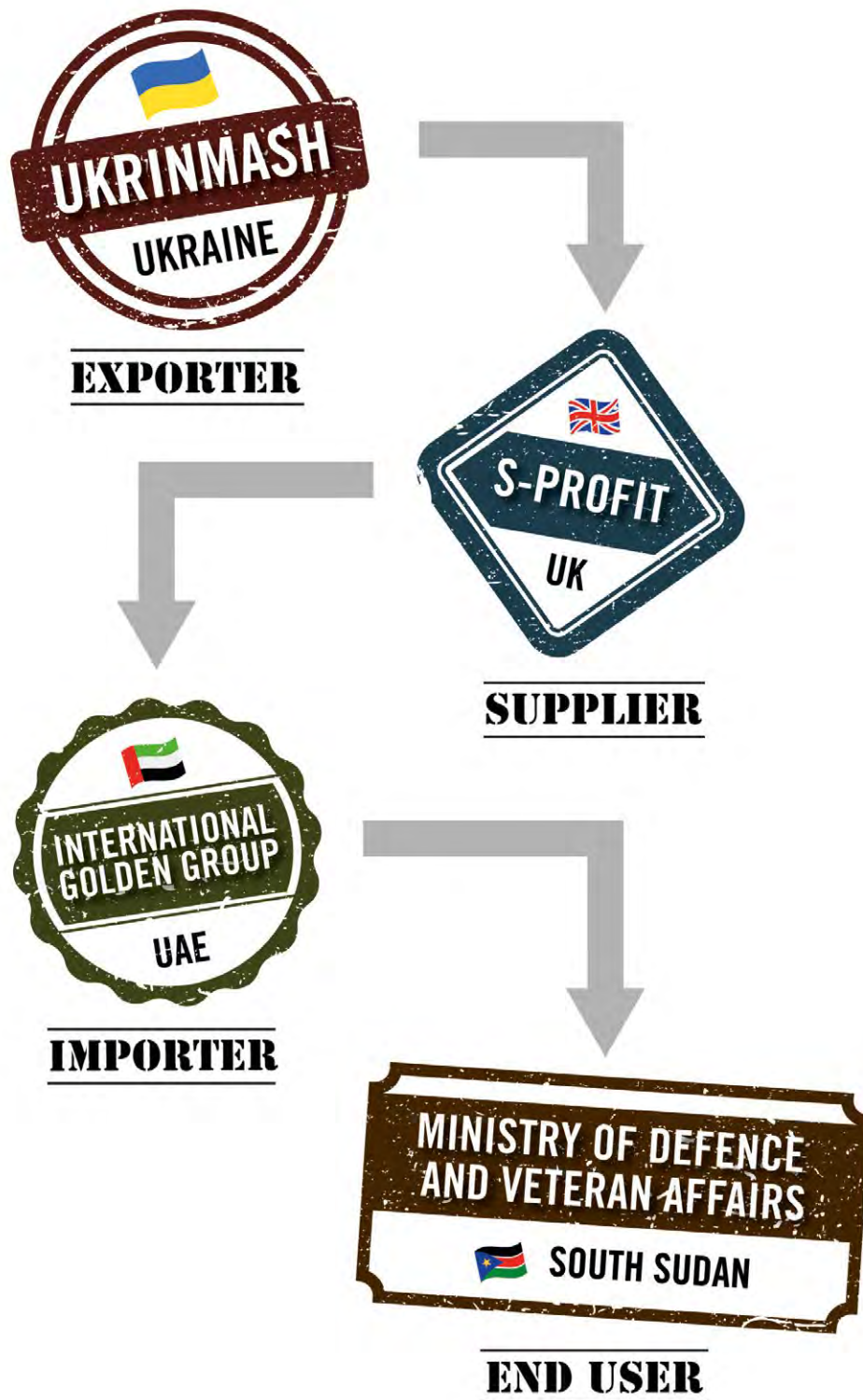


Figure 1: Companies listed in the 20 April 2014 End-User Certificate issued by South Sudan and the IGG-Ukrinmash contract dated 14 August 2014.

2.2.1 THE EXPORTER: UKRINMASH (UKRAINE)

Ukrinmash is a wholly-owned subsidiary of the Ukrainian state-owned arms exporter, Ukrspesexport, itself part of Ukraine's state military industry holding company, Ukroboronprom.³⁵ Ukrinmash supplies both new-production and surplus military equipment to a wide range of states and intermediaries around the world. Its parent company, Ukrspesexport, has a monopoly on arms exports from Ukraine – the ninth largest arms exporter in the world, according to the arms monitor the Stockholm International Peace Research Institute (SIPRI).³⁶ Any arms broker or buyer seeking to arrange the transfer of weapons from Ukraine to other countries must therefore contract through Ukrspesexport or its subsidiaries.

In this case, Ukrinmash was contracted by the UAE company International Golden Group (IGG) to export Ukrainian small arms and light weapons to South Sudan, apparently to fulfil a 2014 contract between IGG and the government of South Sudan.

Ukrinmash has a history of arms exports to South Sudan's armed forces, including prior to independence. For instance, between 2006 and 2008 Ukrinmash shipped several dozen T72M1 tanks and a range of small arms and light weapons to the SPLA, a deal investigated by researchers for Amnesty International and the Small Arms Survey in 2009.³⁷

Amnesty International wrote to both Ukrinmash and Ukrspesexport setting out the information contained in this report. The Deputy Director General of Ukrspesexport responded stating that Ukrspesexport itself had not concluded contracts with S-Profit and International Golden Group; and that subsidiary companies (like Ukrinmash) are independent commercial entities to which requests for information about their activities should be directed. At the time of writing, Ukrinmash has not responded.



THE RESPONSIBILITIES OF CORPORATE ENTITIES

According to the UN Guiding Principles on Business and Human Rights, companies have a responsibility to respect all human rights, and to take concrete action to discharge this responsibility. This requires taking adequate measures to prevent, mitigate and redress human rights abuses connected to their business operations.³⁸

This responsibility exists “independently of States’ abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations” and “over and above compliance with national laws and regulations protecting human rights.”³⁹ Any company selling arms to end users known to be committing serious human rights violations would risk being in breach of these standards. Furthermore, if the company’s conduct enabled, exacerbated or facilitated the abuse, and the company knew, or ought reasonably to have known, that the abuse would occur, they could be held criminally responsible for such abuses.⁴⁰

³⁵ <http://ukroboronprom.com.ua> (n.d.)

³⁶ A. Fleurant, P.D. Wezeman, S.T. Wezeman, N. Tian, *Trends in International Arms Transfers, 2016* (Stockholm International Peace Research Institute: February 2017), available at <https://www.sipri.org/sites/default/files/Trends-in-international-arms-transfers-2016.pdf>. Rankings are for confirmed arms exports 2012-16.

³⁷ M. Lewis, *Skirting the Law: Sudan's post-CPA arms flows* (Small Arms Survey, HSBA Working Paper 18, September 2009), pp. 39-44; Amnesty International, *South Sudan: Overshadowed Conflict: Arms Supplies Fuel Violations in Mayom County, Unity State* (AI Index: AFR 65/002/2012), 28 June 2012, available at <https://www.amnesty.org/en/documents/afr65/002/2012/en/>

³⁸ UN Guiding Principles on Business and Human Rights. The Human Rights Council endorsed the Guiding Principles in its resolution 17/4 of 16 June 2011, www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf;

³⁹ Ibid. Principle 11.

⁴⁰ International Commission of Jurists, 'Report of the ICJ Expert Legal Panel on Corporate Complicity in International Crimes', Volume 1, Geneva, 2008, ISBN: 978 92-9037-131-5

States are expected to take additional steps to protect against human rights abuses by companies they own or control (as in the case of Ukrinmash and Ukrspecexport).⁴¹ The conduct of a State-owned entity may also amount to a violation of a State's obligations under international human rights law.⁴²

2.2.2 INTERNATIONAL GOLDEN GROUP (UAE)

International Golden Group (IGG) is a private company established in Abu Dhabi in 2002 to supply arms to the UAE armed forces and international clients.⁴³ It is part-owned by Tawazun Holdings, an investment company created in 2007 by the Abu Dhabi Offset Program Bureau (now called the Tawazun Economic Council), a public-private body established in 1992 which is responsible for promoting industrial and technology development in the UAE.⁴⁴

The contract between IGG and Ukrinmash, which Amnesty International has seen, indicates that IGG contracted with the Government of South Sudan in early 2014, after the outbreak of civil conflict, to supply to South Sudan the large quantity of weaponry which IGG subsequently contracted with Ukrinmash to purchase.⁴⁵ According to the IGG-Ukrinmash contract, the weapons were to be shipped from a Ukrainian airport, and sold to IGG but packaged and labelled as being destined to the Ministry of Defence and Veteran Affairs in Juba, South Sudan.

