

# The Arms Flyers

Commercial Aviation, Human Rights, and the Business of War and Arms

*Peter Danssaert & Sergio Finardi*



# Editorial

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## **The Arms Flyers. Commercial Aviation, Human Rights, and the Business of War and Arms**

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**Photo Credit Front Page:** St. Lucia Airways' Boeing 707, J6-SLF, photographed in Ostend by Paul Van Damme. The aircraft was used for illegal deliveries of missiles to Iran in 1985.

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**Documents & maps in readable format see separate Addendum**

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*Ninety per cent of things that are said about  
the 'black market' in arms are the figment  
of writers' and politicians' imagination.  
There are no secrets in this world.  
Everybody knows what you're doing.  
If weapons are being 'smuggled',  
some government agency is behind it.*

Val Forgett, arms dealer, 2000<sup>1</sup>

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<sup>1</sup> Quoted in Silverstein, K. *Private Warriors*, New York, Verso Books, 2000

## Part I - Airlines and the Business of War and Arms

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RAF Brize Norton - 2005, a MK Airlines Boeing 747 (9G-MKM) waiting to load new Iraqi Police Land Rovers. (©UK MOD Crown Copyright 2011)

# 1. Airlines and Human Rights

## 1.1 Introduction

The international community has decided, through a variety of covenants and agreements, that the promotion and protection of inherent human rights transcend national and cultural boundaries. The Universal Declaration of Human Rights calls on “*every individual and every organ of society*”<sup>2</sup> to play their part in securing the universal observance of human rights. Companies and financial institutions are “organs of society” and, as their operations come under scrutiny around the world, consumers, shareholders and the communities they interact with are increasingly demanding that they conduct themselves according to humanitarian principles.

All companies have a direct responsibility to respect human rights in the course of their operations, and this includes their labor practices.<sup>3</sup> Those companies delivering arms or other military or security equipment also need to help ensure that what they ship will not be used for serious violations of human rights. Even when such companies transport and deliver military equipment to end-users who are not under United Nations embargoes, they should consider the possibility that these transfers may lead to violations of international laws and standards, including those governing human rights and humanitarian issues.

Aiding in the supply of weapons to State and non-State actors involved in gross human rights abuses or aiding in covert operations that violate international and humanitarian laws, such as the US “extraordinary renditions” program,<sup>4</sup> may amount to the crime of complicity. In public international law, there are two notions of “complicity,” one concerning state responsibility and the other concerning individual criminal responsibility. The first applies exclusively to inter-State relations,<sup>5</sup> whereas the second relates solely to the responsibility of individual human beings. Rules of international criminal law prohibit persons from aiding and abetting in the commission of an international crime.<sup>6</sup> For example, a violation of the right to life or a violation of the prohibition against torture, when committed as part of a widespread or systematic attack upon the civilian population, may amount to a crime against humanity.<sup>7</sup>

## 1.2 Arms transfers and human rights violations: the responsibility of air carriers

Air carriers that aid in the transport of military equipment and civilian arms, either as part of a country’s international trade or as military assistance to other countries, should carefully evaluate the risks involved in arms transfers that violate national and international laws and regulations, including those dealing with international humanitarian concerns.

Air carriers should also carefully examine requests from defence agencies for logistics support for military operations, in the light of relevant international and humanitarian laws. In effect, the legality of such support depends upon the types of operations involved. Clearly illegal in terms of international law is the logistic support of wars of aggression in violation of the UN Charter and support of expeditionary missions abroad without UN Security Council approval.

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<sup>2</sup> .United Nations, *Universal Declaration of Human Rights*, adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948. Preamble <http://www.un.org/>

<sup>3</sup> Finardi, S. & Wood, B.: *Considerations for an air cargo industry voluntary code of conduct*. January 18, 2007, TransArms Europe, Study done for UNDP. Human rights include freedom from discrimination, the right to life and security, freedom from slavery, freedom of association, including the right to form trade unions, and fair working conditions. Particular care needs to be taken by companies to ensure that their security arrangements do not lead to human rights abuses. For example, standards relating to labour rights have been developed by a variety of international organizations, notably the International Labour Organisation (ILO). These include such matters as health and safety, freedom of association and the right to collective bargaining, non-discrimination, disciplinary practices, and avoidance of child labour and forced labour.

<sup>4</sup> See *Below the radar: secret flights to torture and disappearance*, Amnesty International, 2006.

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

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

<sup>7</sup> Rome Statute of the International Criminal Court, 17 July 1998, article 7(1) “According to the Rome Statute, the following acts can form the basis of a crime against humanity: murder; extermination; enslavement; deportation or forcible transfer of population; imprisonment or other severe, deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender grounds, in connection with any crime within the jurisdiction of the Court; enforced disappearance of persons; the crime of apartheid; other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health”. See also Finardi, S. & Wood, B. (2007).

Air cargo carriers are private entities and are not obliged to be of service to a business (or government agency) which appears irresponsible or illegal or in contravention of the UN Charter.

Transfers of military equipment, civilian arms and dual-use technology include different types of transactions, the most common being the following:

- government-to-government arms sales to the military of another country;<sup>8</sup>
- commercial arms sales by primary manufacturers and licensed producers to a foreign entity, either a government agency or a company;
- commercial arms sales of new or second-hand military equipment by arms dealers and brokers to a foreign entity, either a government agency or a company.

All the above-mentioned categories of arms transfers may pose a risk with regard to national, international and humanitarian laws. The following definitions show the different types of arms transfers which air carriers and brokers may be faced with.<sup>9</sup>

### **Legal or licit arms transfers**

Legal or licit arms transfers are transfers of arms or other military equipment which comply with national and international laws and regulations, which observe national and international embargoes against particular countries, which respect national and international anti-bribery regulations and regulations on arms brokering.<sup>10</sup> The role of air cargo carriers in the legal arms trade is substantially limited by the costs involved, but in the last two decades air cargo carriers have played a major and increasing role in defence logistics.<sup>11</sup>

### **Irresponsible arms transfers**

Irresponsible arms transfers are transfers that may be technically legal but directed to highly questionable customers. "Questionable customers" may include State actors involved in gross human rights abuses; countries at high risk of involvement in wars of aggression; commercial entities with a proven track record of re-selling arms to arms-embargoed countries, human rights violators, and non-State actors.<sup>12</sup> The irresponsibility of these arms shipments is not subjectively determined, because there are objective and UN-sanctioned criteria for defining the responsibility of State and non-State actors in human rights violations.<sup>13</sup> In fact, part of what is presently accepted and accounted as legal transfers would fall under the category of "irresponsible arms transfers" if the human rights records of the end-users were taken into consideration.

### **Illegal or illicit arms transfers**

Illegal or illicit arms transfers are transfers of arms or other military equipment made in conscious violation of the above-mentioned laws and regulations.<sup>14</sup> Air transport has been the means of choice for transfers of arms and ammunition directed to conflict zones, embargoed countries and non-State actors.<sup>15</sup> There are obvious reasons for this choice: a) the time-sensitivity of such transfers; b) the difficulty

<sup>8</sup> Under terms of military cooperation programs; grant, credit, barter, or cash, as well as free-of-charge.

<sup>9</sup> See Gillard, E.C., "What's Legal? What's Illegal", in Lumpe, L. (ed.): *Running Guns*. London, New York, Zed Books, 2000.

<sup>10</sup> Wood, B. et Al., *Developing a Mechanism to Prevent Illicit Brokering in Small Arms and Light Weapons. Scope and Implications* UNIDIR, 2006.

<sup>11</sup> See: *Dead on Time. Arms transportation, brokering, and the threat to human rights*, Amnesty International, ACT 30/008/2006.

<sup>12</sup> Such as militias and rebel groups whose arms "imports" fall in the "illegal transfers" category.

<sup>13</sup> In December 2006, the UN General Assembly voted overwhelmingly in favour of a UN process to develop a global Arms Trade Treaty to govern states' decisions on the international transfer of conventional arms. The UNGA resolution affirmed the need to respect international law, including international human rights law, international humanitarian law and the purposes and principles of the UN Charter. Update

<sup>14</sup> In general, the illicit nature of transportation and logistics for arms transfers occurs when the activities to facilitate a transaction for the transport of such items are conducted without the necessary State authorization or are conducted in contravention of international treaties, binding decisions adopted by the Security Council under Chapter VII of the Charter of the United Nations or the principles and purposes of that Charter, to which a state is bound. According to the United Nations Guidelines for International Arms Transfers, endorsed by the General Assembly in resolution 51/47 of 10 December 1996, "illicit arms trafficking is understood to cover that international trade in conventional arms, which is contrary to the laws of States and/or international law", and "limitations on arms transfers can be found in international treaties, binding decisions adopted by the Security Council under Chapter VII of the Charter of the United Nations and the principles and purposes of the Charter [of the United Nations]." Reflecting this commitment in 2001, Member States agreed in the UN Programme of Action [short title] that they will "assess applications for export authorizations according to strict national regulations and procedures that cover all small arms and light weapons and are consistent with the existing responsibilities of States under relevant international law".

<sup>15</sup> See, for example, Peleman, J., "The logistics of sanctions busting: the airborne component", in: Cilliers J., Dietrich, C. (eds.), *Angola's War Economy*. Pretoria, Institute for Security Studies, 2000; Wood B., J. Peleman, *The Fixers - Controlling Brokers and Shipping Agents*. A joint Report by BASIC and PRIO. Oslo, PRIO, 1999.

of monitoring air routes in regions lacking radar control (regions where most of the wars of the last two decades have been fought); and c) the flexibility of air transport, especially regarding land-locked countries, compared to other means of transport.

### **Covert arms transfers**

Covert arms transfers are transfers of arms and other military equipment with the active participation of at least one government (or government agency) violating rules, laws, and agreements in force at the national or international level.<sup>16</sup> The susceptibility of air cargo carriers to this type of arms transfer is due mainly to two factors: the implicit advantage the carriers are likely to gain in the defence logistics market by securing special and reciprocally binding relationships with a military or intelligence community; and the high premiums the “shippers” are wont to pay.

### **Illegal or illicit transfers of dual-use technology**

Illegal or illicit transfers of dual-use technology are transfers of technology that may have a military application and whose export violates the national laws and regulations of the country of origin, as well as certain international agreements.<sup>17</sup> The susceptibility of air cargo carriers to this type of illicit or questionable transfers is due to a number of factors. Firstly, carriers do not have the technical expertise to ascertain if a possibly mislabeled product has in fact certain military-grade characteristics; secondly, only one group of countries<sup>18</sup> - of various significance in terms of production - enforces regulations on dual-use technology, and among the present multi-modal international supply chains, what can be legal in one section of the chain becomes potentially illegal in another; thirdly, rules on “export-controlled products” are applied and enforced differently even in the group of countries with a common dual-use technology policy.<sup>19</sup>

## **1.3 Airlines, wars, and arms**

Commercial air carriers have long since been involved in the transport of arms and troops to conflict zones and to State and non-State actors responsible for major human rights abuses. In the last thirty years, in particular, air cargo carriers have provided logistic support to, or have been directly involved in, a long series of operations and events where human rights have been grossly violated and the civilian populations suffered the most brutal abuses, from Nicaragua and the Caucasus to Angola and West Africa, from Colombia and DR Congo to Iraq, Afghanistan, Somalia and Sudan, to name a few.<sup>20</sup> Nearly none of these companies has ever been tried for the crime of complicity.

<sup>16</sup> Possible violations include: violation of the 1965 United Nations Declaration on Inadmissibility of Intervention in the Domestic Affairs of States and Protection of their Independence and Sovereignty; violation of the provisions of the Draft Code of Crimes against the Peace and Security of Mankind (in case of support to terrorist or subversive groups); U.N. and other international or regional bodies' resolutions on arms embargoes; violation of export/import regulations; violation of security regional agreements. On the relationships between arms covert trade and other illegal activities see Naylor, N.T., *Patriots and Profiteers: On Economic Warfare, Embargo Busting and State-Sponsored Crime*. Toronto, McClelland & Stewart, 1999; Klare, M., “The subterranean arms trade: black-market sales, covert operations and ethnic warfare”, in Pierre, A.J., *Cascade of arms, managing conventional weapons proliferation*. Washington, DC, Brookings Institution Press, 1997.

<sup>17</sup> Dual-use technology transfers were and are regulated by both national laws and international agreements, such as the Wassenaar Arrangement (adopted in 1995, became operational in 1996). For example, Russian Federation, a founding member of the Wassenaar Arrangement, enacted its own regulations for export of dual-use technology in June 2001. The regulations include “licensing of foreign economic operations involving the export (except transit) and/or transfer of controlled commodities and technologies (including the transfer of commodities and technologies in the form of separate components) to foreign individuals, international organizations, in any way, including by mail or electronic means of communication; customs control and customs clearing for controlled commodities and technologies crossing the Russian border in the form of technical data, unless Russian legislative acts, presidential or government acts stipulate otherwise.” Under that regulation, a contract should state “the goal and place of using the transferred commodities and technologies; the end user of the controlled commodities and technologies; the obligations of the foreign person which guarantee that the commodities and technologies transferred to him will be used only for the stated goals and will not be copied, modified, re-exported or transferred to anyone without written permission from the Russian exporter approved by the Ministry of Economic Development and Trade.” (in *Arms Trade Newswire* June 12, 2001, *BBC News*, June 9, 2001)

<sup>18</sup> The Wassenaar Arrangement is presently composed by 40 countries. Several countries with arms and dual-use technology production are not part of the Arrangement, for example Brazil, China, Israel, Pakistan, India, and Serbia.

<sup>19</sup> The Wassenaar Arrangement emerged from the Cold War era’s “Coordinating Committee of the Consultative Group” (COCOM, 1949, alternative name *Coordinating Committee on Multilateral Export Controls*) that was aimed at imposing restrictions on the transfer of dual-use technology from United States and its allies to the USSR and its allies. COCOM maintained three control lists (international atomic energy list; international munitions list; industrial list or dual-use technology not included in the other two ones) and a uniform control procedure (International Import Certificate-Delivery Verification System) to prevent diversion of “forbidden” products to “communist States”. COCOM was dissolved in 1994. See for the problems involved in transfers of dual-use technology, Gasparini Alves, P., K. Hoffman (eds.), *The Transfer of Sensitive Technologies and the Future of Control Regimes*. New York, UNIDIR, 1997 (in particular Chapter 13 “Export/Import monitoring Mechanism”).