IGG has a history of sourcing weapons from Ukrinmash for use in third countries. In 2013 the UN Panel of Experts on Libya, established by the UN Security Council to monitor the arms embargo on Libya, reported that in 2011 IGG had purchased several million rounds of Albanian ammunition and 1,000 assault rifles on behalf of the government of the UAE, some of which was flown instead directly to National Transitional Council (NTC) forces in Benghazi in violation of the UN arms embargo on Libya.⁴⁶ IGG purchased the ammunition from Ukrinmash (Ukraine), which in turn sourced it from Albania. The UN Panel claimed that "the United Arab Emirates was the original end user of the ammunition and organized its transfer to Benghazi in breach of the arms embargo." International Golden Group also provided Albanian authorities with a Delivery Verification Certificate attesting that the ammunition had been received by the UAE Armed Forces.⁴⁷ Amnesty International wrote to International Golden Group in August 2017 asking for comment about these allegations; at the time of writing the company had not responded.

41 This has been articulated in the UN Guiding Principles on Business and Human Rights. See UN Office of the High Commissioner for Human Rights, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (2011) UN Doc HR/PUB/11/04, Principle 4, available at www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

42 International Law Commission, Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, 2001, pp. 40-43, available at legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf

43 www.igggroup.ae/ (n.d.); Kahaleej Times, Tawazun picks 26% stake in International Golden Group, 26 February 2011, <http://www.khaleejtimes.com/article/20110226/ARTICLE/302269887/1036>

44 Tawazun, UAE offset programme bureau renamed as Tawazun Economic Council, 14 May 2012, available at <https://tec.tawazun.ae/2012/05/14/uae-offset-programme-bureau-renamed-as-tawazun-economic-council/>

45 The contract number for this contract between IGG and South Sudan is given as IGG/SS/2014/001, indicating that it was concluded in 2014. Since the first EUC issued by South Sudan's Embassy in the UAE for this weaponry is dated 20 April 2014, it is likely that this IGG-South Sudan contract was concluded at some point between January and April 2014.

46 UN Security Council, Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya (S/2013/99), 15 February 2013, paras. 74-97, available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_99.pdf

47 UN Security Council, Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya (S/2013/99), 15 February 2013, Annex VIII, available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_99.pdf

2.2.3 S-PROFIT (UK)

S-Profit Ltd is a UK company established in July 2011. It has had two directors.⁴⁸

One, resident in the Philippines and serving as director for S-Profit between November 2014 and January 2017, is also the registered director and shareholder of over 100 other UK-registered companies, and dozens of foreign companies. This suggests that this individual is likely a ‘nominee director’ of the kind routinely employed (legally) by commercial company formation agencies. Nominee directors can be used to avoid revealing the real controllers of a company, or to perform administrative functions such as signing documents. They can therefore have little or no actual involvement in the company’s day-to-day operational activities, though they still have legal responsibilities for the company under company law.⁴⁹



The other director is a Ukrainian national, Artem Zabora, who since the day after the company was established has also been its sole shareholder.⁵⁰ As well as S-Profit’s appearance in the documents relating to the 2014 South Sudanese arms deal, other commercial documents reviewed by Amnesty International indicate that Zabora and S-Profit have provided offer letters and contracts for the purchase and supply of weapons in a range of other deals ostensibly negotiated by a private Ukrainian arms export company called Techimpex.

These documents show a sequence of commercial offers and contract negotiations involving S-Profit – some unfinished – for the prospective supply of armoured vehicles, weapons and aircraft to Egypt, Senegal, Mali, Rwanda, Ukraine and Peru, as well as to private companies in Serbia, Ukraine, Poland and Australia. In several cases Techimpex has undertaken the substantive commercial correspondence and provided quotations for weapons supplies to other companies and governments, while contracts are then drafted for Zabora and S-Profit to sign as the formal suppliers or purchasers of the weapons. In some cases commercial correspondence on Techimpex-headed paper, signed by Techimpex’s general director, is duplicated on S-Profit-headed paper, with the same text but signed by Zabora.⁵¹

48 On 25 January 2017, one of these directors resigned, leaving Artem Zabora as the sole director.

49 For another example of this individuals’ provision of his name as a nominee director of another UK-registered company – in this case for a Belarussian beneficial owner – see Aliaksandr Hniazdzilau vs. Zsolt Adam Vajgel, King Howard Cordero Enriquez and Dmitry Ivanovitch Bronovets, in the High Court of Justice, Chancery Division, [2016] EWHC 15 (Ch).

50 The other director was appointed on 3 November 2014 and resigned on 25 January 2017.

51 E.g. Correspondence dated January 2016 from Techimpex and S-Profit to Israel-based arms broker regarding the supply of B8V20A air-to-ground rocket pods.

Given that the weaponry or equipment concerned is not actually being supplied by S-Profit, the company's role in these negotiations is opaque. In the case of the South Sudan deal, a credible source who asked not to be identified has informed Amnesty International that prior to contract negotiations between officials from Ukrinmash, IGG and the South Sudanese government in Abu Dhabi, representatives of Techimpex and Ukrinmash's parent company Ukrboronprom insisted on including S-Profit as an intermediary to sell weapons at inflated prices, with the price differences accruing to beneficiaries of S-Profit rather than the Ukrainian treasury.⁵² In the absence of payment documentation, Amnesty International has not been able to verify this.

When asked by Amnesty International to clarify Techimpex's relationship with S-Profit, the Director General of Techimpex, Mr. V Kalyna, responded: "the Company Techimpex has been working with S-Profit for years and we consider this company to be a reliable and responsible business partner." He added that the company's activities were conducted "in strict compliance with all national and international regulations including those regulating transfers of military goods," and that all contracts involving military goods are vetted by Ukraine's state export authorities and subject to all required permits and licences.⁵³

In a response to a letter from Amnesty International which outlined the information above, Mr Zabora stated that he was the director and sole beneficiary of S-Profit; and that while S-Profit does not operate in the UK, its business is carried out in compliance with UK legislation and international regulations. Regarding S-Profit's relationship with Techimpex, Mr Zabora stated that he was not its employee or owner, but had entered into contractual relationships with Techimpex. Mr Zabora stated that S-Profit "has never supplied military products to South Sudan; moreover, S-Profit does not intend to supply them in the future and does not seek such opportunities."⁵⁴ Amnesty International then sent a follow-up letter with additional questions, including regarding the status of the End User Certificate (MD/GOSS/004/2014 dated 20 April 2014) for the Ministry of Defence of South Sudan in which S-Profit is listed as "supplier" of military equipment. A copy of the End User Certificate was included in this letter. At the time of writing Amnesty International had not received any response to these follow-up questions.

52 TV programme "Гроші", broadcast December 2014. <https://www.youtube.com/watch?v=pBzJJXeAhxY>; Amnesty International correspondence, 27 July 2017, on file.

53 Correspondence with Mr V. Kalyna, Director General of Techimpex, 27 July, 2017, on file.

54 Written response from Mr Zabora to Amnesty International, 27 July 2015, on file.

3. STATES' LEGAL RESPONSIBILITIES

Companies listed in commercial and government documentation relating to the arms deals discussed above were registered in Ukraine, the UAE and the UK. This section looks at the legal responsibilities of Ukraine and the UAE; the UK's responsibilities are dealt with in Chapter 4.

3.1 OBLIGATIONS OF UAE AND UKRAINE GOVERNMENTS

Both the UAE and Ukraine have signed (but not yet ratified) the Arms Trade Treaty (ATT) which came into force in December 2014. In a statement welcoming the adoption of the ATT, the UAE ambassador to the UN, Ambassador Ahmad Abdul Rahman Al Jarman, said the Treaty was an important mechanism for regulating the arms trade “to limit the threats and the suffering faced by the victims of armed conflict, especially women and children.”⁵⁵ As signatories, the UAE and Ukraine must not take any action that would undermine the object and purpose of the treaty set out in Article 1.⁵⁶

ARMS TRADE TREATY ARTICLE 1

OBJECT AND PURPOSE

The object of this Treaty is to:

- Establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms;
- Prevent and eradicate the illicit trade in conventional arms and prevent their diversion;

FOR THE PURPOSE OF:

- Contributing to international and regional peace, security and stability;
- Reducing human suffering;
- Promoting cooperation, transparency and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among States Parties.

55 UN, 71st plenary meeting Tuesday, A/67/PV.71, 2 April 2013, 10 a.m. New York, p. 17, http://repository.un.org/bitstream/handle/11176/302811/A_67_PV.71-EN.pdf?sequence=3&isAllowed=y

56 Arms Trade Treaty, Article 1, Object and Purpose, p. 3, available at <https://unoda-web.s3-accelerate.amazonaws.com/wpcontent/uploads/2013/06/English7.pdf>; Vienna Convention on the law of treaties (with annex). Concluded at Vienna on 23 May 1969, Article 18, available at [https://treaties.un.org/doc/Publication/UNTS/Volume 1155/volume-1155-I-18232-English.pdf](https://treaties.un.org/doc/Publication/UNTS/Volume%201155/volume-1155-I-18232-English.pdf)

This includes the establishment of “the highest possible common international standards” for regulating the arms trade for the purpose of “contributing to international and regional peace, security and stability” and “reducing human suffering”. There are robust links between arms transfers to South Sudan, increasing instability, and the commission and facilitation of serious violations of international human rights and humanitarian law. In such a context, the involvement of Ukraine’s state-owned arms exporter in contracting to supply weapons to South Sudan’s government in the midst of the current civil conflict represents a clear breach of these principles. The fact that that one of the largest arms companies in the UAE is listed on documentation seen by Amnesty International as the “Importer” of large quantities of weapons bound for South Sudan also suggests that the UAE may have failed to implement its obligations as a signatory to the ATT.