<sup>20</sup> One of the first account of transport companies involved in covert and illegal arms transfers is the book by Brian Wood and Johan Peleman (1999).

National and international laws and regulations on commerce and transport have addressed issues such as contractual obligations, import/export rules, cargo liability matters, etc., but a clear definition of the responsibility of the various carriers and agents of conveyance in shipments that contribute to severe human rights violations is lacking.

In general terms, an “*it’s-not-my-business*” mentality pervades the transport industry with regard to the ultimate use of the things it delivers and this mentality is reflected in the countless statements made by transport industry executives when asked about their roles in questionable arms shipments or their involvement in war-zone operations.

The lack of clear legal rules is not, however, the main factor behind the impunity enjoyed to this day even by those most blatantly complicit in facilitating the perpetration of human rights violations – and sometimes of crimes against humanity. The fact is that commercial air cargo transport is a very scarce resource, sometimes a “non-renewable” one,<sup>21</sup> which military and intelligence communities (and economic actors as well) value as strategic. The possibility of having air cargo services at disposition when needed has so far overcome all other considerations, including morality.

In addition, the services air carriers render to military and intelligence communities often bonds owners and pilots to those communities, contributing to the protection the companies themselves enjoy from public scrutiny and to the enhancement of their status as candidates for *further services*. It’s commonplace for air cargo companies to be openly or secretly controlled by members of political or military establishments (in Africa and the Middle East in particular), and a culture of impunity has consequently developed among the executives of those companies.

As this report shows, military communities have rarely excluded air carriers, which have violated national and international laws and regulations, from defence-related contracts or covert operations. On the contrary, servicing covert operations has resulted in a distinct “comparative advantage” for the air carriers involved, with the subsequent creation of gray markets in aviation services. In these markets, companies with questionable human rights records (and sub-market rates) are available for operations that other, more responsible air carriers would refuse to have anything to do with.

Furthermore, some States have systems for securing aviation services in case of national emergency or war. In these systems, reputable air carriers are contractually bound to provide military or emergency agencies with a certain number of aircraft and amount of cargo space, in exchange for preferential treatment for peacetime government contracts. Human rights considerations or those appertaining to the legality of the operations those companies are asked to assist in have never prevailed over contractual-profit considerations.<sup>22</sup>

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<sup>21</sup> Once authorities force an air company to close down for having committed severe crimes, a stigma remains on company’s personnel and pilots and even on aircraft. The personnel and pilots tend to disperse, their experience and skills on aircraft, routes, and destinations is rarely retained in indifferent aviation environments; grounded aircraft wait sometimes for years a new owner.

<sup>22</sup> See *Dead on Time. Arms transportation, brokering, and the threat to human rights*, Chapter 7, “The logistics of major military operations,” pp.93-104, Amnesty International, ACT 30/008/2006.

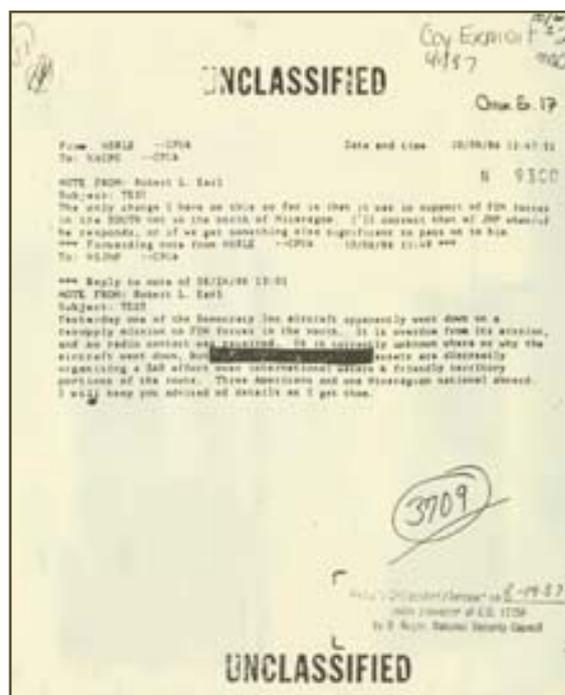
## 2. From Nicaragua's Civil War to the "War on Terror"

### 2.1 The human costs of the Nicaragua civil war

Nicaragua's civil war lasted more than eight years (from 1982 to 1990) and caused some 42,000 casualties.<sup>23</sup> The civil war was between government forces led by the Sandinistas<sup>24</sup> and US-backed guerrilla forces called the "Contras." In 1984, despite the establishment of a democratically-elected government,<sup>25</sup> the conflict escalated. Amnesty International, in its 1989 in-depth review of the human rights situation in Nicaragua,<sup>26</sup> highlighted the horrors that Nicaragua's civilian population had to endure because of the fighting.<sup>27</sup> While government forces committed severe violations of human rights,<sup>28</sup> the Contras engaged in a systematic campaign of terror<sup>29</sup> and maintained secret bases in neighboring countries, in particular in Honduras, where thousands of Nicaraguans were tortured or disappeared, according to reports by both Amnesty<sup>30</sup> and the Catholic Institute for International Relations.<sup>31</sup>

From the very beginning in 1981, the Reagan Administration (January 20, 1981-January 20, 1989) openly voiced its support for the Contras,<sup>32</sup> despite their human rights abuses. Amid controversies on the legality of the Reagan Administration's policies in Central America and the rogue methods<sup>33</sup> it used to undermine the Nicaraguan government, the US Congress barred the Administration from continuing to fund the Contras and to supply arms and intelligence

Document 1. Robert Earl's cable informs the NSCP on the downing of the Fairchild C-123K



Source: See Box 1 "Report of the Congressional Committees"

<sup>23</sup> See: *Correlates of War Project, Intra-State War Data 1816-1997*, <http://www.correlatesofwar.org/> Originally initiated at the University of Michigan, the Project is presently hosted at the Dept. of Political Science, <http://polisci.la.psu.edu/research.html> Pennsylvania University. For a political history of Nicaragua see the leading contribution of Thomas Walker, *Nicaragua: Living in the Shadow of the Eagle*, Westview Press, 2003, 4th Ed.

<sup>24</sup> In 1979, the Frente Sandinista de Liberación Nacional (FSLN) had succeeded in overthrowing the dictatorship of President Anastasio Somoza Debayle, scion of the Somoza family, and July 19 of the same year formed a provisional government led by Daniel Ortega, leader of the FSLN. The Sandinista movement was founded in 1962 and named after Gen. Augusto Cesar Sandino, the hero of Nicaragua resistance to the U.S. Marines occupation (1912-1925), assassinated in February 1934 by Anastasio Somoza García, then chief of the National Guard and President of Nicaragua from 1937 to 1956. He was succeeded by his two sons, Luis Somoza Debayle and Anastasio (1967-1979).

<sup>25</sup> In 1984, the provisional government organized presidential elections and Ortega won the 63% of the electorate in an election monitored by representatives of several national and international bodies, including the British Parliament and the House of Lords.

<sup>26</sup> *Nicaragua: the human rights record 1986-1989*, Amnesty International, AMR 43/02/89.

<sup>27</sup> Thousands of extra-judicial killings, tortures, forced recruitment of peasants, illegal detentions, disappearances of opponents, terrorist acts, rapes, and mass graves plagued the life of the country during the conflict, according to the quoted Amnesty report.

<sup>28</sup> In particular against the Native-American populations of the Atlantic Coast, the Miskito, Rama, and Sumo.

<sup>29</sup> November 15, 1984, the British *Guardian* reported an official statement of the Nicaragua government stating that from 1981 to 1984 the Contras had assassinated 910 State officials and 8,000 civilians.

<sup>30</sup> *Nicaragua: the human rights record 1986-1989* (1989): p. 60-64.

<sup>31</sup> *Right to Survive: Human Rights in Nicaragua*, The Catholic Institute for International Relations, 1987. See also Americas Watch (predecessor of Human Rights Watch): *Human rights in Nicaragua 1986*, The Americas Watch Committee, New York, 1987: "The record of the contras in the field, as opposed to their official professions of democratic faith, is one of consistent and bloody abuse of human rights, of murder, torture, mutilation, rape, arson, destruction and kidnapping".

<sup>32</sup> Known as *Contra*revolucionarios ("Contras"), the anti-government guerrillas "were primarily composed of former members of the late Nicaraguan dictator Antonio [sic] Somoza Debayle's repressive National Guard. In the fall of 1981, the CIA merged this group with a small group of non-Somoza militants to form the Nicaraguan Democratic Force [FDN]." See Michael Klare and D. Anderson, *A Scourge of Guns: The Diffusion of Small Arms and Light Weapons in Latin America*, FAS, Washington, DC, 1996, chapter 6, "The 'Reagan Doctrine' and the Iran-Contra Affair."

<sup>33</sup> See: Gerth, J., P. Taubman, "Ex-U.S. Intelligence and Military Personnel Supply Anti-Nicaragua Rebels" *New York Times* November 8, 1983; Parry, R., "CIA employes fought Nicaraguans," *Washington Post*, December 20, 1984 and [www.consortiumnews.com](http://www.consortiumnews.com). Early in 1984 the press unveiled that in February CIA operatives had secretly mined Nicaragua's harbours, exposing the United States to the condemnation by the Hague-based International Court of Justice ("Nicaragua Institutes Proceedings Against the United States of America", I.C.J., *Communiqué*, No. 84/10, April 9, 1984).

to them (the Boland Amendments).<sup>34</sup> When the US Congress modified the Boland Amendment in August 1985 to allow a one-time USD27 million disbursement for humanitarian aid to the Contras, the Reagan Administration created (August 29, 1985) the *Nicaragua Humanitarian Assistance Office* (NHAO) inside the State Department to manage the funds, but these were soon diverted to support various military activities of the Contras through US-established bases in Central America, in particular the Ilopango (El Salvador) Air Base.<sup>35</sup> At the same time, the Administration managed to procure additional funds by selling sensitive weapons to Iran (on the Reagan Administration's list of States supporting terrorism since the year before and in 1985 at war with Iraq<sup>36</sup>) in exchange for US citizens kidnapped in Lebanon by Hezbollah, over which Iran was supposed to have influence.

Eventually, despite the Administration's efforts to cover its tracks regarding the assistance it was giving to the Contras and the arms-for-hostages deals with Iran, the entire operation was discovered and put to an end. In the last months of 1986, the crash inside Nicaragua of a Fairchild C-123K aircraft owned by the US Administration's pro-Contra network<sup>37</sup> and an article on US sales of sensitive weapons to Iran (in particular HAWK missiles and spare parts), published by a Lebanese magazine,<sup>38</sup> led to the unveiling of the Iran/Contra affair and to revelations of how deeply officials of the Reagan Administration were implicated in the covert and illegal program. On August 7, 1989, the presidents of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua met in Tela (Honduras) and decided to begin demobilizing the remaining 12,000-strong Contra force.<sup>39</sup>

#### Box 1. Iran-Contras, official sources

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- *"Tower Commission Report"*. Report of the President's Special Review Board Washington DC, U.S. Government Printing Office, February 26, 1987.
- *Swedish Customs Enquiry*, 1984-1986 (made partially public in 1987), whose contents and findings are detailed in the testimonies of S. Falkenland and Mr. Verhelst (Swedish Customs officials) and De Bock (De Morgen) in *"Chambre des Représentants de Belgique, Enquête Parlementaire"* (see below).
- *"Kerry Report"* (John F. Kerry, D-Massachusetts), "Drugs, Law Enforcement and Foreign Policy, a report prepared by the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations US Senate", Vol. I-IV, December 1988 (on-line sources: National Security Archive [Final Report], Kick Russ, [www.thememoryhole.org](http://www.thememoryhole.org) [Volumes 1, 2, 3]).
- 100<sup>th</sup> Congress, 1<sup>st</sup> Session, U.S. Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition *"Report of the Congressional Committees Investigating the Iran-contra Affair,"* U.S. House of Representatives, Washington 1988.
- Chambre des Représentants de Belgique, *"Enquête Parlementaire sur les livraisons d'armes et de munitions faites par la Belgique aux pays impliqués dans un conflit armé ou frappés d'embargo sur les armes (1987-1989)"*, 28 Février 1989.
- Walsh, L. E. *"Final Report of the Independent Counsel for Iran/Contra Matters."* U.S. Court of Appeals, Washington, D.C., August 1993, vols. I-III).
- US Department of Justice/OIG Special Report, *"The Cia-Contra-Crack Cocaine Controversy: A Review of the Justice Department's Investigations and Prosecutions,"* December, 1997.
- Central Intelligence Agency, Inspector General (96-0143-Ig), *"Allegations of Connections Between Cia And the Contras in Cocaine Trafficking to The United States,"* Volume II: *The Contra Story*. Unclassified version, April 27, 1998.

<sup>34</sup> The Boland Amendments (named after their proponent, the Massachusetts Democrat Edward Patrick Boland) were a series of dispositions that outlawed assistance to the Contras' attempts to overthrow Nicaragua's government and were passed by the U.S. Congress between 1982 and 1984. The First Boland Amendment was dated December 1, 1982 for the period December 11, 1983–December 8, 1984. The Second Boland Amendment was dated December 8, 1983 for the period December 12, 1984–September 30, 1985. The "Full Boland Amendment" passed in the US Senate October 11, 1984, "to prohibit the CIA and DOD "or any other agency or entity of the United States involved in intelligence activities" from supporting, directly or indirectly, military assistance to the Contras".

<sup>35</sup> *Report of the Final Report of the Independent Counsel for Iran/Contra Matters* by Lawrence E. Walsh, 1993, Chapter 25, 1993.

<sup>36</sup> 1980-1988.

<sup>37</sup> The crash occurred October 5, 1986. Two Southern Air Transport pilots, William J. Cooper and Wallace B. Sawyer died in the crash. The loadmaster, Eugene Hasenfus, was captured by the Sandinistas along with the documentation kept on the plane proving the direct involvement of the US Administration.

<sup>38</sup> The Iran connection was revealed by the Lebanese magazine *Al-Shiraa*, November 3, 1986. In *Chronology of the Joint Hearings on the Iran-Contra Investigation*, Vol. 5, p. 24. The article first revealed McFarlane's second trip to Teheran in early September 1986 (the first one was in May 25-28, 1986. On the second trip see also "Arms and the Hostages: 2 Years of Secret Deals", *New York Times*, December 25, 1986.

<sup>39</sup> See Wehr, P., J.P. Lederach, "Mediating Conflict in Central America", *Journal of Peace Research*, vol. 28, no. 1, 1991: pp. 85-98.

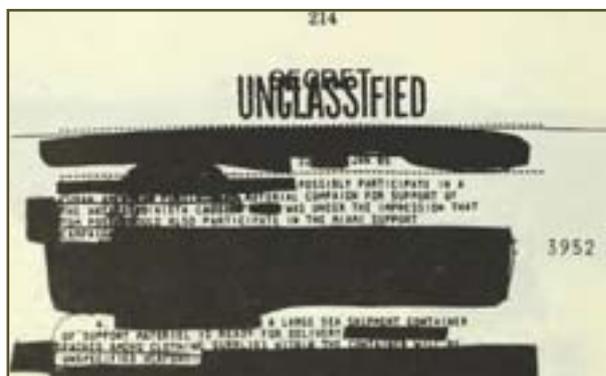
## 2.2 A model for gunrunning: the logistics chains of the Iran-Contra operations

According to official US inquiries, the most prominent representatives of the US Administration<sup>40</sup> - including the President<sup>41</sup> - were the guiding hands behind the group in charge of implementing the actual operations (Lt. Colonel North,<sup>42</sup> CIA and former CIA officials,<sup>43</sup> and North's associated businessmen).<sup>44</sup> After National Security Decision Directive 17 was issued,<sup>45</sup> the support the CIA had provided earlier to the anti-Sandinista groups in Nicaragua escalated into a full-fledged program of intelligence-sharing, logistic and financial support.<sup>46</sup>

By using financial incentives, political pressure and military aid amounting to hundreds of millions of dollars, the group in charge of Central American policy also succeeded in convincing the governments of El Salvador, Guatemala and Honduras (and to a lesser extent that of Costa Rica) to supply or pass on arms to the Contras and assist in setting up the logistic facilities and bases the US operatives and the Contras needed for incursions into Nicaraguan territory.<sup>47</sup>

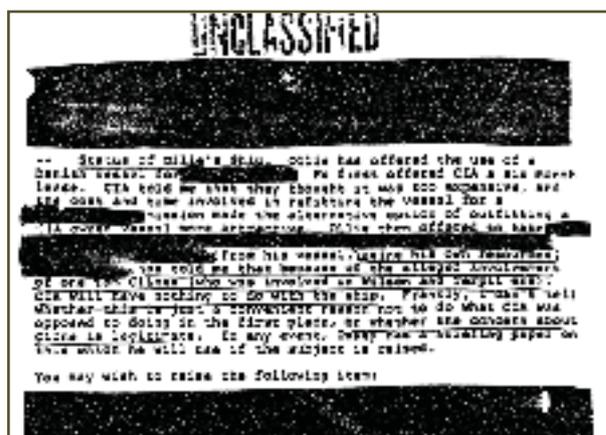
As stated in the final report of the Congressional Committees "[In 1984] members of the NSC [National Security Council] staff were devising ways to continue support and direction of Contra activities during the period of the Boland Amendment [...] The NSC staff [...] ultimately developed and directed a private network that conducted, in North's words,

Document 2. CIA cable, "A large sea shipment container of support materiel is ready for delivery...packed among clothes supplies within the container will be unspecified weapons".



Source: See Box 1 "Report of the Congressional Committees"

Document 3. "Ollie's ship...CIA will have nothing to do with the ship"



Source: See Box 1 "Report of the Congressional Committees"

<sup>40</sup> In particular, *George Herbert Walker Bush*, Reagan's Vice President (1981-1989); *Robert Mc Farlane*, National security adviser (October 1983-December 1985); *William Casey*, Director of Central intelligence (January 1981-January 1987); *Elliott Abrams*, Assistant Secretary of State for Inter-American Affairs (1985-1989), chairman of the Restricted Inter-Agency Group, RIG, that was tasked with managing the Administration's new programs for Central America. *George P. Shultz*, Secretary of State, and *Caspar Weinberger*, Secretary of Defense (1981-1987) supported the pro-Contra initiatives but strongly objected to the arms-for-hostages deal with Iran.

<sup>41</sup> See Report of the Congressional Committees Investigating the Iran-contra Affair, 1988, p.21; Kornbluh, P., M. Byrne (eds), *The Iran-Contra Scandal: the declassified history*, National Security Archive, The New Press, New York, 1993: p. XXIX; Parry, R., "President linked to Secret Aid", *Washington Post*, October 5, 1985.

<sup>42</sup> Lt. Colonel, Marine Corps, Assistant Deputy Director for Political-Military Affairs in the National Security Council (1981-1986).

<sup>43</sup> In particular, *Duane R. Clarridge*, chief of the CIA Latin American Division, of the European Division, and of the Counterterrorism Center (1981-1988); *Alan D. Fiers*, chief of the CIA Central American Task Force (October 1984-1988); *Clair E. George*, CIA Deputy director for operations (July 1984-December 1987); *George W. Cave*, CIA expert on Iran and mediator for the arms deals; *Joseph Fernandez*, CIA station chief in Costa Rica (1984-1986, aka Tomas Castillo); *Walter Raymond Jr.*, a career CIA expert in covert foreign media operations; *Thomas Twetten*, deputy and then chief of the CIA Near East Division; *Felix Rodriguez*, formerly a Special forces operative (Green Beret) and CIA officer in Latin America (where he was involved in the murder of Ernesto Che Guevara in Bolivia), and main coordinator of the Contra resupply network at Ilopango, El Salvador.

<sup>44</sup> Including USAIF (Ret.) Colonel *Robert C. Dutton*, a veteran of special operations; USAIF (Ret.) Col. *Richard Gadd*, a specialist in the use of commercial airlines for covert operations; USAIF (Ret.) Maj. Gen. USAIF (Ret.) *Richard Secord*, mastermind of the Iran-Contras supply chains; *Albert Hakim*, an Iranian expatriate and Secord's business partner, manager of the North's secret company "Amalgamated Commercial Enterprise Inc" (ACE).

<sup>45</sup> November 3, 1982. The NSDD assigned USD19,950,000 "to build a paramilitary force to work with foreign governments as appropriate" (National Security Archive, *The Chronology* (1987)).

<sup>46</sup> In total, "the Contras received between USD83 and USD97 million in support between 1984 and 1986, more than USD20 million of which could not be accounted for, and nearly twice of what they needed for the war effort, according to a review of their finances". In addition, between USD10 and USD20 million came from the illegal sales of missiles and parts to Iran while the latter was at war with Iraq. That money was also unaccounted for. See Gerth, J., S. Engelberg, "Millions Untraced In Aid to Contras Over Last 3 Years", *New York Times*, April 8, 1987 (USD97 million in 1986 terms are the equivalent of USD186 million in 2009 terms.); The National Security Archive, *The Chronology*, (1987): p.657.

<sup>47</sup> See Michael Klare and D. Anderson (1996).

a 'full service covert operation' in support of the Contras."<sup>48</sup>

The "full service" included setting up a network of dummy financial and transport companies to divert the revenues obtained from the arms-for-hostages sales of missiles and explosives and eventually facilitate drugs transfers from Central and South America to the United States by the Contras.<sup>49</sup> The methods North's group used would later constitute a model for the gunrunning activities that fuelled wars and human rights abuses in Africa in the 1990s.<sup>50</sup>

The logistics used to support the Contras and the arms deals with Iran was in effect a complex set of diverse illegal and intertwined operations increasingly controlled by North and his associated fundraisers and arms brokers,<sup>51</sup> a network variously known as the "Enterprise," "Project Democracy" and "Democracy Inc." Several logistics and transport companies served that network, and their executives and pilots - as revealed by testimony given at the Congressional inquiries - never questioned the legality of what they were asked to do or considered the consequences of their acts on human rights.

There were two major components to the logistic chains: a) re-supply operations directed to Central America; b) transfers of arms and explosives to Iran. The first component also involved Contra-connected drugs shipments

## Box 2. Not only aircraft : ships of convenience

*MV Elalil* (IMO 7321453) owned by Danish captain Arne Herup, was under the management of S.A. Shipping (Copenhagen), and was later purchased (April 28, 1986) by Dolmy Business (Panama, one of Hakim's companies) and renamed *Erria*. The *Elalil/Erria* transported hundred of tons of arms and ammunition to the Contras and to Iran from Poland and Portugal to Honduras (Puerto Cortes), Guatemala (Puerto Barrios), and Haifa (Israel) between April 1985 and October 1986;

- *MV Bentota* (IMO 7037820); *MV Elisabeth Clipper* (IMO 8207410); *MV Jotun* (IMO 8302909); *MV Sea Trader* (possibly IMO 5346083); *MV Gritt-Clipper* (IMO 6805165); *MV Iceland Saga* (IMO 7905065), September 14, 1986 arrived at Cherbourg and trans-shipped one of the *MV Erria* cargoes - 268 tons of arms destined to the Contras via the US DoD port and depot Sunny Point, North Carolina, where it arrived October 8, 1986; *MV Peder Most* (likely IMO 8306474); *MV Ilse TH* and *MV Maria TH* (IMOs unknown), transported arms to Iran from North Europe and Talamone port (Italy), to Bandar Abbas; *MV Gretl* (IMO 8520434, attempted arms delivery from Setubal, February 7, 1987, to Bandar Abbas of 1,400 tons of ammunition.<sup>1</sup>

<sup>1</sup>See *Chambre des Représentants de Belgique* (1989); National Security Archive, *The Chronology* (1987); McCartney, R.J., "West Germany Halts Freighter Said to Bear Munitions for Iran", *Washington Post*, February 18, 1987; McCartney, R.J., "Portugal Bars Return of Arms-Carrying Ship", *Washington Post*, February 24, 1987; Wines, M., D. Mcmanus, "U.S. Sent Iran Arms For Hostage Release", *Los Angeles Times*, November 6, 1986; Manisco, L., Paese Sera, November 10, 1986 in *Italian House of Representatives*, IX Legislatura, November 18, 1986; "Memorandum by V.M. Cannistraro to John M. Pointdexter", May 14, 1986, National Security Archive. For the involvement of the the Danish company Mønsted Chartering K/S (presently Scan Trans Chartering ApS, based in Naestved, Vestre Kaj, Denmark) see *Agence France Press*, February 6, 1987; National Security Archive, *The Chronology* (1987): p.16. International Transport Workers' Federation and Danish Seafarers Union, and in particular its head, Erik Berlau, made major contributions in the uncovering of the illegal shipments to Iran and to apartheid-South Africa.

<sup>48</sup> *Report of the Congressional Committees Investigating the Iran-contra Affair* (1988): p. 19.

<sup>49</sup> See the Kerry Report; Parry, R., "Nicaragua Rebels Linked to Drug Trafficking", *Washington Post*, December 27, 1985; "Contra Drug Role Cited", *Washington Post*, August 27, 1986; Webb, G., *Dark Alliance: The CIA, the Contras, and the Crack Cocaine Explosion*, New York, Seven Stories Press, 1998; Scott, P.D., "What Will Congress Do About New Cia-Drug Revelations?", in *San Francisco Chronicle*, June 19, 2000; and Cockburn, A., J. St. Clair, *White-Out: The CIA, Drugs and the Press*, London, Verso, 1998.

<sup>50</sup> Including evading fiscal and arms export regulations; violating US, EU and UN embargoes; forging end-user certificates; using flags of convenience; disguising weapons shipments under the cover of humanitarian aid; filing false flight plans and cargo manifests; painting false registration numbers on arms-transporting aircraft. All these activities have been documented in testimonies to the Congressional Committees (Appendix B, vol. 1-27). See: "CIA Airline Proprietary Project Officer" (vol. 1); James H. Bastian (vol. 2); "CIA Air branch chief", "CIA Air branch deputy chief", and "CIA Air branch subordinate" (vol. 4); "CIA officer" (vol. 5); Duane Clarridge (vol. 5); Robert C. Dutton (vol. 9); Richard Gadd (vol. 11); Donald P. Gregg (vol. 12); Albert Hakim (vol. 13); Eugene Hasenfus (vol. 14); William G. Langton (vol. 15); Robert H. Mason (vol. 17); Davew Mulligan (vol. 20); Oliver L. North and John M. Poindexter (vol. 20); "CIA Proprietary Manager," vol. 21); Felix I. Rodriguez (vol. 23); Richard V. Secord (vol. 24); Thomas C. Sinclair and John K. Singlaub (vol. 25).

<sup>51</sup> Such as *Thomas G. Clines*, a retired CIA officer and arms; *Carl R. Channell*, president of the National Endowment for the Preservation of Liberty (NEPL); *Arif Durrani*, US resident alien from Pakistan, and Portuguese *Manuel J. Pires*, arms dealers; *Manuche Ghorbanifar*, arms dealer, middleman in the arms deals with Iran; *George Hassan*, former Savak secret police officer, arms broker; *Adnan Khashoggi*, Saudi billionaire, arms dealer and financier; *James McCoy*, a former US military attaché in Managua, partner of arms broker firm R.M. Equipment; *Robert W. Owen*, public relations specialist; Army Maj. Gen (Ret.) *John K. Singlaub*, former OSS and CIA operative in France (1943), China (1945), South Korea (1951) and Vietnam (1966), commander of U.S. forces in Korea (1976), co-founder of the intelligence network Western Goals Foundation (1979-1986), and chairman (1986) of the World Anti-Communist League; *Emmanuel Weigensberg*, Canadian, owner of the Montreal- and US-based arms brokering firms Century International Arms and Trans World Arms.

from South and Central America to the United States

On the maritime side, the supply chains included shipments of several thousand tons of explosives and arms to Central America and Iran. Several ships and companies serviced the arms deliveries. Karl-Eric Schmitz, manager of the Swedish brokering firm Scandinavian Commodities (ScanCom),<sup>52</sup> arranged most of the shipments between 1983 and 1986 (and also organized Saint Lucia Airways weapons flights from Lille to Iran<sup>53</sup>).