3.1.1 UKRAINIAN AND UAE NATIONAL LAW

According to information submitted to the 58th UN General Assembly, Ukraine’s export control legislation is based on “internationally accepted norms and principles” exercised according to internationally recognised control lists.⁵⁷ Despite well-developed arms control legislation, Ukraine has a poor track record in its implementation. A large arms exporter of surplus Soviet equipment and a producer of a range of conventional weapons, Ukraine’s governments, state companies and nationals have in the past been implicated in arms transfers to conflict zones such as Sierra Leone, Liberia and Libya that have fundamentally undermined international standards for the regulation of the international trade in conventional arms.⁵⁸

Under Ukrainian law, all arms transfers from its jurisdiction must be licenced on a case-by-case basis in line with its international obligations.⁵⁹ Although international human rights law is not explicitly mentioned in Ukraine’s arms control legislation, Ukraine has made strong political statements supporting the conditioning of arms transfer on respect for international human rights law, as well as the principles contained in the European Union Code of Conduct on Conventional Arms Exports and the OSCE Document on Small Arms and Light Weapons, both of which incorporate human rights criteria in arms export controls.⁶⁰

Ukraine’s Association Agreement with the European Union also commits it to convergence on EU Common Security and Defence Policy, and to cooperate on arms controls and arms export controls, which the European External Action Service reports has included “being aligned with an EU arms embargo [on South Sudan]”.⁶¹ This Agreement, signed in 2014, has not yet been ratified by all EU member states. Ukraine is also a participating state of the Wassenaar Arrangement, which seeks “to

57 UNODA, Information of Ukraine on national legislation, regulations and procedures on the transfers of arms, military equipment, dual use goods and technologies, <https://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/assets/convarms/NLDU/docs/NLDU/Ukraine2004-E.pdf>

58 For Liberia and Sierra Leone, see UN Security Council, Report of the Panel of Experts Appointed Pursuant to UN Security Council Resolution 1306 (2000), Paragraph 19, in relation to Sierra Leone (S/2000/1195), 20 December 2000, paras. 203-2011, available at <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/SL%20S2000%201195.pdf>; for Libya, see UN Security Council, Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya (S/2013/99), 15 February 2013, Annex VIII, available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_99.pdf

59 Law of Ukraine, “On State Control of International Transfers of Goods Designated for Military Purposes and Dual-Use Goods” No. 549-IV, 20 February 2003, as amended, <http://zakon3.rada.gov.ua/laws/show/549-iv>.

60 For example, in its 2005 report to the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA) Ukraine drew attention to the principles in the OSCE’s Document on SALWs: “[P]articular importance is attached to the OSCE Document, where the States Parties, having agreed common export criteria, such as the respect for human rights, avoidance of armed conflict, and compliance with international agreements, established a detailed set of principles governing the procedures and documentation for the import, export and transit of small arms and light weapons.” In the same report, Ukraine stated that it “strictly adheres to the decisions taken by the UN Security Council, Organization for Security and Cooperation in Europe and Wassenaar Arrangement” and “in decision-making process we also take into account ...the European Union Code of Conduct on Conventional Arms Exports.”

61 European Commission, *Joint Staff Working Document: Association Implementation Report on Ukraine* (Brussels: 9 December 2016), SWD(2016) 446 final, available at https://eeas.europa.eu/sites/eeas/files/ukraine_v2_0.pdf

contribute to regional and international security and stability, by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilising accumulations.”⁶²

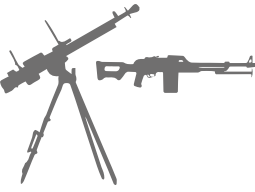
Nonetheless since the outbreak of South Sudan’s brutal conflict in December 2013, Ukraine’s export control service has consistently authorised the export to the government of South Sudan of both small arms and major weapons systems.⁶³

UAE law regulates the export or re-export of “strategic goods” (including arms and military hardware) on grounds which include public safety, security and foreign policy.⁶⁴ UAE law also requires arms brokers involved in moving strategic goods from one country outside the UAE to another to obtain government authorisation to do so.⁶⁵ Though it does not explicitly mention respect for human rights or international humanitarian law, UAE arms export control law does refer to the provisions of international conventions to which the UAE has acceded (the UAE is a signatory to the ATT).⁶⁶ Export controls are overseen by the UAE Committee on Commodities Subject to Import and Export Control, reporting directly to the Council of the Ministry of Foreign Affairs, which in turn reports to the President of the UAE.⁶⁷ The UAE is not a participating state in the Wassenaar Arrangement.

UKRAINE’S EXPORT CONTROL SERVICE HAS CONSISTENTLY AUTHORISED THE EXPORT TO THE GOVERNMENT OF SOUTH SUDAN OF BOTH SMALL ARMS AND MAJOR WEAPONS SYSTEMS: INCLUDING

2015
5 
MI-24 ATTACK HELICOPTERS

2014
892 
LIGHT AND HEAVY MACHINE GUNS

2016
258 
LIGHT AND HEAVY MACHINE GUNS

62 Wassenaar Arrangement, On Export Controls for Conventional Arms and Dual-Use Goods and Technologies, <http://www.wassenaar.org>

63 Ukraine, annual reports to UN Register of Conventional Arms for calendar years 2014 and 2015, available at <https://www.un.org/disarmament/convarms/register/>; State Export Control Service, ‘Information on the volumes of international transfers of certain categories of weapons, Carried out by Ukraine in 2016’, http://dsecu.gov.ua/control/uk/publish/article?art_id=53195&cat_id=51343

64 UAE Federal Law No. 13 of 2007, Federal Decree No. 12 of 2008 (<http://qistas.com/legislations/uae/view/5946>). See also Aaron Dunne, ‘Strategic Trade Controls in the United Arab Emirates: Key Considerations for the European Union’, *EU Non-Proliferation Consortium, Non-Proliferation Papers, No. 12* (March 2012) https://www.files.ethz.ch/isn/142153/EUNPC_no%2012.pdf

65 Federal Decree No. 12 of 2008 (<http://qistas.com/legislations/uae/view/5946>).

66 Federal Decree No. 12 of 2008 (<http://qistas.com/legislations/uae/view/5946>).

67 Presentation by the Executive Office of the UAE Committee for Goods and Materials subject to Import and Export Control (n.d.), <https://www.state.gov/strategictrade/documents/organization/190339.pdf>

3.1.2 RESPONSIBILITIES UNDER INTERNATIONAL LAW

Ukraine and the UAE also have responsibilities under international law to regulate the transfer of arms in certain circumstances. Where there is a substantial risk that the arms would be used to violate human rights, the supplier state would be acting contrary to its positive obligation to co-operate towards universal respect for human rights set out in the UN Charter and enshrined in the Universal Declaration of Human Rights. All UN members are bound by an obligation in Article 56 of the UN Charter “to take joint and separate action in cooperation with the Organization [the UN] for the achievement of the purposes set forth in Article 55”.⁶⁸ These purposes include “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion”.⁶⁹ Similarly, international humanitarian law (IHL) requires all states to “respect and ensure respect” for IHL, including through measures to prevent the supply of weapons to those who may be expected to use them in the commission of serious IHL violations.⁷⁰

3.1.3 RISK ASSESSMENTS

In order to prevent arms from being used to commit or facilitate serious human rights violations, states must carry out risk assessments of any prospective arms transfer. The prospective exports to South Sudan discussed above should have rung alarm bells for any licencing or government export officials assessing the transfer. There are unambiguous human rights and IHL risks associated with arms transfers to South Sudan. The deal also involved a London-based intermediary company; as well as a buyer (International Golden Group) and exporter (Ukrinmash) which had been previously cited in a UN Panel of Experts report on Libya for violating a UN arms embargo in 2011.⁷¹

In August 2017 Amnesty International wrote to the government of the UAE and to International Golden Group, as well as the Director General of Ukraine's State Service of Export Control of Ukraine setting out the information in this report. None of these Neither has responded at the time of writing. In the case of the UK, S-Profit did not seek authorisations from UK arms export authorities to negotiate to supply arms to South Sudan or other destinations, and the UK export licensing and enforcement authorities appear to have been unaware of S-Profit and its arms trading activities.⁷²

68 Article 56 of the UN Charter, available at <http://www.un.org/en/sections/un-charter/chapter-ix/index.html>

69 Article 55(c) of the UN Charter, available at <http://www.un.org/en/sections/un-charter/chapter-ix/index.html>

70 Common Article 1 of the Geneva Conventions of 1949. For a discussion, see International Committee of the Red Cross, *Arms Transfer Decisions: Applying International Humanitarian Law and International Human Rights Law Criteria: A Practical Guide* (2nd ed., August 2016), <https://www.icrc.org/en/publication/0916-arms-transfer-decisions-applying-international-humanitarian-law-criteria>

71 UN Security Council, *Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya* (S/2013/99), 15 February 2013, paras. 74-97, available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_99.pdf

72 Amnesty International UK, meeting with UK HMRC officials, 9 December 2016.

4. THE UK'S FAILURE TO PREVENT ILLEGAL ARMS DEALING

To understand why an arms deal between UAE and Ukrainian arms companies might involve as “supplier” a company registered in London’s West End, it is necessary to understand the regulatory vacuum that makes the UK an appealing jurisdiction, and UK companies attractive legal vehicles, through which to route illicit arms deals and other illicit activity. In recent years, governments, journalists and civil society have exposed the involvement of dozens of UK-registered ‘shell’ companies in arms supplies to embargoed destinations as well as fraud, money laundering and other transnational crimes.⁷³ The UK government has allowed many of these companies to continue to operate unimpeded, and has done little to tackle the wider regulatory gaps that make this illicit activity possible.⁷⁴ Meanwhile a UK company registration allows illicit actors to present themselves as doing business in a well-regulated ‘onshore’ jurisdiction when dealing with financial institutions, business partners, licensing authorities and regulators.