On the aviation side, the supply chains included companies with established business reputations (e.g., Arrow Air, F. A. Conner Airways, El Al, HeavyLift Cargo, MarkAir, People Express, Race Aviation, Southern Air Transport and Saint Lucia Airways), as well as ad-hoc companies like AirMach, Corporate Air Services, Eagle Aviation Service and Technology (EAST), Hondu Carib Cargo, SETCO, Summit Aviation and Vortex Air.<sup>54</sup>

Various airports and sea ports - located in 20 different countries - were used between 1981 and 1986 to carry out the logistic operations in support of the Contras and of the arms shipments to Iran.<sup>55</sup> Some of the aviation companies serving the Iran-Contra operations in

### Box 3. Covert financial networks

According to one of North's main associates, Albert Hakim (testimony under immunity, "Report of the Congressional Committees Investigating the Iran-contra Affair", vol. 13, pp 22-24), twenty-one different companies were set up to manage Contra-related US DoD contracts and Iran-Contra operations. Among them:

- Stanford Technology Trading Group Intl (based in McLean, Virginia, incorporated April 18, 1983 in California by Secord and Hakim);
- Stanford Technology Corp. (Panama); Korel Assets Inc. (that concealed Secord's personal profits);
- SciTechTrading Group; AlbonValue Corp (incorp. September 1985 in Panama, account number 108277 at Credit Suisse Bank, Geneva);
- Dolmy Business Inc. (incorp. in Panama November 1985, used in April 1986 for purchasing the Danish ship Verailil, renamed Erria, Credit Suisse a/n number 207225);
- Energy Resources Intl. S.A (bought in 1978 by Stanford Technology Corporation, Credit Suisse a/n 230774 and Societe de Banc Suisse, Geneva, a/n CO-268395);
- Gulf Marketing Consultants, Ltd (Credit Suisse a/n 311225); Hyde Park Square Corp. (Credit Suisse a/n 339825);
- Lake Resources, Inc (Credit Suisse a/n 386430);
- Stantech Services S.A (Credit Suisse a/n 618349);
- ToyCo S.A (Credit Suisse a/n 642804);
- Udall Research, Inc. (incorp. in Panama April 25, 1985, Credit Suisse a/n 649853);
- Stanford Technology Corp. Services S.A, Friburg (Trade Development Bank, Geneva a/n 2052659);
- Defex S.A (Union de Banc Suisse, Friburg a/n 300518, set up July 23, 1985 to provide a decoy og Defex-Portugal, see Walsh's Report, Chapter 8).

In addition: "Compagnie de Services Fiduciaries" (CSF), based in Geneva, Switzerland, and managed by Willard Zucker, a US tax-lawyer, was used to transfer and laundering money among the front companies, including North's Amalgamated Commercial Enterprises (ACE, Inc. in Panama in November 1984 through the services of *International Management & Trust Corp (Intertrust)*, an active company that at that time was owned by Stephen Samos, who in a US Court confessed to have money-laundered million of drug-related dollars for Mafia families (see: Rogers, D., J. Walcott, "NSC Papers Show Deep Network to Contras in '85", January 16, 1987).

<sup>52</sup> Based in Malmö, ScanCom organized the shipments of the so-called "Powder Club" (Bofors-Suede, P.R.B. Belgium, S.N.P.E. France). See Chambre des Représentants de Belgique, *Enquête Parlementaire* (1989). Dozens of companies shipped explosives and spare parts to Iran, such as Bofors-Nobelkrut, P.R.B. (Belgium), Muiden Chemie Intl. (Netherlands, Royal Ordnance, Bridgwater, UK since 1991), Fritz Werner (Germany), Sudostenreichischer Metalindustrie (S.M.I., Austria), Dynamit Nobel-Austria, Dynamit Nobel-Germany, Valsella (Italy), Tirrenia Industriale (Italy), Federal Directorate of Supply and Procurement (Yugoslavia), S.N.P.E. (France), Spel (Portugal) . .

<sup>53</sup> Chambre des Représentants de Belgique, *Enquête Parlementaire* (1989), Annex IV and testimony of J.P. Collette, *Le Soir*, p. 392, contract "S 150." See for Schmitz's connection with the CIA the testimony of "CIA Air Branch Chief" to the US Congressional Committees, vol. 4, p.910.

<sup>54</sup> See further below. Information on airlines and fleets from AeroTransport DB, ACAS DB; JP Airline Fleets International DB; AircraftOne.com; Airframes.org; CleanOstend.com; rzjets.net; if not otherwise stated.

<sup>55</sup> Belgium (Brussels, Ostend, Zeebrugge); Colombia (Barranquilla); Costa Rica (Santa Elena); Cyprus (Larnaca); France (Cherbourg, Lille); Germany (Frankfurt, Ramstein); Greece (Athens, Lavrion); Guatemala (Guatemala City, Puerto Barrios); Honduras (El Aguacate, La Ceiba/Goloson, Palmerola AB, Tela airstrip, Tegucigalpa/La Quinta); Iran (Bandar Abbas, Tabriz, Tehran/Mehrabad); Israel (Tel Aviv/Ben Gurion, Eilat); Italy (Talamone); Netherlands (Rotterdam); Panama (Gen. Herrera airport and US Howard AFB); Poland (Gdansk, Szczecin); Portugal (Lisbon, Setubal, Azores); San Salvador (Ilopango AB); United Kingdom (London, Ridham Dock); United States (Atlanta ARB, Biloxi AFB, Little Rock AFB, Kelly Field AFB, Sunny Point Army Terminal, and airports in Brownsville, Mena, Miami, and New Orleans); Yugoslavia (Ploče, present Croatia).

Europe, the Middle East and Central America were also engaged at the same time in arms and military supply operations in Angola and DR Congo.<sup>56</sup>

## 2.3 Flying arms and drugs: the Central American illegal supply-chain

The Contras' re-supply operations centered on Honduras and San Salvador. Contra units were mostly based in Honduras and received military training and counterinsurgency assistance from Argentinian military intelligence units and the CIA. They were based in camps where gross human rights abuses occurred, as reported by Amnesty International in 1992.<sup>57</sup>

Early in 1981, anti-Castro groups based in Miami flew a full load of small arms and ammunition to the various Contra factions in Honduras, according to media and FBI sources.<sup>58</sup> From 1983, CIA-sponsored operations increased, with the US-financed construction of a large air force base in Palmerola, Honduras (Soto Cano AB), and of an airstrip and detention center in El Aguacate<sup>59</sup>, Honduras (1983). They also had the use of the Ilopango air base in El Salvador (beginning in 1983).<sup>60</sup> L-100 commercial cargo aircraft (the civilian version of the C-130 Hercules) soon started to transport arms and "humanitarian aid" to the bases.

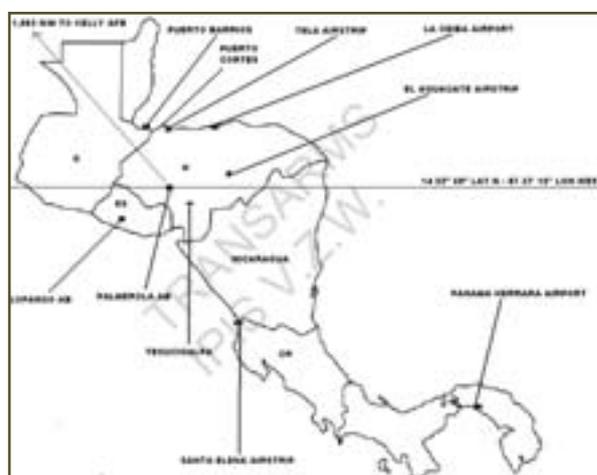
Commercial cargo aircraft L-100s (civil version of the C-130 Hercules) soon started to transport arms and "humanitarian aid" to the bases.

Photo 1. Erria/Veralil at Colchester Dock, UK, in June 2008



Credit: Tony Staceys

Map 1. Locations of the Contras resupply operations



Source: IPIS vzw,/Transarms, Belgium/USA

<sup>56</sup> Namely, Saint Lucia Airways and Southern Air Transport, see further below.

<sup>57</sup> *Disappearances in Honduras: a wall of silence and indifference*, Amnesty International, April 30, 1992. The report noted that even after the restoration of the civil government (1982) the authorities "remained subject to the power of the military, which in 1979 implemented a counter-insurgency strategy known as the National Security Doctrine to combat the perceived spread of leftist revolution in Central America. Under the command of General Gustavo Álvarez Martínez, the Armed Forces embarked on a deliberate policy to eliminate people suspected of having links with insurgent movements in Honduras and El Salvador or with the Sandinista government". In Honduras, CIA personnel worked in conjunction with, and then in substitution of, Argentinian military Junta's intelligence units, within the framework of the Argentinian mission (Grupo de Tareas Exterior, GTE) that included the "Batallón de Inteligencia 601," based in Lepaterique, about 17 miles West of Tegucigalpa, where the battalion maintained interrogations facilities (along with Honduran units such as Batallón 3-16). At Lepaterique, kidnapped opponents were tortured and murdered. Carter-appointed ambassador to Honduras (1980-1981), Jack Binns, tried in vain to obtain by the Department of State the sanctioning of the human rights abuses and murders committed by those units. He was soon substituted by John Dimitri Negroponte (1981-1985), later U.S. ambassador to the United Nations (2001-2004) and to Iraq (2004-2005), Director of National Intelligence (2005-2007) and Deputy Secretary of State (2007-2008). See: Seoane, M., "Los secretos de la guerra sucia continental de la dictadura," *El Clarín*, Buenos Aires, March 24, 2006; Dionis, G., "La aparición de osamentas en una antigua base militar de la CIA en Honduras reabre las operaciones encubiertas Argentino-Norteamericana en Honduras," *Equipo Nizkor*, September 7, 2001; Binns, J., *The United States in Honduras, 1980-1981: An Ambassador's Memoir*, McFarland & Co., 2000; Campbell, D., J. Borger, "Negroponte tried to undermine central America peace process," *The Guardian*, April 13, 2005; Armony, A. C., "Transnationalizing the Dirty War," in Joseph, G. M., D. Spenser (eds.), *In from the cold: Latin America's new encounter with the Cold War*, Duke Un. Press, 2008.

<sup>58</sup> According to FBI investigators, Raul Arana, an agent for Contra leader Fernando Chamorro, flew "several large arms shipments from Miami to Honduras in 1981", see Walcott, J., A. Paztor, "CIA role in arming Contras seen larger than White House has acknowledged", *Wall Street Journal*, January 15, 1987.

<sup>59</sup> El Aguacate was built by the US military inside the ranch of the family of Honduras' President, Manuel Zelaya. CIA "advisers", Contras and Honduran military used the base and the airstrip. The base hosted a detaining and torture center. It is located about 125 miles North-East of Tegucigalpa and 47 miles from Nicaragua border. See: Dionis, G., "La aparición de osamentas en una antigua base militar de la CIA en Honduras reabre las operaciones encubiertas Argentino-Norteamericana en Honduras," *Equipo Nizkor*, September 7, 2001; "Honduras to exhume remains at former Contra base", *Reuters*, September 7, 2000; Gonzalez, D., "Rebel War Comes Back to Haunt Honduran Base", *New York Times*, October 8, 1999

<sup>60</sup> Walsh's report: Chapter 19 (United States v. Alan D. Fiers, Jr.).

Photo 2. El Aguacate airfield was inside the ranch of former Honduras' president Manuel Zelaya's family



Credit: Daniel Leclair/Reuters, July 21, 2009.

One of the first documented flights occurred April 9, 1983, when Southern Air Transport<sup>61</sup> flight SJ1466 (carried out by an L-100), supposedly en route from Panama to Tegucigalpa, landed instead at Palmerola AFB, under secret instructions given to the pilot by SAT management.<sup>62</sup> The plane transported 22 tons of small arms and ammunition picked up in Panama. Also in 1983, other companies, such as Summit Aviation, Investair and Westair Intl., provided the Contras with light planes, used for operations inside Nicaragua.<sup>63</sup>

In 1985 and 1986, several other arms shipments reached the Contras, mainly flown by Southern Air Transport (contracted by Richard Gadd's Eagle Aviation Service and Technology, EAST and AirMach), Arrow Air (subcontracted by SAT) and F. A. Conner Air.

North's associates also organized large arms shipments from Portugal, through the shell companies ACE and Energy Resources as well as through arms dealers in Portugal and Canada. North's associates used forged Guatemalan Army end-user certificates and diverted the arms from their supposed destinations in Guatemala to Contra bases. The shipments included arms and ammunition worth about USD5.6 million altogether, with a volume that added up to some 800 tons.<sup>64</sup>

Document 4. SAT document showing the fake route of flight 1466SJ

Number of Flights	Type of charter	Flight leg 1 2 4	Point of enplanement of each group (DAG Code)	Point of deplanement of each group (DAG Code)
(3)	(8)	(6)	(5)	(7)
(21-27)	(28-29)	(30)	(31-33)	(34-36)
2	EC	1	SWI	CAI
1	"	1	MIA	LTM
1	"	1	PTY	TGU
2	"	1	MIA	HAV
1	"	1	MIA	WIN
1	"	1	TAH	SHB

Source: CBS News documentary, July 8, 1984, see below in footnotes

<sup>61</sup> The company was founded in 1947 and was based in Miami, Florida (in 1995 it moved to Columbus, Ohio). See next paragraph for its history..

<sup>62</sup> CBS News documentary obtained by TransArms (broadcasted July 8, 1984) clearly shows the flight number, the secret instructions that directed the pilot to divert the aircraft to Palmarola from its stated destination, and the summary of logs filed to the US Civil Aeronautics Board in which Tegucigalpa (TGU, Toncontin Intl.) is mentioned as the destination of the SAT flight coming from PTY (Panama Herrera airport).

<sup>63</sup> See Gerth, J., P. Taubman, "Ex-U.S. Intelligence and Military Personnel Supply Anti-Nicaragua Rebels", *New York Times*, November 8, 1983. One of these planes, a Cessna 404, crashed while bombing Managua airport September 8, 1983. Another one, a DC-3 (C-47 B-DK), crashed in Nicaragua's Matagalpa province October 3, 1983. The first aircraft was sold to the DoD contractor Investair Leasing Corporation (McLean, Virginia) by Summit Aviation in October 1982 and was then exported to "Central America" to the benefit of Eden Pastora's group ARDE (Alianza Revolucionaria Democratica). Summit Aviation (registered in the U.S. State of Delaware, Middletown, Summit Airport) was founded by the Dupont family in early 60s. A CIA proprietary, it engaged in the late 70s in training pilots for Somoza Debayle. Summit president, Pat Foley, was also involved in the choice of Vortex as an air services provider for NHAO (Michael B. Palmer's testimony, Kerry Report, Chapter 11, p. 126). Westair International was based in Monument, Colorado (Aero Transport DB) and was a DoD contractor.

<sup>64</sup> Including 100 81mm mortars, 150 60-mm mortars, 150 M79 grenade launchers, 150 machine guns, 30 57-mm recoilless rifles, 3,787 unspecified rifles, 20,000 Portuguese-made antipersonnel mines; 10,000 M79 grenades, 5,000 60-mm grenades and 3,000 81-mm mortar grenades; 6,700 pounds of TNT and 1,500 detonators; 1 million 7.62-mm rounds manufactured in Portugal, 1.5 million 7.62-mm rounds manufactured and acquired in Poland, 1.5 million 7.62-mm rounds manufactured and acquired in Romania, 50,000 unspecified cartridges, see DeYoung, K., "Lisbon Used in Contra Arms Scheme; Company Lists Guatemala as Buyer on Apparently Bogus Forms", *Washington Post*, January 17, 1987.

Photo 3. El Aguacate airfield in 1983



Credit: Air Combat Information Group (OAIG.org), photo US State Department

The operations that North and North's associates set up in Portugal were complex.<sup>65</sup> Richard Gadd, owner of EAST,<sup>66</sup> asked Southern Air Transport (SAT) to provide aircraft for the shipments, and SAT subcontracted<sup>67</sup> the first two flights (January 23 and March 19, 1985) to Arrow Air.<sup>68</sup> The weapons never arrived in Guatemala: they were diverted to Ilopango.<sup>69</sup>

Arrow made the flights with a DC-8-63CF registered as N6161A.<sup>70</sup> The other trans-Atlantic flights - from December 1985 to May 24, 1986 - were made by SAT's B-707s.<sup>71</sup> Each flight carried about 43 tons of arms and ammunition.

The operations yielded considerable profits for North's associates. According to records kept by Secord<sup>72</sup> for the period February 1985 and May 1986, revenues for seven airlift operations and sea voyages totalled USD14.1 million, netting a profit of USD2.3 million. Another twenty-four flights from Gulfport (Mississippi), Miami, New Orleans and Washington Dulles to Ilopango<sup>73</sup> were made from January 13 to

<sup>65</sup> Late in 1984, North's associates contacted a Canadian arms brokering firm, Trans World Arms (TWA), an outfit of Transamerica Ltd, and its dealer, Defex (incorporated in Portugal in 1978). Between December 1984 and July 29, 1985, North's associates sent to Defex ten end-user certificates signed by Guatemalan Army Gen. Cesar A. Caceres Rojas, who later denied their authenticity. Defex filed them to National Armaments Directorate of Portugal (Dec. 21, 1984 [3]; Feb. 14, 1985 [5]; April 10, 1985 [1]; July 29, 1985 [(1)], seeking licenses for the shipments of weapons from Portuguese, Polish, Romanian, and Chinese stocks. The Portuguese authorities cleared the shipments for transportation to Guatemala by both sea and air, some of the latter with stopovers in Santa Maria, Azores. The air shipments were cleared for departure from Lisbon airport March 19, and December 15, 1985; March 2, April 12 and May 24, 1986. The voyages to Honduras (May 7, 1985 and August 22, 1986) were performed by the Verail/Erria, the first as a chartered ship, the second as a proprietary of Hakim/Secord's Dolmy Business Inc. The second shipments never arrived in Honduras because the ship was ordered back by North and sent to Cyprus to wait for the possible release of hostages held by Hezbollah.

<sup>66</sup> After retiring from the US Air Force (September 1, 1982), Gadd worked for a subsidiary, Sumarico, of the US mercenary company Vinnell Corp. In 1983 Vinnell and Gadd founded American National Management Corp. (ANMC) and Gadd became the sole stockholder. Sumarico became an ANMC subsidiaries, along with Air Mach and EAST (registered in Florida and reinstated in 1991, file n. P34269, still active and based at Patrick AFB, FL, with Gadd as director). ANMC and EAST were awarded several US DoD contracts in the 1980s, see "US: Secret Task Led to Web of Firms; Virginian Ran Covert Missions", *Washington Post*, March 22, 1987.

<sup>67</sup> Declassified documents attached to Mulligan's testimony to the Congressional Committees, vol. 20, pp. 153-155; R. Gadd's testimony, vol., 11, p.203.. A Defex fax addressed to SAT and dated January 21, 1985 urgently requested the airline to provide time and flight number for the aircraft.

<sup>68</sup> Arrow Air was founded in 1947 and based in Miami, FL, and suspended operations in 1954. It was re-organized in 1981 and after various other changes became Arrow Cargo, a still active company (ICAO: APW). The company was owned by George E. Batchelor, also owner of Capitol Air (1981-1984) and International Air Leases, (1964-2005), a second-hand airliner leasing and sales companies (see "Batchelor's Miami airline empire", *Flight International*, October, 30, 1982).

<sup>69</sup> Clear signs of diversion emerge from the comparison of Lisbon airport records and SAT records filed to the US DoT for the same period. Lisbon airport's records indicate SAT-denominated flights from Lisbon to Guatemala, via Santa Maria, Azores, whereas SAT records indicate flights from Lisbon to Lajes, Azores (US 65th Airbase Wing) and then to Ilopango Airbase. The arrival at Ilopango of the May, 1986 flights has been confirmed in F. Rodriguez' testimony to the Congressional committee, vol. 23, p.761. See also DeYoung, K (January 17, 1987); US Department of Transportation, report to June 30, 1986. See *The Chronology* (1987).

<sup>70</sup> The aircraft was soon re-registered as N661AV.

<sup>71</sup> SAT likely used its B-707-369Cs, registration numbers N523SJ, N524SJ, and N525SJ, acquired in June, December, and November 1985, respectively, from Kuwait Airways (AeroTransport DB, ACAS DB). A SAT invoice to Udall Corp. for May 22 and May 24, 1986 for flights to Tel Aviv quotes two of those aircraft (the invoice was dated May 27, 1986, see Mason's testimony, vol. 17, p.1323.

<sup>72</sup> See Secord's testimony to the Congressional Committees, pp. 1135/7.

<sup>73</sup> US DoT records, *The Chronology* (1987): p. 308/9 and 325; Mason's testimony to Congressional Committees, vol 17, document p.1346. Duemling's testimony: p. 99.

May 23, 1986 by two SAT L-100-20/-30s<sup>74</sup> and an SAT DC-4,<sup>75</sup> leased by Gadd's AirMach on behalf of NHAO. MarkAir's L-100s<sup>76</sup> flew the last three flights for NHAO operations in June 1986.<sup>77</sup>

SAT pilots hired by Corporate Air Services<sup>78</sup> were also involved in combat missions, mainly involving the airdropping of arms and other equipment from Ilopango and El Aguacate to Contra units inside Nicaragua. According to the Congressional Committees' final report, ACE/Contras and SAT aircraft performed a total of 96 airdrop missions between March 23 and October 5, 1986, for a total of 295 tons of lethal cargo.<sup>79</sup> Support for the Contras also came from other sources, mainly Cuban expatriates and Contras-sympathizers,<sup>80</sup> including F.A. Conner Air,<sup>81</sup> adding several more flights to North's logistic operations (in particular to the "Southern Front," centered on Santa Elena airstrip<sup>82</sup>).

The Contras activities also included drugs-for-arms/money deals, through the initiative of Contra groups, in particular the main coalition FDN (*Fuerza Democrática Nicaragüense*) headed by Adolfo and Mario Calero. In addition, while servicing the NHAO re-supply chain and making arms shipments to the

#### Document 5. Secord's records on arms sales profit

Phase	Sell Price	Cost	Profit
Phase I (Sell: Feb 1985; Sell: April 1985)	\$2,596,175	\$1,636,881	\$959,294 or 30.3% gross (42.8% of cost)
Phase II (Sell: March 1985)	\$1,235,596	\$25,738	\$1,209,858 or 25.1% gross (33.5% of cost)
Phase III (Sell: June 1985)	\$6,497,512	\$3,150,512	\$3,347,000 or 18.8% gross (23.4% of cost)
Phase IV (Sell: November 1985)	\$2,255,200	\$1,007,200	\$1,248,000 or 11% gross (12.7% of cost)

Source: See Box 1 "Report of the Congressional Committees"

<sup>74</sup> Registration numbers N521SJ (serial 4250) and N251SF (serial 4590), see Aero Transport DB and Mason's testimony to Congressional Committees, vol 17, document p.1346.

<sup>75</sup> Registration number N88938 (serial 18385). See also Duemling's testimony, vol. 9, p. 99. The document does not mention the r/n but a "DC-4." The N88938 was the only DC-4 in the SAT fleet.

<sup>76</sup> See next paragraph for the history of MarkAir.

<sup>77</sup> CIA Cable dated June 24, 1986. See CIA, Inspector General (96-0143-Ig) (April 27, 1998).

<sup>78</sup> Formally, SAT pilots worked for Corporate Air Services (CAS) Inc., a still active company and based c/o an agent in Radnor, Pennsylvania. It was incorporated July 1, 1974 (ID 0600287) and at that time based in Quarryville, PA, 126 N. Tanglewood Drive. The company was apparently represented - in the deals between SAT and Gadd - by Edward T. de Garay and was a conduit for hiring pilots for Contras' missions. Documents found in the C-123K that crashed October 5 show CAS as the owner. The company was actually owned by Secord through other companies and ACE paid USD457,769 for its services. See Walsh, L. E., *Firewall* (1997): p. 21; *Report of the Final Report of the Independent Counsel for Iran/Contra Matters*, L.E. Walsh, Chapter 8 (1993); Langton's testimony to Congressional Committees, vol. 15, p. 669.

<sup>79</sup> SAT L-100s performed 2 missions, SAT/ACE-owned C-123Ks performed 22 missions, and ACE/FDN Caribou C-7s performed 72 missions. *Report of the Congressional Committees*, (1988), Chapter 3, Table 3-1, pp 79-81.

<sup>80</sup> According to US Customs documents, an aircraft chartered by a Miami-based anti-Castro group flew equipment destined to the Contras from Ft. Lauderdale to Ilopango March 6 and June 13, 1985, by an aircraft allegedly chartered from "American Transport." No such airlines existed at that time, but an "American Transport Corp." was incorporated November 8, 1976 in Florida (Miami) and dissolved November 14, 1986. Florida State Dept. records; Walcott, J., A. Pazzor, *Wall Street Journal* (1987). The group was called "Nicaraguan Anti-Communist Aid Committee" and was led by René Corvo [spelled Corbo in the Congressional Committees Report], a veteran of the ill-fated Bay of Pigs invasion of Cuba. See also *The Chronology* (1987), p. 88/89. Soon after the arrival at Ilopango the weapons were ferried to an airstrip at the Santa Elena ranch, a Contra's base in Northwestern Costa Rica, built by Hakim's Udall Corp.

<sup>81</sup> From August 1985 to November 5, 1985, F. A. Conner Air flew aids and equipment to Tegucigalpa and from October 8, 1985 operated four flights from New Orleans and Miami to Ilopango for the NHAO, using its DC-6s (Thomas V. Posey's testimony to the Congressional Committees, vol. 21, p. 112; NHAO director Duemling's testimony, vol. 9, p. 47). F. A. Conner Air Lines Inc. was incorporated in Florida September 17, 1948 (Florida State Dept. records, file n. 155980) by Francis Augustus Conner. Conner later founded (1972) Conner Aircraft (based at Miami Intl. airport, dissolved in 1974, reinstated in 1985 and re-dissolved in 1995, according to Florida State Dept. records) and F.A. Conner Airways Inc. (Florida State Dept. files, 1989). After Conner's death in 1992, F.A. Conner Airways was run by his wife Geneva until its dissolution in 1995 (Florida State Dept. records, file n. K68516). For Conner's history see: [www.ruudleeuw.com/faconner.htm](http://www.ruudleeuw.com/faconner.htm), by aviation photographer and researcher Ruud Leeuw

<sup>82</sup> The airstrip was inside a large farm previously owned by the Somoza family. John Hull, an American and Contras sympathizer, who had bought large amount of lands in Northwestern Costa Rica for tourist development projects, used other airstrips in his property to support the Contras (see Kerry Report, Chapter V, p. 53). Santa Elena airstrip was never completed as planned and in June 2, 1986 a C-123K piloted by William J. Cooper landed with a load of arms and was stuck in mud, requiring the intervention of a C-7 Caribou for transhipment. In September 1986, Costa Rican authorities seized and closed down the airstrip, located near Murcielago, police station and training camp 20 km South of the Nicaraguan border. See for the subsequent history of the property: Shannon, D., "Secret Contra Supply Airstrip in Costa Rica to Become a Park", *Los Angeles Times*, July 23, 1987; International Centre for Settlement of Investment Disputes (ICSID), *In the Matter of the Arbitration between Compañía del Desarrollo de Santa Elena, S.A. and the Republic of Costa Rica*, February 17, 2001.

Photo 4. Southern Air Transport's Boeing 707-369C N523SJ in Oklahoma City July 18, 1985



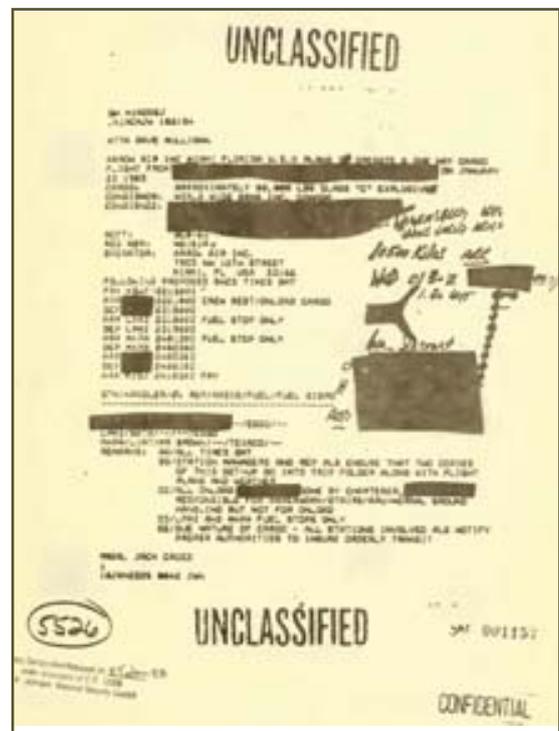
Credit: Bob Garrard, airlines.net

Contras, some companies and pilots engaged in drugs transport to the United States, as they had done "privately" in the past.