4.1 UNDERMINING UK ARMS CONTROLS

The UK has stringent obligations under domestic, EU and international law to control the transfer of arms, including brokering activities. These obligations require compliance with the UK’s Consolidated Criteria on arms exports, the EU Common Position on Arms Exports and the Arms Trade Treaty. The UK was an early and consistent supporter of the creation of the Arms Trade Treaty and ratified it in April 2014. UK domestic law, the EU Common Position on arms exports and Article 6 of the ATT all require strict compliance with UN Security Council and EU arms embargoes. Under UK law, the relevant legal powers to prohibit brokering activity to embargoed destinations by UK persons or UK registered companies is contained in Part 4 of the 2008 Export Control Order.⁷⁵ These laws are fully extra-territorial in scope and cover any act calculated to promote the supply or delivery of weapons. The case of South Sudan is therefore clear cut: UK export controls have not and would not authorise involvement in transfers of military equipment in breach of the long-standing EU embargo on South Sudan – a measure that the UK has consistently supported. In the case of arms embargoes, these controls cover both UK individuals and UK-registered companies acting anywhere in the world.

Yet these arms controls are severely undermined by regulatory gaps in UK company law. Though introduced primarily to make it easier for people to set up businesses, these regulatory gaps allow overseas arms dealers to set up UK companies with no verification of their actual or intended business activities; or of the background and identity of their directors, shareholders or ultimate beneficial owners.

73 World Bank/UNODC Stolen Asset Recovery Initiative, *The Puppet Masters: how the corrupt use legal structures to hide stolen assets and what to do about it*, 2011, <https://star.worldbank.org/star/sites/star/files/puppetmastersv1.pdf>; Richard Brooks and Andrew Bousfield, ‘Where there’s Muck there’s Brass Plates’, Private Eye Special Report (May 2013).

74 HM Government, *Government Response To The House Of Commons Committees On Arms Export Controls Report Hc 608 On Scrutiny Of Arms Exports And Arms Controls*, 2015, Cm. 9089, 31 July 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/450396/50914_Cm_9089_Accessible.pdf

75 The Export Control Order, Part 4, Embargoed destinations, accessible from https://www.legislation.gov.uk/uksi/2008/3231/pdfs/uksi_20083231_en.pdf

The UK government body responsible for registering companies, Companies House, allows anyone in the world – with no necessary connection to the UK – to set up a UK company online within 24 hours for just £12 (US\$15).⁷⁶ These companies need not have any genuine presence or assets in the UK. Their directors, shareholders and ultimate beneficial owners do not have to prove that their identity documents are genuine, nor provide proof of address.⁷⁷ Nearly 650,000 companies – more than one every minute – were incorporated in the UK between 31 March 2016 and 31 March 2017 alone.⁷⁸

This situation generates two problems. First, it makes it very difficult for UK authorities to detect fraud or wrongdoing. The lack of verifiable information that those registering, owning or directing UK companies have to provide about their identities and activities, coupled with the sheer volume of incorporations, makes it extremely difficult for UK authorities to check whether UK companies are being used for illegal purposes, or are connected to known criminal enterprises.

Secondly, it allows foreign directors and shareholders to be effectively beyond UK law. Even when unlawful activity comes to light, as in the case of illegal arms dealing, UK arms control laws are rendered effectively unenforceable against the foreign individuals who control the UK companies, but who have no real presence in the UK. Without verified addresses or places of business, regulatory or law enforcement authorities may not even be able to find or contact them.⁷⁹

UK authorities have also proved either unable or unwilling to pursue criminal prosecutions against the companies themselves, or to use other powers in UK law to stop such companies from continuing their activities, even when their violations of UK arms control laws have been exposed.⁸⁰

4.1.1 TRANSPARENT IN PRINCIPLE, UNACCOUNTABLE IN PRACTICE

In theory, UK company law requires those applying to establish UK companies to place certain information on record with Companies House (some of which is then made public), including: the names of the company's proposed directors, shareholders and persons with significant control over the company (ultimate beneficial owners); the intended location of its registered office; the usual residential address, nationality and date of birth of its proposed directors and any person with significant control over the company; and its intended principal business activities.

In practice, UK company law provides Companies House with no investigative powers or duties to check either the veracity or authenticity of these declarations.⁸¹ Companies House relies upon tips from the public to determine fraudulent registrations.⁸²

76 Telephone interview with Companies House staff, June 2016; <https://www.gov.uk/register-a-company-online>. The UK's fees to register and renew a limited company are much lower than almost every other major company registration jurisdiction, both 'onshore' and 'offshore'. For a comparison, see Capital Economics, *Creating value: the BVI's Global Contribution* (June 2017), Figure 60, p. 76. The next cheapest is Panama (US\$50); most jurisdictions charge US\$100 and US\$300. Other 'onshore' European jurisdictions are much more expensive: Germany charges US\$ 795 to set up a limited company, and Luxembourg US\$3074.

77 Amnesty International UK meeting with UK customs officials, 9 December 2016.

78 Companies House, *Companies register activities 2016/2017*, 12 July 2017, www.gov.uk/government/publications/companies-register-activities-statistical-release-20162017/companies-register-activities-2016-2017 (accessed 20 July 2017).

79 Amnesty International UK meeting with UK customs officials, 9 December 2016.

80 HM Government, Government Response To The House Of Commons Committees On Arms Export Controls Report Hc 608 On Scrutiny Of Arms Exports And Arms Controls (2015), Cm. 9089, 31 July 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/450396/50914_Cm_9089_Accessible.pdf

81 <https://companieshouse.blog.gov.uk/2016/02/17/fraud-what-we-can-and-cant-do/> (17 February 2016)

82 <https://www.gov.uk/government/publications/reporting-fraud-about-a-company-to-companies-house/reporting-fraud-to-companies-house> (n.d.)

In contrast to some other European jurisdictions,⁸³ it does not require the company registry to check:

- the prior involvement of prospective company directors, owners or those registering the company in money-laundering, fraud, corporate crime or any other unlawful activities;
- whether prospective company directors, owners or those registering the company have been disbarred from serving as company directors in other jurisdictions; or
- whether the directors, shareholders and ultimate beneficial owners actually exist at all.

Since Companies House shifted to electronic filing of documents in the mid-2000s, moreover, it no longer holds information about which individuals or service providers actually submit documents for a registered company, further frustrating enforcement efforts to determine the real controller of a company.⁸⁴ Companies may also be registered and paperwork filed with Companies House by independent businesses ('company service providers') which offer company formation and management services to those wishing to set up companies in the UK. In these cases, company service providers (CSPs) are required to identify the real owners or controllers of a company under money-laundering rules, but Companies House does not always record which CSPs register particular companies or file paperwork for them, making it hard for investigators to find the CSP to ascertain from them who actually controls the company (for instance, who requested it to be set up, or provides them with instructions regarding its management).⁸⁵

SINCE COMPANIES HOUSE SHIFTED TO

ELECTRONIC FILING OF DOCUMENTS



IT NO LONGER HOLDS INFORMATION ABOUT WHICH INDIVIDUALS OR SERVICE PROVIDERS ACTUALLY SUBMIT DOCUMENTS FOR A REGISTERED COMPANY,

FURTHER FRUSTRATING ENFORCEMENT EFFORTS TO DETERMINE THE REAL CONTROLLER OF A COMPANY.

Nearly 650,000 companies – more than one every minute – were incorporated in the UK between 31 March 2016 and 31 March 2017 alone.

83 Many jurisdictions with large company registers operate a notary/ID system to verify the integrity of personal data provided to the company registry, or require registered agents to obtain beneficial ownership ID information in all cases of registration. These include the Netherlands, Germany, Spain, many other EU countries, and many of the UK's own crown dependencies and overseas territories. For details, see World Bank, Doing Business survey 2016: Starting a business, <http://www.doingbusiness.org/data/exploretopics/starting-a-business>

84 Telephone interview with Companies House staff, June 2016.

85 Telephone interview with Companies House staff, 8 June 2016. In some cases Companies House mails a code to the registered address of a UK company which must be used to file accounts and returns electronically, but it makes no checks on the user of this code, nor requires them to submit any verifiable identity details when filing documents. For the 'Know Your Customer' obligations of company service providers under UK law, see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/628703/Trust_or_Company_Service_Provider_Guidance_.pdf (n.d. accessed 22 July 2017).