Despite their different conclusions, US official reports (namely the Kerry Report,<sup>83</sup> the CIA and Justice Dept. Inspector General reports<sup>84</sup>) and media inquiries<sup>85</sup> all found substantial evidence for Contra facilitation of drug-running operations, in exchange for arms and money. The extent to which Oliver North, CIA officials and North's associates knew about and condoned these activities is variously estimated, but evidence and testimony cast no doubt on the fact that they were aware of the problem<sup>86</sup> and either did not intervene or intervened to derail inquiries into possible Contra drug-running operations.<sup>87</sup> Evidence of Contra involvement in drug-running comes from various sources, including inquiries by US Customs, the DEA and the FBI, as detailed in the Kerry Report.

In addition to operations run by Contras in airports and locations to the Northern Front, of particular importance were those carried out for the Southern Front. The Kerry Report stated: "*The head of the Costa Rican 'air force' and personal pilot to two Costa Rican presidents, Werner Lotz, explained the involvement of drug traffickers with the Contras [...]. 'There was no money. There were too many leaders and too few people to follow them and everybody was trying to*

Document 6. World Wide Arms' fax to SAT executive Mulligan on Arrow Air flight



Source: See Box 1 "Report of the Congressional Committees"

<sup>83</sup> The inquiry (April 1986-December 1988) dealt with the broad issue of the sources and business/transport networks of drugs smuggled into the United States from various Latin and Central America countries and the role played in drug-running by companies hired by NHAO (see Kerry Report (1988), Chapter 5, "Narcotics traffickers and the Contras").

<sup>84</sup> See further in this section.

<sup>85</sup> See on the subject: Parry, R., "Nicaraguan Rebels linked to Drug Trafficking", *Washington Post*, December 27, 1985; Parry, R., "CIA Admits Tolerating Contra-Cocaine Trafficking in 1980s", [www.consortiumnews.com](http://www.consortiumnews.com) (*The Consortium*), June 8, 2000; Webb, G., *Dark Alliance: The CIA, the Contras, and the Crack Cocaine Explosion*, New York, Seven Stories Press, 1998 (the book is based on Webb's August 1996 series in the Californian newspaper *Mercury News* that prompted DoJ and CIA inquiries).

<sup>86</sup> See for example: National Security Archive, *The Iran-Contra Scandal: the declassified history* (1993), document dated April 1, 1985, memo from Robert Owen to Oliver North, on FDN leader Calero and drug trafficker Sebastian Gonzalez; document dated February 10, 1986, from Owen to North on NHAO-contracted Vortex and his manager Michael Palmer, a major smuggler of drugs into the United States.

<sup>87</sup> CIA and Dept. of Justice General Inspector's inquiries (1996-1998) mainly focused on allegations of direct involvement in facilitating Contra-related drugs shipments to the U.S. by CIA and other US Agencies, such as the FBI and the DEA. Both inquiries concluded that no sufficient evidence existed for supporting the allegations, at least in terms of internal CIA, FBI, and DEA documents and witnesses testimonies. Those conclusions were sometimes at odd with the evidence gathered by the same inquiries and by the Congressional Committees'.

make money as best they could.' [...] Lotz said that Contra operations on the Southern Front were in fact funded by drug operations. He testified that weapons for the Contras came from Panama on small planes carrying mixed loads which included drugs. The pilots, uploaded the weapons, refuelled, and headed north toward the U.S. with drugs."<sup>88</sup> José Blandon, former Consul General of Panama to the United States, further testified that both Honduran and Costa Rican airstrips were used for smuggling arms to the Contras and drugs to the United States.<sup>89</sup> Among the companies that were part of the US-supported Contra supply

#### **Box 4. Arms and Drugs: Hondu Carib Cargo**

As reported by an extensive inquiry carried out by the US Custom Service in May 18, 1983,<sup>1</sup> Hondu Carib Cargo Inc. was not officially based in Honduras but in Gran Cayman (PO Box 694). The company was owned by Atlas Aviation, the final designation of a firm previously called Waymac Services, Aircraft Surgeon's and Waymac Enterprises, registered in Georgia and Mississippi and owned by pilot Frank Verdame Moss and two other Moss partners, Guy Penilton Owen and Jim Jenkins. Moss, Owen, and Jenkins were involved in drug trafficking, according to several different US Customs inquiries. Owen registered various aircraft under his name and other companies (DC-3s and Beechs) and Jenkins owned "Jim Jenkins Aviation" (presently called Jim Jenkins Air Service and based at Hawkins Field, near Jackson, Mississippi).

The Kerry Report - apparently by mistake - stated that Frank Moss, while working with NHAO-hired SETCO, founded "his own company," Hondu Carib, in 1985. However, the report stated that Hondu "flew supplies to the Contras, including weapons and ammunition purchased from R. M. Equipment, an arms company controlled by Ronald Martin and James McCoy. The FDN's arrangement with Moss and Hondu Carib was pursuant to a commercial agreement between the FDN's chief supply officer, Mario Calero, and Moss, under which Calero was to receive an ownership interest in Moss's company. The Subcommittee received documentation that one Moss plane, a DC-4 N90201, was used to move Contra goods from the United States to Honduras." Further inquiry by Amnesty shows that Hondu Carib Cargo Inc. was in fact founded January 13, 1982 and registered in Cayman Islands January 19, 1982 (Cayman Islands General Registry file 7684).

According to the Customs inquiry, Hondu Carib Cargo Inc. owned the C-54D-DC (a military variant of the DC-4), with r/n N90201, tracked by the Kerry's inquiry as the plane that on February 28, 1985 flew various tons of military equipment and ammunition from Miami to Tegucigalpa, with as consignee Honduras Air Force (R.M. Equipment shipper document, with US

State Dept. export license 2 58252, vol. 1 p. 256). In May 1983, Customs officials inspected the aircraft during a stopover in Mobil, Alabama en route to Hawkins Field and questioned Moss and Owen. Moss declared that he was a pilot hired by Hondu Carib Inc., doing work for a Tegucigalpa company called SETCO Aviation, importing rare woods from Honduras, but later stated that SETCO was importing shrimp. Moss also stated that he was a mechanic with Hankins Aviation. Both declarations were false, as ascertained by Customs when they inspected the N90201 and found the proprietary documentation quoted above. It was at Jenkins' facilities, according to Customs, that the plane (which had a cargo door for airdropping) was fitted with then sophisticated avionics, allowing the plane to operate at night.

Hondu Carib Cargo Inc. was later incorporated in Georgia, US, May 27, 1988 (Georgia State Corporate Registry n. J810118, domicile in Griffin, GA) and dissolved July 5, 1999. Its registered CEO was Frank Moss (then residing in Charlotte, Florida). Hondu Carib was also associated with Great Southern Cargo Airways, founded in 1983 and incorporated in Georgia July 14, 1986, (n. 8610667) and dissolved July 1, 1993. Both companies applied for a license to the Canadian Transportation Agency (Decision N. 1990-A-680, November 20, 1990 and Decision 572-A-1996, November 22, 1996). Cayman Registrar struck off Hondu Carib Cargo Inc. on September 28, 1990. During Contras operations, Hondu Carib operated from the Tula airstrip, near the shore of Honduras' northeast Caribbean coast.

<sup>1</sup> Kerry Report, Annexes to vol. 1, pp. 278-293.

<sup>88</sup> See Kerry Report (1988), Vol. 1, p. 41.

<sup>89</sup> Sen. Kerry asked: "Are you referring to Mike Harrare?" and Mr. Blandon replied: "Yes, I'm referring to the Israeli citizen who has business with Noriega in Panama for a series of companies for arms contraband, smuggling to supply arms to Central America [...] And moreover, those planes were used for other things." [Sen. Kerry:] "When you say 'other things,' what do you mean?" [Mr. Blandon:] "Drugs." See Kerry Report (1988), Vol. 3, pp. 18/19. "Mike Harrare" was actually Michael Harari, a former high ranking official in the Israeli secret service Mossad, close to Panamanian dictator and convicted drug trafficker Noriega.

chain and were running drugs at the same time, there were three relatively small aviation companies, Hondu Carib Cargo Inc., SETCO (still formally active) and Miami-based Vortex/Universal (presently active as Vortex II). NHAO paid SETCO USD186,000 and Vortex USD317,000 for air transport services.<sup>90</sup> According to DEA records and the CIA Inspector General Report,<sup>91</sup> SAT's crews were also alleged to be involved in drug-running.

#### **Box 5. Arms and Drugs: SETCO, MarkAir, Vortex Air**

**Servicios Ejecutivos Turisticos Commander** (SETCO) was founded in 1981 in Honduras by the several times-indicted drug trafficker and billionaire Juan Ramón Matta Ballesteros, through front men José and Manuel Pérez. According to the US Customs inquiry, SETCO Aviation was a corporation formed by American businessmen "who are dealing with Juan Matta Ballesteros and are smuggling narcotics into the United States." Matta was responsible for "the murder of DEA agent Enrique Camarena ...and was extradited to the United States in 1988 and convicted on drug trafficking charges." According to the Kerry Report, "SETCO had a long-standing relationship with the largest of the Contra groups, the Honduras-based FDN. Beginning in 1984, SETCO was the principal company used by the Contras in Honduras to transport supplies and personnel for the FDN, carrying at least a million rounds of ammunition, food, uniforms and other military supplies for the Contras from 1983 through 1985 [...] SETCO received funds for Contra supply operations from the Contra accounts established by Oliver North." At the time of the Contra operations, SETCO had a fleet of DC-3/C-47s and Rockwell 500S Shrike Commander and Aero Commander 560E. Ballesteros also owned the Colombian (Bogotá-based) company Interamericana de Aviación, with a fleet of DC-4s. In 2009, SETCO's DC-3s were sold to a company founded the same year, Aerovías Centroamericanas, based in Tegucigalpa.

**MarkAir** (1932/1947 and 1984-1995) was formed through a series of assets' passages among different companies, beginning with the foundation of Interior Airways (1947, Fairbanks) which carried cargo within Alaska. In 1972, the company sold part of its assets to Alaska Airlines and became Alaska International Airways. In 1984, the company was renamed MarkAir, based in Anchorage, Alaska, and later also in Denver, Colorado, with a very large fleet of Boeing 727s, 737s, and 767s; L-100s (-20 and -30 – one leased from Southern Air Transport); an L-1049H (leased from Flying Tigers); an L-188 [?]; C-46s and 47s of various models. According to the CIA Inspector General's report (§ 909-912), the US Customs Services "strongly" suspected the company as the owner of an aircraft that "had been used in 1984 to smuggle cocaine into the United States from South America." According to US Customs, the aircraft was sold that same year by Markair to "a large scale drug trafficking organization recently convicted in federal court." The Anchorage Daily News and Washington Post (July 27, 1986) reported the story of MarkAir's pilot, Ken Francis, fired by the airlines "for declining to fly a cargo plane from Detroit to a military base in Honduras [El Aguacate]." The aircraft, an L-100, was chartered by the US State Department. The company was owned by Neil Bergt.

**Vortex Air International** started operations in 1967 and was based in Miami, Florida. It was associated with World Air Leasing, Universal Air Equipment Leasing and Cargo Transport Leasing. Its small fleet included, in various periods, four DC-6As and one DC-6B, two C118A-DOs (Liftmaster) and a Martin 404. According to Florida State Corporate Registry, Vortex Air International Inc. (ID number M22978, based in Miami) was incorporated November 5, 1985 and dissolved November 14, 1986. It was reinstated December 12, 1986, and dissolved August 25, 1995. Its registered officials were Andrés A. and Alberto Prados Herreros, both domiciled in Miami. The company was partly owned by convicted drug trafficker Michael Palmer. The Florida State Registry also includes a Universal Air Equipment Leasing Inc. (ID number M45871, based in Miami), incorporated February 2, 1987 and dissolved November 4, 1988; reinstated January 11, 1991 and re-dissolved August 25, 1995. Its directors were Jaime Orellana and Alberto Prados Herreros. Palmer and Prados Herreros also founded "Direct Cargo Inc.," incorporated in Florida May 3, 1993 (file n. P93000032564, based at the same address Herreros used in the Vortex application) and dissolved August 25, 1995. Alberto Herreros was also a director of Vortex II Inc. - incorporated in Florida January 21 1998 (file n. P98000006440, and based in Miami), dissolved September 24, 1999, reinstated August 6, 2001 and still active. He also founded Lomax International Inc., allegedly a marketer of arms manufacturer Arsenal (Bulgaria) - incorporated, dissolved and reinstated in Florida the same dates as Vortex II.

<sup>90</sup> See Kerry Report (1988), p. 43.

<sup>91</sup> A February 23, 1991 DEA cable to CIA linked SAT to drug trafficking. The cable reported that SAT was 'of record' in DEA's database from January 1985-September 1990 for alleged involvement in cocaine trafficking. An August 1990 entry in DEA's database reportedly alleged that USD2 million was delivered to the firm's business sites, and several of the firm's pilots and executives were suspected of smuggling 'narcotics currency.' (CIA Inspector General Report, §907).

## 2.4 Flying missiles and explosives to Iran

Several countries were involved in the supply chains that fed the Iran-Iraq war in the 80s, making it longer and deadlier (for the added reason that chemical warfare was used, which resulted in hundreds of thousands of civilian casualties).<sup>92</sup> The arms supply chain from the United States and Europe to Iran did not start in 1985 with the secret US-Iran deals (aimed at freeing the US hostages held in Lebanon, in exchange for sensitive military equipment). The supply chain had already been in operation since the beginning of the war. Arms dealers and manufacturers sold billions of dollars of armaments to both sides.<sup>93</sup> Iran had received arms since 1981, as revealed in July 1981 when an Argentinian plane that had transported Israeli arms to Tehran crashed inside USSR airspace near Yerevan.<sup>94</sup> Armaments for Iran had already been brokered between 1983 and 1984 by some of the main actors who later participated in the US-Iran secret deals, using a re-supply network previously established by other arms dealers and Israeli officers.<sup>95</sup> In 1984, the US-based company GeoMiliTech Consultants Corp. (GMT)<sup>96</sup> partnered up with the above-mentioned Karl-Erik Schmitz<sup>97</sup> (ScanCom) and the Israel Military Industries<sup>98</sup> to provide Iran with propellant for howitzers (2,000 tons), later sent to Iran by sea.<sup>99</sup> The deal was managed by GMT's

Document 7. First page of the US Customs inquiry on Hondu Carib's N90201



Source: See Box 1 "Kerry Report."