In short, one needs less verification of one's identity, location and standing to set up a limited liability company in the UK than is generally required to hire a car or join a gym.⁸⁶ A Companies House staff member responsible for enforcement confirmed to an investigator working with Amnesty International that it was possible to set up a company directly with Companies House with an entirely fake name and fake address; she insisted simply that Companies House did not have the powers or resources to check the authenticity of the names and addresses of company directors.⁸⁷

"One needs less verification of one's identity, location and standing to set up a limited liability company in the UK than is generally required to hire a car or join a gym."

UK customs officials responsible for enforcing UK arms brokering controls told Amnesty International that in many such cases – particularly where companies have been registered directly with Companies House without a real UK place of business – they are therefore unable to locate the companies' directors and shareholders to interview them or serve documents; and are also often unable to access evidence of their activities if the company's activities take place in jurisdictions which do not provide full cooperation with UK law enforcement authorities.⁸⁸

In response to questions about the activities of S-Profit and UK company registration procedures, the Acting Chief Executive of Companies House and Registrar of Companies, Ann Lewis, wrote to Amnesty International that "Companies House carries out a number of checks on all information received, ensuring it is valid, complete, correctly formatted and in compliance with company filing requirements....The obligation to ensure the information is accurate lies with the company and its directors." Ms Lewis accepted that those registering companies did not undergo ID checks, but argued that such checks would not prevent company misuse. Ms Lewis argued that Companies House's policy of making company documents public was adequate to prevent "false, inaccurate or possibly fraudulent information", since it allowed "civil society groups" to "highlight patterns, errors and erroneous information". She also noted that "Companies House also works closely with law enforcement agencies."⁸⁹

Finally, she argued that "The trade activity described does not appear to be undertaken by a UK person or in the UK. As such, it may not require a control licence from the Export Control Organisation." This statement appears to ignore the fact that the UK's export control legislation explicitly includes UK-registered companies as 'UK persons'⁹⁰ and that the coverage of the UK's arms brokering controls is extraterritorial in scope, requiring control licences for brokering activities undertaken by UK persons outside the UK as well as within the UK, when they involve the categories of weapons in the deal outlined above, or embargoed destinations like South Sudan.⁹¹ HMRC subsequently clarified to Amnesty International that UK companies are UK persons and are thus covered by UK trade controls. They underlined, however, that in such instances the absence of a "physical footprint in the UK...brings into question [a prosecution's] viability as an option."⁹²

86 To hire a car in the UK, renters must provide a licence code from the government vehicle licensing agency which is verified electronically against that agency's databases; a taxpayer identification number (National Insurance number) verifiable with the UK tax authorities; proof of address, and three forms of identification. Companies often also require the individual paying for the rental to be physically present for the hire process. See UK Driver and Vehicle Licensing Agency (DVLA), 'Hiring a Vehicle', 10 July 2015, <https://www.gov.uk/government/news/hiring-a-vehicle>; British Vehicle Rental and Leasing Association (BVRLA), 'Your Guide to Renting a Car', (n.d.), <http://www.bvrla.co.uk/system/files/files/publication-order-forms/renting-a-car.pdf>; Hertz UK, 'Picking up your vehicle hire' (n.d.), <https://www.hertz.co.uk/p/vehicle-guide/picking-up-your-vehicle-hire>. Municipal gym and library memberships in the UK typically require the provision of a verifiable proof of address (for instance, a council tax bill or a utility statement). See, for instance, <https://www.brent.gov.uk/media/16402488/fitness-studio-membership-application-form-issue-9.pdf>

87 Telephone interview with Companies House staff, June 2016.

88 Meeting with HMRC enforcement officials, London, 9 December 2016.

89 Correspondence from Ann Lewis, Acting Chief Executive and Registrar of Companies, Companies House, Department for Business, Innovation and Skills, 5 September 2017.

90 The Export Control Act 2002, s. 11.

91 The Export Control Order 2008, Part 4.

92 Amnesty International correspondence with HMRC official, 8 September 2017.



Long queues to get a tiny quantity of filthy and contaminated water in a settlement for internally displaced persons (IDPs), in Aburoc, South Sudan, © Amnesty International

4.2 THE INCORPORATION OF S-PROFIT

These failures of both regulation and accountability are clear in the incorporation of S-Profit. The company's sole shareholder on the day that it was registered in July 2011 was Ian Taylor, a New Zealand company formation agent who has been involved for over a decade in setting up 'shell companies' on behalf of others in numerous jurisdictions.⁹³ The Auckland-based company formation business that Mr Taylor ran with his father, GT Group, had – before S-Profit was registered – been named by US prosecutors, reported to the UK's Serious Organised Crime Agency, and publicly named online by the Canadian governmental financial intelligence unit FINTRAC, as having set up companies used to launder money for North Korean arms deals and for the Mexican Sinaloa drug cartel.⁹⁴ According to New Zealand press reporting, the New Zealand government shut down the Taylors' company formation business at the beginning of June 2011.⁹⁵

93 See e.g. 'Inside the Shell: Drugs, arms and tax scams', International Consortium of Investigative Journalists, 28 June 2011. We have been so far unable to contact Mr Taylor for comment.

94 See e.g. FINTRAC, *Money Laundering and Terrorist Activity Financing Watch, Jan-March 2010*, http://publications.gc.ca/collections/collection_2011/canafe-fintrac/FD3-1-5-2010-eng.pdf, p. 4.

95 'Offshore Registration Business Forced to Halt Operations', *Organised Crime and Corruption Reporting Project*, 28 June 2011, <https://www.reportingproject.net/offshore/index.php/offshore-registration-business-forced-to-halt-operations>; Michael Field, 'Shell' operation shuts after crime links exposed', *Fairfax Media* (NZ), 6 June 2011, <http://www.stuff.co.nz/auckland/local-news/5107131/Shell-operation-shuts-after-crime-links-exposed>

This publicly-known history was no obstacle to Companies House accepting his registration as the sole shareholder of a new company in the case of S-Profit (or as the listed director for over 200 other UK companies).⁹⁶ The registration documents for S-Profit on 12 July 2011 also included a residential address for Mr Taylor on the Gold Coast, south of Brisbane, Australia, all of whose current and former occupants since 2007 told an investigator working with Amnesty International that they have no knowledge of Mr Taylor or his activities (they state that they regularly receive mail for him, which they return unopened).⁹⁷ In June 2011, when S-Profit was registered, documents filed with Companies House for other companies gave a different residential address in Australia for Mr Taylor.⁹⁸

Amnesty International put the above history to Mr Taylor, who responded saying that “I have no knowledge of S-Profit, other than I have at some point, been listed as a director of this company in the UK.” Mr Taylor stated that he had “never registered any UK Companies” but was “aware that some media have made an assumption that I was providing this service.” (Mr Taylor’s website states that he has had “a hands-on involvement in multifaceted corporate structure development and setup in jurisdictions all over the world including [...] UK”).⁹⁹ Amnesty International put a series of follow up questions to Mr Taylor to clarify these responses, but at the time of writing had received no reply.¹⁰⁰

S-Profit’s connection to the UK is tenuous at best. The day after its registration, the shareholding of the company was transferred from Ian Taylor to a Ukrainian national called Artem Zabora. Also then its sole director, Mr Zabora is resident in Ukraine and lists his service address for official communications as the company’s registered office at “Office 11, 43 Bedford Street, London”. In fact, there is no “Office 11” at this address, but a rented mailbox numbered 11 at an unconnected mailbox rental company, used by over 100 companies as their registered address.¹⁰¹ Mr Zabora’s UK telephone number, listed on company documents, is registered to a commercial ‘virtual telephone switchboard’ service, and calls to the number go unanswered.¹⁰² In August 2017 Amnesty International received a letter from Mr Zabora, on S-Profit headed paper, which had been posted from Ukraine.¹⁰³

A second director, resident in the Philippines, was added between 10 November 2014 and 25 January 2017. This individual has also been the director of over 100 other companies in the UK alone,¹⁰⁴ suggesting strongly that he is a ‘nominee’ director without substantial involvement in the actual day-to-day running of any of these companies in practice (if they are in fact operational). Certainly his involvement in such a large number of diverse and unconnected companies should cast doubt on his ability to fulfil his oversight and fiduciary duties as a director with regard to each of them.¹⁰⁵

None of these easily verifiable features – the fact that S-Profit has no directors resident in the UK, has no real business address, and listed an incorrect correspondence address for its sole shareholder – were any obstacle to Companies House registering the company’s incorporation.

96 Search of UK Companies House records at <https://beta.companieshouse.gov.uk/officers/RxAs3mqRw1n0Y9eQDft9rFf0jN4/appointments> (N.B. Although Ian Taylor is a common name, Mr Taylor’s directorships can be identified by his middle name, his date of birth, and a recurrent set of common addresses given or him).

97 Email correspondence with current occupant of the registered address, Brisbane, 8 June 2016; phone interview with former owner of the registered address at the time of S-Profit Ltd’s registration, 24 June 2016.