<sup>92</sup> Amnesty International *Annual Report, 1989*.

<sup>93</sup> See, for example, Hartung, W.D., *And Weapons for All*, HarperCollins, 1994; Miller, *Export or Die, Britain's Defence Trade with Iran and Iraq*, Cassell, New York, 1996. See also for the support Saddam's war machine received by several countries: Timmerman, K., *The Poison Gas Connection*, report, Simon Wiesenthal Center, 1990; US Congress, *U.S. Chemical and Biological Warfare-Related Dual-Use Exports to Iraq*, US Senate, 1994; Phythian, M., N. Passas, *Arming Iraq, how the US and Britain secretly built Saddam's war machine*, Northeastern University Press, 1997; and the series published by the German newspaper *Die Tageszeitung*, December 17-20, 2002.

<sup>94</sup> July 18, 1981, loaded an Argentinian CL-44D4-6 transport plane (r/n LV-JTN,) loaded with arms and belonging to the Buenos Aires-based *Transporte Aéreo Rioplatense*, TAR, 1970-1989) crashed 31 miles from Yerevan after entering by mistake the USSR airspace while following a Northern route (to avoid the Iraqi-Iranian war zone) from Tehran to Larnaca, Cyprus. The chartered aircraft was at its fourth arms trip (the previous ones took place July 11, 13 and 14, declaring a 9.7 ton cargo of pipes the first time and empty flight the remaining ones) to Tehran from Larnaca, carrying US-made tanks spare (part of a USD28 million deal for 360-ton tanks parts, brokered in London by Israeli and Iranian middlemen and carried out by Stuart McCafferty, a Miami-based Scotsman, and Andreas Jenni, a Swiss arms dealer). The spare parts were picked up in Tel Aviv and re-routed through Larnaca airport and the Turkey airspace. The plane crashed after scrambled Soviet jet fighters hit it, believing it was an intruding spy-plane that had ignored orders to land. Three Argentinian crew and McCafferty were killed (see: Oberg, J., *Uncovering Soviet Disasters. Exploring the limits of Glasnost*, Random House, NY, Chapter 3, 1988; "Britain asks Moscow for Details of Plane Crash", *Sunday Times*, July 27, 1981; *The Cyprus Weekly*, July 20, 1981); Aviation Safety Network; Aero Transport DB.

<sup>95</sup> Involved in early attempts to sell weapons to Iran and support the Contras were Adnan Khashoggi and Manucher Ghorbanifar (who also played a leading role in the fabrication of evidence to support the US invasion of Iraq in 2003); Yaacov Nimrodi (former Israeli defence attaché in Teheran); Adolph Schwimmer (Special Advisor to Israel's Prime Minister Shimon Peres); and Amiran Nir (advisor to Shimon Peres on counterterrorism. See: Block, Alan A., "The origins of Iran-Contra: Lessons from the Durrani Affair", in *Crime, Law & Social Change* 33 (2000): 53-84. See also Lifschultz, L., S. Galster, A. Rabia, *Bordering On Treason? The Trial and Conviction of Arif Durrani*, East Haven, Connecticut: The Pamphleteer's Press, 1991: p. 40.

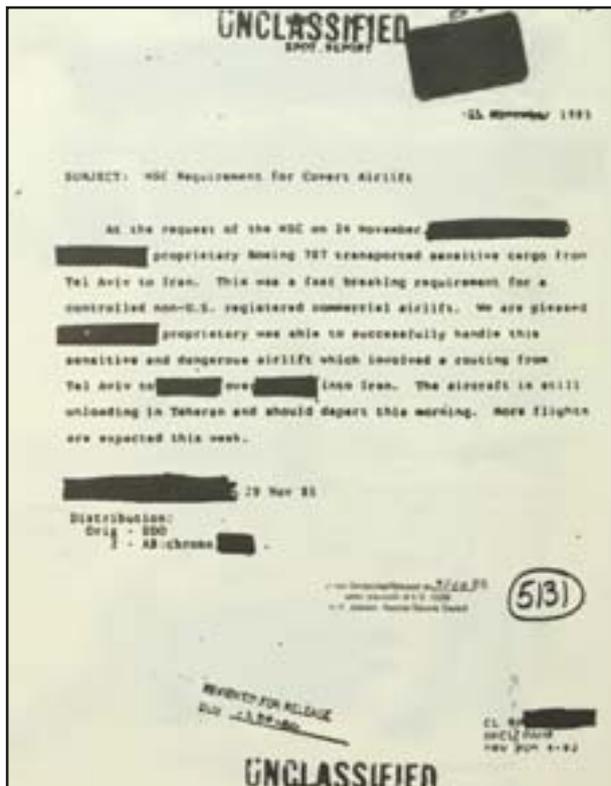
<sup>96</sup> Incorporated in Delaware August 15, 1983 (File 2015058, filed forms until 2007) and managed by Barbara Studley. See also Musak, A. F., R. Castle, *Eastern Europe's Arsenal on the Loose. Managing Light Weapons Flows to Conflict Zones*, BASIC Papers, May 1998. According to Klare and Anderson (*A Scourge of Guns*, 1996, Chapter 6), GeoMiliTech bought USD5 million from Poland for the Contras. For other GMT deals see US Congressional Committees, *Extended Chronology*, voll. II and III; Cline's testimony, vol. 5. The deal is described in Block, Alan A. (2000).

<sup>97</sup> After the Swedish Customs inquiry on his illegal shipments to Iran, Schmitz moved to Switzerland, where his Friburg-based company, Scancom SA, was liquidated December 17, 1997. See *Feuille officielle suisse du commerce*, January 23, 1998. See also "Sweden Charges Israel Sold Arms to Iran", *Los Angeles Times*, December 03, 1987; "Gli 007 svedesi d'accordo con il SISMI per vendere armi all'Iran" [Swedish and Italian secret services made agreements to sell weapons to Iran], *La Repubblica*, September 27, 1987; "Indagine sulle armi, cade il segreto di Stato" [Inquiry on arms: Secret of State removed], *La Repubblica*, March 3, 1989.

<sup>98</sup> The Israeli government provided aircraft and additional weapons for the hostage-for-arms deals with Iran. See Beit-Hallahmi, B., *The Israeli connection*, New York, Pantheon Books, 1987, pp. 90-96; Woodward, R.L., "CIA Sought Third-Country Contra Aid", *Washington Post*, May 19, 1984; Taubman P., "Israeli Said to Aim Latin Aims of U.S.", *New York Times*, July 21, 1983.

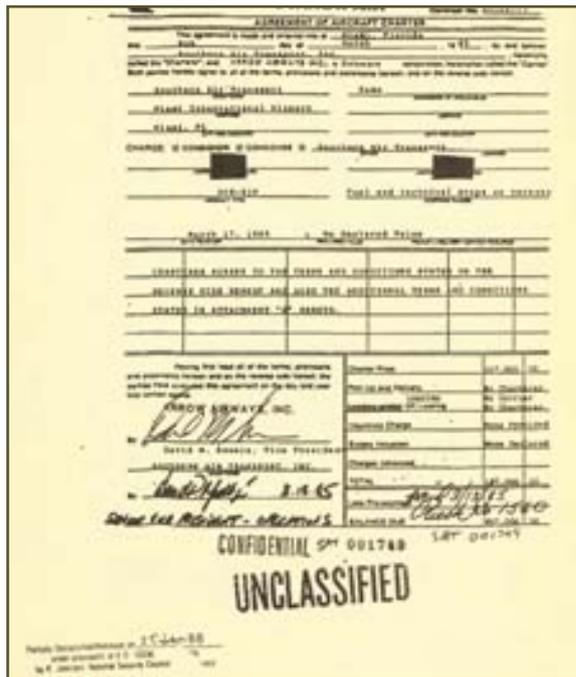
<sup>99</sup> As stated above, many other ships later delivered explosives to Iran through the same networks. For example, MV *Gritt-Clipper* (IMO 6805165, name-change in 1986 as Fokion) made two trips to Iran in June and July, 1986: the first trip with 2.3 ton of high explosive, 40 tons of smokeless propellant powder and primers, provided by Royal Ordnance - when it was still a UK State-owned company -, Muiden Chemie (Netherlands), and Gechem (Belgium), with the cargo loaded at Ridham Dock (Sittingbourne, Kent), and Zeebrugge, and a route calling at Santander, Cadiz, Ploče, Pireus, and Bandar Abbas; the second trip with 65 tons of explosives (brixal powder), from Royal Ordnance to the National Defence Industrial Organisation of Iran (see Blackhurst, C., "Government firm broke UN weapons embargo. Arms to Iran: Royal Ordnance defied guidelines designed to curb Gulf war", *The Independent*, October 30, 1995). See also: Chambre des Représentants de Belgique, *Enquête Parlementaire* (1989). Wines, M., D. Mcmanus (November 6, 1986).

Document 8. NSC Requirement for covert Airlift



Source: See Box 1 "Report of the Congressional Committees".

Document 9. Agreement between Arrow Air and SAT



Source: See Box 1 "Report of the Congressional Committees"

consultant Maj. Gen. (Ret.) John K. Singlaub,<sup>100</sup> who was one of North's associates and a Contra fundraiser.

The airborne component of the supply chain was substantial and mainly involved Southern Air Transport (SAT), Saint Lucia Airways (STL) and El Al, with other airlines<sup>101</sup> occasionally providing aircraft for arms shipments to Iran. Aircraft operated by STL, SAT, and El Al transported missiles and missile spare parts at the request of the US officials in charge of implementing the secret US-Iran deals, who included National Security Adviser McFarlane, Oliver North and North's associates.

According to available evidence,<sup>102</sup> STL's<sup>103</sup> and SAT's B-707s, People Express aircraft<sup>104</sup> and a Race Aviation B-707,<sup>105</sup> as well as Israeli-chartered B-707s and B-747s, carried out at least 12 different missions related to arms deals with Iran between July 1985 and November 1986. Documented flights with arms intended for Iran's armed forces occurred on the following dates:

- July 1985, and August 13, 1985, both by STL and ScanCom, from Lille (LFQQ) to Athens (LGAV) with 30 tons of explosives and 1 million detonators, transhipped to Bandar Abbas port.
- August 20, 1985, by chartered aircraft, from Tel Aviv (LLBG) to Tehran (OIII), with 96 TOWs.
- September 14, 1985, by chartered aircraft with 408 TOWs, from Tel Aviv to Tabriz (OITT).
- November 22, 1985, by El Al, from Tel Aviv to Lisbon (LPPT), with 80 HAWKs, aborted.
- November 23/25, 1985, by STL from Ostend (EBOS) to Tel Aviv, Larnaka (LCLK), Tehran, with 18 HAWKs.

<sup>100</sup> See footnotes 50 and 51.

<sup>101</sup> See further in this section.

<sup>102</sup> The list has been compiled from information scattered in the testimonies to the Congressional Committees and from National Security Archive's *Chronology* (1987).

<sup>103</sup> See Box 6.

<sup>104</sup> People Express (1980-1987) was incorporated in New Jersey and based in Newark Intl. Airport. The company was one of the first low-fare passenger airlines, with a large fleet of B-747, B-727, and B-737. It went bankrupt in 1986/1987 and was bought by Texas International and was later integrated with into Continental Airline. See: *Flight International*, March 30, 1985; Aero Transport DB.

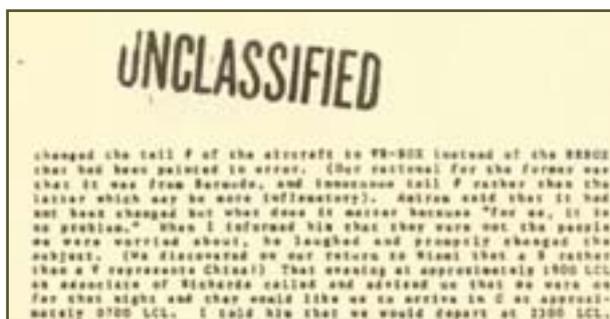
<sup>105</sup> Race Aviation (1984-1995) was incorporated in California January 24, 1984 (file C1236619) and was owned by Farhad and Farzin Azima, mentioned in November 1986 by Iranian House Speaker Rafsajani as providers of arms for Iran. Farhad Azima was also the CEO of Global International Airways (1978-1984), predecessor of Race Aviation. Farzin Azima later founded Johnsons Air (ICAO: JON, Ghana-registered, Accra and UAE, 1995-2008, Airlift International after 2008). See: Pound, E.T., D. Rogers, "Ex-CIA Officer Clines Emerges as Figure In Covert Security Council Operations" *Wall Street Journal*, January 2, 1987; Ottaway, D.B., W. Pincus, "Shipments Encouraged Black-Market Suppliers," *Washington Post*, November 20, 1986; McManus, D., G. Shaw, "Secret Iran Talks Began Last Year," *Los Angeles Times*, November 9, 1986.

- February 15/16, 1986, by SAT, from Kelly AFB (KSKF) to Gander (CYQX) and Tel Aviv with 1,000 TOWs and then to Bandar Abbas (OIKB) and Tehran, with 500 TOWs. Return flight with 17 of the previously delivered HAWKs rejected by Iran.
- February 27, 1986, by chartered aircraft, from Tel Aviv to Tehran, with 500 TOWs.
- May 22, 1986, by SAT from Kelly AFB to Tel Aviv, with 508 TOWs as replacements for Israel.
- May 23/25, 1986, by STL from Ostend to Ramstein (ETAR), Tel Aviv and then with SAT crew to Tehran, with McFarlane and North and HAWK spare parts.
- July 3, 1986, by Race Aviation from Madrid (LEMD) to Tehran, with 23 tons of arms.
- August 30, 1986, by People Express from Newark (KEWR) to Brussels (EBBR), with HAWK spare parts and electronics.
- October 28, 1986, by SAT from Kelly AFB to Tel Aviv with 500 TOWs.
- November 8, 1986, by STL from Ostend to Tel Aviv and, on November 11, from Tel Aviv to Tehran, with 500 TOWs).

For the last leg from Israel to Iran, most of the aircraft followed circuitous routes in order to conceal their provenance, which entailed landing in Cyprus and overflying Turkey or following a southern route through Eilat, the Red Sea and Oman to reach Bandar Abbas. For the sensitive portions of the flights some of the aircraft had their markings "sanitized" by repainting the body and applying false registration numbers.