98 Based on a search of former appointments for Ian Taylor at beta.companieshouse.gov.uk. Mr Taylor was subsequently disbarred from acting as a UK director for unrelated alleged fraudulent activity by another company for which he served as a director. See the list of disqualified UK company directors at <https://beta.companieshouse.gov.uk/disqualified-officers/natural/x9YM3og01YnVSihjKzDuxjWdWdE>

99 www.taylorbusinessconsulting.com accessed 5 September 2017.

100 Email correspondence with Ian Taylor, 25 July, 2017.

101 Visit by researcher to 43 Bedford Street, London, December 2016. For details of the use of mailboxes at 43 Bedford Street, including mailbox 11, see Tom Bergin, ‘Weak UK Regulation lets opaque companies persist’, *Reuters*, 5 December 2016, <http://www.reuters.com/article/us-regulations-mailbox-insight-idUSKBN13U16A>

102 Truecaller.com results for S-Profit Ltd UK telephone number listed on company documentation, on file; telephone calls to S-Profit Ltd’s UK number, 1 November 2016.

103 Letter dated 27 July 2017, on file at Amnesty International.

104 Based on a search of former appointments at beta.companieshouse.gov.uk.

105 See, for example, the general duties of directors under sections 170 to 181 of the Companies Act 2006.

4.2.1 OPAQUE AND UNVERIFIED BUSINESS ACTIVITIES

As with the absence of checks on the veracity of information about the individuals behind a company, UK companies do not need to give any indication that they are to be involved in controlled activities like arms trading. S-Profit's company filings give no indication of its involvement in the arms trade (listing the nature of its business in registration documents as "non-specialised wholesale trade", taken from a list of business activities that companies are required to use in their Companies House filings, which does not include arms trading),¹⁰⁶ and it is not required to provide any additional details of the nature of its business under UK company law or financial reporting standards.¹⁰⁷

Notably, company documents supplied to Ukrainian arms suppliers in the course of the South Sudan contract negotiations include a significantly different Memorandum of Association for S-Profit to the one filed with UK Companies House, carrying the same date but incorporating an additional clause specifying that S-Profit has been established in part *"To trade in defence equipment and military suppliers and to act as agents for defence industry manufacturers and suppliers and to engage in any act or activity that is not prohibited under any Law for the time being in Force in England and Wales."*¹⁰⁸

4.3 THE ADVANTAGES OF UK REGISTRATION

The regulatory vacuum created by UK company law thus allows individuals engaged in illicit or fraudulent activity, including supplying weapons unlawfully to human rights violators in arms-embargoed countries, to route their activities through limited liability companies while avoiding:

- any checks on their background which might identify previous involvement in unlawful activity;
- the need to provide any verified information about their location, contact details or place of business, which makes it very difficult for law enforcement authorities to hold them accountable for suspected violations of UK law; and
- any declaration of the nature of their business that might allow UK authorities to check that they are compliant with specific regulations over that area of business, such as export controls.

Meanwhile through a UK-registered company they can present themselves as a well-regulated 'onshore' European entity to banks, trade control authorities and other regulators. UK companies enjoy the reputational benefit of UK nationality, and may not raise the red flags with overseas business partners or regulators that registration in a well-known 'tax haven' or secrecy jurisdiction might raise. As one prominent UK company formation agency puts it:

"Clients and suppliers may perceive, rightly or wrongly, that the business is more stable, more reliable, even more reputable if it is in the form of a limited company and it is formed in the UK under English law."¹⁰⁹

The UK government also underlines this reputational assurance in its investment promotion literature, claiming that *"the UK is an international standard setter for company law... [ensuring] Transparency and Accountability...based on the principle that trust is key to business success."*¹¹⁰

¹⁰⁶ Companies House, *Nature of business: Standard Industrialised Classification (SIC) codes*, resources.companieshouse.gov.uk/sic/ (accessed 21 July 2017).

¹⁰⁷ For UK financial reporting standards, see FRS standards at <https://www.frc.org.uk/Our-Work/Corporate-Governance-Reporting/Accounting-and-Reporting-Policy/New-UK-GAAP.aspx>. For reporting requirements under UK company law, see 2006 Companies Act, Part 15. In particular, small business exemptions remove the requirement for companies of the size of S-Profit Ltd to file directors' reports or strategic reports which might include information about business activities.

¹⁰⁸ Document on file with authors. In the UK, companies' Memoranda of Association are no longer required to give a business purpose.

¹⁰⁹ <https://www.jordans.co.uk/thinking/-/blogs/post-brex-it-why-bother-forming-and-running-a-uk-company->

¹¹⁰ UK Trade and Investment, *Invest in the UK: your springboard for global growth* (April 2016), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/520010/Invest_in_the_UK_Your_springboard_for_global_growth.pdf

Significantly, S-Profit presents itself in draft contracts seen by Amnesty International as physically operating in the UK, and as being authorised and involved in importing weapons there.¹¹¹ A European registration may also help provide access to the European and US banking system.¹¹² Bank account details listed in contract documents which Amnesty International has reviewed indicate that S-Profit appears to enjoy the use of European banking facilities, and thus to dollar payment facilities via US correspondent banks.

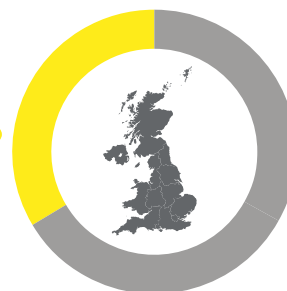
4.4 EIGHT YEARS OF GOVERNMENT INACTION

The regulatory vacuum that has allowed those controlling S-Profit to establish a UK company and continue to engage in arms transfers with no checks on the lawfulness of its business activities or the background and good standing of its directors and shareholders, would be deeply alarming even if it were the first indication that the UK's jurisdiction was being used in this way. But in fact the UK government has for over eight years been aware of UK shell companies being used unlawfully as contract vehicles by weapons dealers, particularly from Ukraine, to supply arms to human rights violators and embargoed destinations including South Sudan.

In mid-2009, during a visit to Kyiv, Ukraine's export control authorities gave the members of the UK's parliamentary committee on arms export controls a list of UK companies brokering Ukrainian weapons exports, including sales to Sri Lanka (then in the midst of its civil war's brutal endgame), Syria and Libya. Many of the UK companies on the list were unknown to UK arms export authorities.¹¹³ A third of them were substance-less 'shell' companies, like S-Profit, without real UK presence, though as UK 'legal persons' these companies were operating in violation of UK arms control laws.¹¹⁴

A THIRD OF THE LIST OF UK COMPANIES

BROKERING UKRAINIAN WEAPONS WERE SUBSTANCE-LESS 'SHELL' COMPANIES, LIKE S-PROFIT, WITHOUT REAL UK PRESENCE.



Despite the parliamentary committee passing this evidence to UK enforcement authorities, and publicising it in their subsequent report, there is no evidence that the UK government took any action against any of these companies. None of the companies on the Kyiv list were struck off (other than voluntarily when they were eventually dissolved some years later); none were prosecuted for violating UK trade controls. At least two continue to operate on the UK company register to the present day.¹¹⁵ Evidence, meanwhile, continued to mount: by 2010, investigators had publicly highlighted UK 'brass

111 For instance, in documents obtained by Amnesty International, a draft contract for the repair in Ukraine of three S-125 surface-to-air missile systems purchased in Moldova states that these 6-metre-long truck mounted missile launchers are to be "exported to the United Kingdom of Great Britain and Northern Ireland for own commercial needs of company "S-Profit Ltd". At present time are located on the territory of the United Kingdom of Great Britain and Northern Ireland at disposal of company "S-Profit Ltd". According to correspondence with the UK Import Licensing Branch, no such export has been requested or registered.

112 Registration and legal residency in an EU country provides the right to open a basic payment account in any other EU member state, and helps with compliance with EU money laundering rules with which banks opening accounts must comply. See http://europa.eu/youreurope/citizens/consumers/financial-products-and-services/bank-accounts-eu/index_en.htm (n.d.).

113 UK House of Commons, *Committee on Arms Export Controls: First Report (2009): Scrutiny of Arms Export Controls (2009)*, <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmquad/178/17802.htm>, paras. 17-22

114 UK House of Commons, *Committee on Arms Export Controls: First Report (2011): Scrutiny of Arms Export Controls (2009)*, paras. 37-40, <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmquad/686/68609.htm#a4>

115 UK company records for two UK limited companies on list of UK companies given in Kyiv to the UK's parliamentary committee on arms export controls.

plate' companies being used unlawfully for Bulgarian arms shipments to Rwanda, and Iranian arms smuggling into the Middle East.¹¹⁶ In 2009-10, investigations by Amnesty International and the Small Arms Survey exposed a UK-registered limited liability partnership used to arrange transport for a clandestine weapons shipment from Ukraine to Kenya, destined for southern Sudan. The real individuals behind the UK partnership were concealed behind two companies registered in the British Virgin Islands, a British overseas territory where until 2017 neither the shareholders nor the beneficial owners of a company had to be registered with the company registry at all.¹¹⁷

By 2013 investigators and journalists had shown that tens of thousands of 'shell' companies and limited liability partnerships, with no real presence or assets in the UK, had been registered in the UK in recent years; and had identified dozens being used for activities as diverse as unlawful weapons deals to Eritrea and Syria, drug cartel money laundering, tax evasion and public procurement fraud, thanks to what the chairperson of the UK's Fraud Advisory Panel in 2014 called a "Wild West" at Companies House "with minimal checks".¹¹⁸

4.4.1 BUSINESS AS USUAL

This growing mountain of evidence has prompted no fundamental change in government policy or practice towards the registration or regulation of 'shell' companies in the UK, nor the enforceability of UK laws against them. The UK government initially argued that *"it can in practice be difficult to take enforcement action against a company which has no meaningful physical presence in the UK"*,¹¹⁹ though as Parliament's Committee on Arms Export Controls has pointed out, enforcement options exist under UK company and insolvency law to prevent the operations of such companies, or to strike them off the UK company register.¹²⁰

In 2015, this parliamentary committee again asked the UK government what action was being taken against such UK 'shell' companies engaged in unauthorised weapons trading. The government replied that enforcement action *"has been taken against one UK-registered company with a limited presence in the UK... being operated by a British national who was based outside the UK"*, but could not name any others. It stated that *"[t]he Government is aware of a small number of other UK-registered companies with no staff in the UK whose activities are, or may be subject to, UK trade controls. The activities of these companies are monitored carefully."*¹²¹

116 For a summary, see BBC Radio 4, *File on 4*, broadcast 13 July 2010 (transcript at http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/13_07_10_f04_arms.pdf)

117 M. Lewis, *Skirting the Law: Sudan's post-CPA arms flows* (Small Arms Survey: Geneva, September 2009), <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP-18-Sudan-Post-CPA-Arms-Flows.pdf>; Amnesty International, *South Sudan: Overshadowed Conflict* (AFR 65/002/2012, 28 June 2012, <https://www.amnesty.org/en/documents/AFR65/002/2012/en/>); Government of the British Virgin Islands, 'Beneficial Ownership Search Platform Goes Live June 30', 23 June 2017, <http://www.bvi.gov.vg/media-centre/beneficial-ownership-search-platform-goes-live-june-30>

118 'Wild West at Companies House aids fraudsters', Mail on Sunday (UK), 1 February 2014. For a summary of other illicit activity undertaken through UK-registered 'brass plate' companies, see Richard Brooks and Andrew Bousfield, *'Where there's Muck there's Brass Plates'*, Private Eye Special Report, May 2013; World Bank/UNODC Stolen Asset Recovery Initiative, *The Puppet Masters: how the corrupt use legal structures to hide stolen assets and what to do about it* (2011), <https://star.worldbank.org/star/sites/star/files/puppetmastersv1.pdf>. On unlawful arms trading through such companies specifically, see HM Government, *Government Response To The House Of Commons Committees On Arms Export Controls Report Hc 608 On Scrutiny Of Arms Exports And Arms Controls*, 2015, Cm. 9089, 31 July 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/450396/50914_Cm_9089_Accessible.pdf.

119 Letter from Alastair Burt MP, Minister of State for the Foreign and Commonwealth Office, to the UK House of Commons' Committees on Arms Export Controls, 10 February 2011, cited in UK House of Commons, *Committees on Arms Export Controls: First Report (2011): Scrutiny of Arms Export Controls (2009)*, para. 39, <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmquad/686/68609.htm>

120 UK House of Commons, *Committees on Arms Export Controls: First Report (2011): Scrutiny of Arms Export Controls (2009)*, paras. 37-40, <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmquad/686/68609.htm#a4>

121 HM Government, *Government Response To The House Of Commons Committees On Arms Export Controls Report Hc 608 On Scrutiny Of Arms Exports And Arms Controls (2015)*, Cm. 9089, 31 July 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/450396/50914_Cm_9089_Accessible.pdf

There are some simple steps that the UK authorities could and should take. Introducing basic checks on individuals registering and owning UK companies, requiring them to disclose their involvement in arms trading, or obtaining court orders to wind up such companies when they are shown to act fraudulently or violate UK law, might not prevent these individuals from using other jurisdictions to supply arms to human rights violators. But such checks and enforcement would make it more complex and challenging for them to operate. It would also make it significantly less attractive for them to use the ‘respectability’ of UK jurisdiction, and its nexus to the European Union, to help get access to business partners and banking facilities.

Instead the UK government has done the opposite. Under the banner of cutting red tape it has introduced a specific legislative requirement to make it progressively easier to register a UK company, has reduced checks on such registrations, and has reduced financial transparency requirements for many entities.

- In November 2013 the government reduced the amount of financial information that companies with fewer than 10 employees have to provide publicly. While some small businesses may argue in favour of such reforms, with regard to shell companies this has made it virtually impossible to determine from their abbreviated balance sheet – all that such companies now have to file – how much business the company is doing, where it is operating, or what kind of business it does.¹²² In April 2016 these reduced reporting obligations were extended to other legal entities widely used as ‘shell’ companies, including Limited Liability Partnerships and (entirely anonymous) Limited Partnerships.¹²³
- The UK government has also made it easier for shell companies to use nominee or even fake directors by removing the (already minimal) requirement for directors to provide Companies House with a signed appointment form. Instead, from October 2015 onwards as part of a reduction in small business ‘red tape’, companies simply have to make a statement that newly appointed directors have consented to act, but are not required to submit any evidence of this consent from the directors themselves. Companies House now also has a duty to write to new directors to make them aware of their appointment and to inform them of their roles and duties, but is not required to make any checks about whether the director has received this information, or indeed exists at all.¹²⁴
- And finally, although anyone can already, without any checks on their good standing or their identity, set up a UK company for £12 (US\$15.50) online in 24 hours, in 2015 the government imposed a statutory obligation to introduce a further “streamlined company registration” system in the UK by 2017.¹²⁵

4.4.2 THE LOUGH ERNE COMMITMENT

The UK government has sought to introduce one significant measure to hold real individuals accountable for the activities of UK ‘shell’ companies, on the back of then Prime Minister David Cameron’s commitment at the 2013 G8 summit in Lough Erne to end the “cloak of secrecy” protecting criminals, tax evaders and perpetrators of grand corruption.¹²⁶

122 The Small Companies (Micro-Entities’ Accounts) Regulations 2013 exempt companies with fewer than 10 employees and a balance sheet of less than 316,000 GBP (though such a company can still have a turnover of millions or tens of millions of pounds). Such companies only have to file a ‘simplified’ balance sheet stating the value of its assets, which provides very little information about its actual business activities. The latter is shown on the profit and loss account, which such companies are now exempted from filing with Companies House. For fuller details see <http://www.icaew.com/en/technical/financial-reporting/other-reporting-issues/companies-act/micro-entity-accounts-exemptions>

123 Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016.

124 The Small Business, Enterprise and Employment Act 2015; Telephone interview with Companies House staff, June 2016.

125 The Small Business, Enterprise and Employment Act 2015, S. 101.

126 BIS Press Release, 31 October 2013, <https://www.gov.uk/government/news/public-register-to-boost-company-transparency>

From mid-2016 onwards, all UK companies have been required to declare the real human beings who ultimately own them, even if concealed behind screens of nominee shareholders or other companies: the first such public registry of beneficial ownership in the world.¹²⁷ However, these measures have also been undermined by an absence of any checks or verification by Companies House. UK Companies House has confirmed that – like the rest of the information they already receive about who owns and controls UK companies – there will be no checks on the veracity of beneficial ownership information either, or on the location or address of that owner, amounting to what one accountancy commentator has called an “honesty box for corporate fraudsters”.¹²⁸

As a sign of the limited enforcement or verification of these disclosures, by January 2017 over 3,000 UK companies had listed as their beneficial owner another company in a jurisdiction without beneficial ownership transparency, such as the British Virgin Islands or the Cayman Islands, effectively retaining ownership anonymity. Though this is not permitted under the new UK company disclosure laws, UK Companies House had nonetheless accepted these disclosure filings without scrutiny.¹²⁹ And in August 2017 journalists reported that a year after these requirements were introduced, around 100,000 UK companies had made no declaration of beneficial ownership at all – despite in theory being subject to daily penalties and fines for their failure to do so – with the law “effectively unenforceable” against companies with no individuals or assets in the UK.¹³⁰

The UK has made strong commitments to stop the misuse of ‘shell’ companies and weak corporate regulation which undermines “law enforcement’s efforts to pursue criminal networks [and] enforce sanctions.”¹³¹ The UK also has positive obligations under international humanitarian and human rights law, and the Arms Trade Treaty, to take steps to ensure that UK legal and natural persons do not engage in the illicit trade in conventional arms; to maintain an effective arms transfer control system that institutes the highest possible standards to reduce human suffering; and to ensure that UK natural and legal persons do not facilitate transfers of arms and ammunition without authorisation.¹³² Critically, Article 14 of the ATT obliges the UK to “take appropriate measures to enforce national laws and regulations” that implement these provisions and obligations.¹³³ The UK has clearly failed to do so: a failure evident in the absence of any meaningful efforts over the last decade to stop UK shell companies facilitating arms transfers that have violated UK arms control laws and UN arms embargoes, and which presented an overriding risk of being used to perpetrate serious violations of international human rights and humanitarian law.

Commitments and obligations must now be matched by action. Stopping misuses of UK ‘shell’ companies, including those that may lead to serious human rights violations, will need enforcement of existing disclosure rules; stronger disclosures and verification of information about companies’ identities and activities, as well as those of their owners and directors; and legal enforcement mechanisms to hold the controllers of UK companies accountable when they violate UK laws, including arms embargoes and sanctions.

127 The Small Business, Enterprise and Employment Act 2015; UK Department for Business, Enterprise and Skills, *Press release: Public register to boost company transparency*, 31 October 2013, <https://www.gov.uk/government/news/public-register-to-boost-company-transparency>

128 <http://www.taxjustice.net/2014/04/24/britains-new-honesty-box-corporate-fraudsters/>

129 Documents seen by Private Eye magazine, cited in Global Witness, ‘A register of beneficial owners of overseas companies and other legal entities: A submission by Global Witness to the Department of Business, Energy and Industrial Strategy’, 15 May 2017, https://www.globalwitness.org/documents/19080/GW_submission_BEIS_call_for_evidence_on_overseas_register_May2017_final.pdf

130 ‘Shell Shockers’, *Private Eye*, 25 August 2017.

131 UK Prime Minister’s Office, *UK Action Plan to prevent misuse of companies and legal arrangements* (18 June 2013), <https://www.gov.uk/government/publications/uk-action-plan-to-prevent-misuse-of-companies-and-legal-arrangements>; G8 leader’s statement, Lough Erne, 18 June 2013, <https://www.gov.uk/government/publications/2013-lough-erne-g8-leaders-communique>

132 Arms Trade Treaty, Article 1

133 Arms Trade Treaty, Article 14.

RECOMMENDATIONS

FOR THE UK

- **Investigate whether S-Profit Ltd has been involved in arms transfers that may have breached UK export control laws.** If unlawful activity is found and the company's directors and beneficial owners cannot be prosecuted directly, the UK government should obtain a court order to wind up the company involuntarily.
- **Require UK natural and legal persons engaged in arms brokering within or outside the UK, and any other natural and legal persons engaged in arms brokering within the UK, to register on a central register of arms brokers** to be held by the UK Export Control Joint Unit (ECJU), as encouraged under Article 10 of the Arms Trade Treaty; and to report to the ECJU annually on all their brokering activities, as they must already do for their use of some 'open' trade control licences. The UK should also require UK-registered companies and partnerships engaged in arms brokering to declare this activity as a business activity to Companies House.

The UK government has refused for over a decade to require arms brokers to register prior to engaging in arms brokering, in contrast to many other jurisdictions in Europe and North America, and despite repeated recommendations from the UK parliament's Control on Arms Exports Committee. The government argues that if such registration was a legal requirement subject to criminal or civil sanction, illicit arms brokers could simply decline to register. Nonetheless a registration requirement would provide an immediately demonstrable offense for failing to register, and thus a simple legal basis on which companies could be wound up by court order under existing UK company and insolvency law, or other legal action taken against them, when evidence of unauthorised arms brokering activity came to light. This would overcome the evidential problems of proving illegal arms brokering is taking place overseas involving UK nationals or companies, which the UK government has argued is often an almost impossible evidential task when companies' owners, directors and controllers are operating outside the UK; and which is a key block to taking action against UK 'shell company' arms dealers.¹³⁴

- **Use - and if necessary strengthen – legal powers to wind up companies registered on the UK company registry which are shown to be engaged in activities in violation of UK arms control and sanctions laws.** Such action would be an effective sanction even if the individuals involved were overseas or unidentifiable, and thus not prosecutable under UK arms control laws in a UK court. At present, the UK company register can only strike off a company involuntarily if it fails to appoint directors or members, or repeatedly fails to file documents on time. In addition, however, the UK Secretary of State for Business, Energy and Industrial Strategy, responsible for UK company law, can also instruct the UK Insolvency Service to investigate companies which may be engaged in fraudulent or unlawful conduct, and on the basis of that evidence may apply to a court to order the company to be wound up involuntarily in the public interest.¹³⁵ Evidence set out in this report indicates that UK-

134 HM Government, *Government Response To The House Of Commons Committees On Arms Export Controls Report Hc 608 On Scrutiny Of Arms Exports And Arms Controls (2015)*, Cm. 9089, 31 July 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/450396/50914_Cm_9089_Accessible.pdf

135 UK Companies Act 1985, s.432, UK Companies Act 2006, s.1035, UK Insolvency Act 1986 s.124A.

registered companies demonstrably engaged in unlawful arms brokering are not being wound up in this way. Whatever the reasons for this inaction – whether inadequate resources, evidential problems or inadequate legal powers – the benefits of limited liability via company registration should have a stronger quid pro quo. Companies should be dissolvable – and dissolved – if there are reasonable grounds to believe that they are engaged in serious criminal activity, including arms brokering without the authorisation of UK arms control authorities. If the existing public interest powers are not adequate to do so, the UK government should acquire stronger powers either under company law or under sanctions law, which is currently under revision in the UK.

- **Ensure that the directors, shareholders and ultimate beneficial owners of UK companies can be held accountable for their activities.** Measures to require that UK companies have a real place of business, and that their directors, shareholders and ultimate beneficial owners are findable and contactable would help alleviate investigative problems faced by UK law enforcement agencies in such cases. Prohibiting companies from providing mailbox addresses as business addresses – and requiring directors, shareholders and beneficial owners to provide proof of their identity and genuine residential address and contact details, would help reduce this lack of accountability. The UK should also consider introducing a requirement for UK companies to have a UK-resident director or representative, as many other jurisdictions require for this reason. Though they can still be nominees, having a director or representative within UK jurisdiction to be held accountable for criminal activity by the company would make it harder for criminals to find willing nominees to ‘front’ businesses acting unlawfully.¹³⁶
- **Require the UK company register to check the identity and good standing of company directors, shareholders, beneficial owners and ‘presenters’ against verifiable information, and to require further information from them if necessary, or even to exclude them from acting as directors or ‘presenters’.** Such information could include legal cases, other countries’ lists of disqualified directors, and alerts by governments’ financial intelligence units. Checks on the identity and background of legal or natural persons are standard when opening bank accounts, for instance: they should be standard when registering a UK company. Care should be taken to ensure that such powers and obligations are not excessively onerous: the ease of company registration in the UK has clear benefits for legitimate businesses. Equally, care should be taken that unreliable or politically-motivated information is not used to penalize potential directors or shareholders, and that a right of appeal exists for excluded directors or shareholders. Finally, exemptions will be required for situations in which checks on beneficial owners would be unworkable, such as for companies whose shares are publicly traded.

FOR THE UN SECURITY COUNCIL

- Impose a comprehensive arms embargo on the direct or indirect supply, sale or transfer, including brokering, transit and trans-shipment, of weapons, munitions, military vehicles and any other forms of military assistance, including technical and financial assistance, equipment maintenance and training, to South Sudan;
- Impose targeted sanctions, including travel bans and asset freezes, against South Sudanese civilian and military officials who have committed or facilitated serious violations of human rights and humanitarian law.

¹³⁶ <http://www.healyconsultants.com/blog/when-does-your-company-need-a-resident-director/> For instance, Canada, Singapore and Mauritius require resident directors; Ireland and Norway require one director resident in the European Economic Area.

FOR THE EUROPEAN COUNCIL AND EUROPEAN EXTERNAL ACTION SERVICE

- Launch an independent investigation into breaches of current EU embargoes, focusing on the use of companies, including financial institutions, registered in EU member states, to facilitate the trade of weapons, munitions and other military equipment and technology to South Sudan and other embargoed countries or entities.

FOR THE GOVERNMENT OF UKRAINE

- Immediately cease the direct or indirect supply, sale or transfer, including transit and trans-shipment, of weapons, munitions, military vehicles and any other forms of military assistance, including technical and financial assistance, equipment maintenance and training to South Sudan;
- Explicitly require an assessment of the substantial risk that arms could be used for serious violations of international human rights and humanitarian law as part of its national criteria for authorising arms transfers;
- Ratify the Arms Trade Treaty as soon as possible.

FOR THE GOVERNMENT OF THE UAE

- Immediately cease the direct or indirect supply, sale or transfer, including transit and trans-shipment, of weapons, munitions, military vehicles and any other forms of military assistance, including technical and financial assistance, equipment maintenance and training to South Sudan;
- Explicitly require an assessment of the substantial risk that arms could be used for serious violations of international human rights and humanitarian law as part of its national criteria for authorising arms transfers;
- Ratify the Arms Trade Treaty as soon as possible.


FOR THE GOVERNMENT OF SOUTH SUDAN


- Take steps through military and civilian command structures to immediately cease and prohibit all violations of international human rights and humanitarian law by South Sudan's security structures. In particular, all forces should immediately cease unlawful killings, acts of sexual violence, and looting and destruction of public and private property;
- Initiate prompt, effective and impartial investigations into allegations of violations of human rights law and crimes under international law. Rather than using military courts, bring those suspected of criminal responsibility to justice in open, accessible civilian courts and in fair trials without recourse to the death penalty;
- Take concrete measures to stop the proliferation of weapons, including immediate steps to safely store all national stockpiles of the armed forces, police and any other security agency; and register and if necessary mark all weapons and related articles to facilitate effective tracing and accountability.



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