In February 1986, for example, two of SAT's B-707s (N523SJ and N525SJ, white-/gray-painted) flew twice from Kelly AFB to Tel Aviv, where the one that had to fly the route to Iran had its registration number (r/n) repainted. Paul Gilchrist, chief pilot of the mission and SAT Vice President for Flight Operations, had requested - according to his report on the mission<sup>106</sup> - that the r/n painted on the plane for the first flight

Document 10. SAT pilot reports on painting fake r/n for the flight to Israel and Iran



Source: See Box 1 "Report of the Congressional Committees"

(a fantasy BRBOX, with the first letter B indicating either China or Taiwan) be changed to VR-BOX, with VR-B indicating at that time<sup>107</sup> a more innocuous Bermuda-registered aircraft (which really existed until the end of 1985).<sup>108</sup> For some reason, the BRBOX registration was not actually changed and Gilchrist noted that, on the way back to Tel Aviv from Iran via the Southern route, a Jaguar interceptor of the Oman AF scrambled to the aircraft and for a while its pilot, out of curiosity, followed the white, apparently Chinese, "B"-registered 707. "At one point - Gilchrist reported - /

Document 11. CIA's Air Branch memorandum, August 26 1985



Source: See Box 1 "Report of the Congressional Committees"

<sup>106</sup> See Mulligan testimony to the Congressional Committees, vol. 20, Gilchrist report at pp. 137-151.

<sup>107</sup> Bermuda call sign is presently VP-B. The VR-B call sign was valid until July 1997.

<sup>108</sup> It was a B-737-269, owned by a Bermuda-based company (Aero Transport DB and Airlines.net).

asked him as 'American' as I could if we could help him."

People Express,<sup>109</sup> Race Aviation<sup>110</sup> and some Israeli-chartered flights were organized outside the arms-for-hostages deals, but most were arranged by Oliver North and Richard Secord, whose logistics improvisations caused the US Administration severe embarrassment - including diplomatic incidents with Portugal (used as a transshipment point) and Iran (rejection of sub-standard and wrong equipment, complaints about overpricing, etc.). On November 22, 1985, for example, an Israeli Ministry of Defence-chartered Boeing-747 (belonging to El-Al) was sent from Tel Aviv to Lisbon, at Secord's request, with a cargo of 80 HAWK missiles destined for Iran. The missiles were supposed to be transferred in Lisbon onto DC-8-55 freighters Secord had planned to charter. Portuguese authorities refused to give a landing permit to the B-747 without an official request, and the aircraft turned back to Tel Aviv. At Secord and North's frantic request, the CIA Air Branch Chief asked Saint Lucia Airways - which had exclusive arrangements with the Agency - to send its B-707s (r/n N525EJ and J6-SLF) from Ostend, where they were based, to Tel Aviv.<sup>111</sup>

In Tel Aviv, the J6-SLF - a non-US registered aircraft - was loaded with 18 HAWK missiles. Turkish aviation authorities recorded that the J6-SLF overflew Turkish airspace en route from Cyprus to Tehran, where it landed on the night of November 24. Later, the Turkish authorities sent a USD460 overfly bill to St. Lucia authorities, believing the aircraft was owned by the St. Lucia government.<sup>112</sup> After the November flights, the Saint Lucia Airways manager complained to a CIA Air Branch Chief that the mission had been organized



St. Lucia Airways plane photographed at Ostend, Belgium.

## Tiny St. Lucia Airline Used in Iran Missions Officials Deny Government Links

By Ted Gup  
Washington Post Staff Writer

Some employees at St. Lucia Airways, a tiny Caribbean-based airline, called them "special flights" because they took priority, disrupted scheduled cargo runs and were handled by select crews who kept the details to themselves.

Some employees heard only rumors about the flights. One crew had gone to Iran. Another had just returned from Israel. But it wasn't until the U.S. sales of arms to Iran became public that they began to piece it together: the airline had some kind of role in the secret shipments. But many did not realize the full extent of the airline's participation in secret U.S. operations.

Since 1985, St. Lucia Airways has been flying classified missions to strategically important regions of the world, according to present and former employees, U.S. military officials and a review of flight records in St. Lucia, Turkey and Belgium.

Those records show:

- On Nov. 25, 1985, a St. Lucia 707 flew to Tehran. That plane carried Hawk missiles in what turned out to be an unsuccessful bid to free U.S. hostages held in Lebanon, according to a congressional source. The Senate Select Committee on Intelligence report on the Iran-contra affair does not refer to the airline by name; the report calls it a "CIA proprietary."
- On May 23, 1986, the same St. Lucia plane flew from Belgium to Tel Aviv via a U.S. Air Force base in Germany. That coincides with a shipment of TOW missiles, sent by the CIA, to Tel Aviv, and the now-famous mis-

See AIRLINE, A12, Col. 1

<sup>109</sup> People Express flight PE008 flew from Newark to Brussels Zaventem, a shipment organized by Durrani through a freightforwarder, Merex Inc., and a fictitious consignee, "CAD Transportation." August 31, the cargo was stored at BruCargo and was consigned to Gaston Van De Meersche, in charge of air freight operations at the Antwerp-based company Comexas. Comexas expedited the cargo to Tehran in September, under instructions by Willy De Greef, Belgian representative of Rimalpi (subsidiary of the Portuguese Riesinvest). See Kranish, M., "Dealers Claim Link to US on Iran Sales," *Boston Globe*, February, 17, 1987; Chambre des Representants de Belgique, *Enquete Parlementaire* (1989). Merex Inc. was incorporated in California (Camarillo) in 1982. According to the company's website ([www.merexinc.com/profile.html](http://www.merexinc.com/profile.html)), it is providing logistic services for the US State and Commerce Departments, as well as the US Defense Security Assistance Agency and to several defence contractors.

<sup>110</sup> The Race-owned Boeing 707 made the flight to Tehran from Madrid, allegedly through Yugoslavia, carrying 23 tons of arms. The only B-707 Race owned at that time was the N345FA, a B-707-331C, with no Race markings (airliners.net, October 10, 1985, Amsterdam). Race Aviation was at that time serving cargo flights for Iberia Airlines in Madrid. See: Pound, E.T., D. Rogers, "Ex-CIA Officer Clines Emerges as Figure In Covert Security Council Operations," *Wall Street Journal*, January 2, 1987; Ottaway, D.B., W. Pincus, "Shipments Encouraged Black-Market Suppliers," *Washington Post*, November 20, 1986; McManus, D., G. Shaw, "Secret Iran Talks Began Last Year," *Los Angeles Times*, November 9, 1986.

<sup>111</sup> See the testimony to the Congressional Committees by CIA Air Branch Chief, vol. 4. pp 791-932.

<sup>112</sup> Gup, T., "Tiny St. Lucia Airline Used in Iran Missions," *Washington Post*, February 24, 1987. The long report and even its reference has been removed by the WP online archives and it is available only in microform in libraries' collections.

by Secord *"in an amateurish way"*<sup>113</sup> and the CIA Air Branch Chief refused to support any further operations without proper organization and a *"Finding"*.<sup>114</sup>

Spare parts for HAWK missiles, military electronics and spare parts for combat/interceptor aircraft (F-104 and F-4) were also shipped to Iran by other airlines. For example, Miami-based International Airlines Support Group (IASG)<sup>115</sup> and Jetborne International Inc.<sup>116</sup> shipped weapons and military electronics in 1985 and 1986, respectively.

In 1985 and early 1986, two other companies, Volcanair<sup>117</sup> (a DR Congo-based airline) and HeavyLift<sup>118</sup> (based in the UK), organized a total of twelve flights to Iran, using a circuitous route and two aircraft, a DC-8 freighter belonging to Volcanair and a Short SC-5 Belfast belonging to HeavyLift. The flights were reported as empty ferries from London and Brussels to Addis Ababa in Ethiopia, where the aircraft picked up military equipment and then flew to Bandar Abbas.<sup>119</sup>

Partially declassified documents reveal that arms flights were more lucrative than normal charters, in the years concerned. For example, SAT records show that North's associate companies EAST and Udall Corp. (owned by Gadd and Secord) were respectively charged USD484,000 and USD292,000 (prepayment) for the two February 15, 1986 and the two May 22 and 24, 1986 flights to Tel Aviv, all made by SAT B-707-369Cs, registered as N523SJ and N525SJ.<sup>120</sup>



Source: Washington Post, February 24, 1987

<sup>113</sup> See testimony of "Proprietary Manager" (actually Saint Lucia Airways' director Dietrich Reinhardt) to the Congressional Committees, vol. 21, p. 413 and 600; and testimony by "CIA Air Branch Subordinate," vol. 4, p. 1101. In his report to CIA Air Branch Chief, Reinhardt wrote: *"When he [Secord] called me over [...] I told him to go on [...] and forget about this. I made the decision we don't continue with this because we deal with people here I don't know. [...] I just know that I was referred to somebody which I don't know, and maybe the agency knows more, but I was really upset that I was put in this situation where I risk the clandestine layout of the whole company just for a stupid flight like that"*. The company refused to service other four flights planned by Secord.

<sup>114</sup> A "Finding" is a presidential authorization to carry out covert operations. Reagan signed the Finding December 5, 1986, retroactively authorizing the CIA to carry out the secret deliveries to Iran. The CIA request was mentioned in "CIA Memorandum for the Record," dated December 6, 1985, annexed to the testimony to the Congressional Committees by CIA Air Branch Chief, vol. 4, p. 925. November 21, 1986, after the outburst of the Iran-Contra scandal, Poindexter - who had replaced McFarlane as National Security Adviser - destroyed the document because he *"thought it would be a political embarrassment"* for Reagan. See Poindexter testimony to the Congressional Committees, vol. 20, p. 1104.

<sup>115</sup> IASG Inc., a still active aviation spare part provider, was incorporated in Florida September 15, 1982 (file G00156) and based in Miami. September 15, 1985, a US-registered DC-8 belonging to IASG delivered weapons to Tehran. Turkish aviation authorities reported that the aircraft, supposed en route to Malaga, Spain, reported a communication problem and landed in Tel Aviv. IASG's owner, Richard Wellman, stated that he had sold the plane in August 1985 to a company called "International Air Tourism of Nigeria." See: Wines, M., D. McManus, "U.S. Sent Iran Arms For Hostage Releases," *Los Angeles Times*, November 6, 1986; McManus, D., G. Shaw, "Secret Iran Talks Began Last Year," *Los Angeles Times*, November 9, 1986.

<sup>116</sup> Jetborne Inc. was incorporated in Florida April 29, 1980 (file n. 668266). Jetborne International Inc. was incorporated in Florida February 18, 1987 (file n. P13311). Jetborne's owners, Allen and David Blattner, also incorporated several other companies, including an African Trans Airlines Inc. (incorporated July 9, 1992, with an address in Miami Springs). US Customs and SEC inquiries carried out in 1990, indicted Jetborne for an illegal shipment of spare parts to Iran in 1986. In 1990, before the indictment, Kashoggi invested in both Jetborne and IASG. See: Zisser, M. "Jetborne may face charges on sale to Iran," *South Florida Business Journal*, February 25, 1991; Zisser, M., "Int'l Airline Support Sued Over Jetborne Deal," *South Florida Business Journal*, May 4, 1992..

<sup>117</sup> Volcanair was based in Kinshasa (then Zaire) and its aircraft were frequent visitors at Ostend airport. The company was founded in January 1984 (as Virunga Air Cargo) and ceased operations in 1987. In 1982, Volcanair founded a US-based outfit for the ownership of its DC-8-55F (r/n N902R).

<sup>118</sup> HeavyLift Cargo Airlines was founded in 1980 with assets from Transmeridian Heavylift (1978-1980) and based in Stansted, UK. It went out of business in 2002.

<sup>119</sup> The cargo included spare parts for F-104 and F-4 aircraft. See: Chambre des Représentants de Belgique, *Enquête Parlementaire* (1989): p. 123 and 334-336.

<sup>120</sup> Invoice dated February 28, 1986 to EAST; invoice dated May 27, 1986. See Mason testimony to the Congressional Committees, vol. 17, p. 1322 and 1323. Destination were blanked-out in the documents but Mason himself confirmed that the flights were destined to Israel (see Mason's documents at p. 1341 and 1342).

## 2.5 From Nicaragua's civil war to the "war on terror"

Notwithstanding the fact that their actions caused immense suffering to Nicaragua's civilian population and at the same time prolonged the war between Iran and Iraq (making it much more deadly too), most of the main players in the Iran-Contra scandal escaped justice or were later pardoned by President G. H. W. Bush.<sup>121</sup>

Two of them, Elliott Abrams<sup>122</sup> and John Pointdexter,<sup>123</sup> soon returned to serve other Presidents.

In November 2003, the United States Transportation Command awarded<sup>124</sup> Arrow Air and Southern Air - successors of the companies involved in the Contra and Iran arms supply chains - the "US Transportation Command Certificate of Appreciation" for their support in the "Global War on Terrorism" for operations "Enduring Freedom" and "Iraqi Freedom."

USTTRANSCOM last contract award (HTC711-11-D-C003) to Southern Air for airlift services worldwide was dated December 2, 2010.

### Document 14. The final truth

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA )  
v. ) Criminal No. 88-0080 -  
OLIVER L. NORTH, ) 93 - CAC  
Defendant. )

You are instructed that the United States has admitted for purposes of this trial the following facts to be true:

1. In 1983, DCI Casey asked Secretary of Defense Weinberger if the Department of Defense ("DoD") could obtain infantry weapons that Israel had confiscated from PLO forces. Following discussions between Major General Meron of Israel and Retired Major General Richard Secord of the United States government ("USG"), Israel secretly provided several hundred tons of weapons to the DoD on a grant basis in May 1983. This was known as Operation TIPPED KETTLE. In February 1984, the CIA again asked DoD if it could obtain additional PLO weapons from Israel at little or no cost for CIA operational use. After negotiations between March 1984 and July 1984, Israel secretly provided the additional weapons to DoD in Operation TIPPED KETTLE II. The DoD then transferred the weapons to the CIA. Although CIA advised Congress that the weapons would be used for various purposes, in fact many of

### Document 15. Continued

them were provided to the Nicaraguan Resistance as appropriated funds ran out. (The effort to funnel material to the Contras at a time when there were limits on the amount of funds the USG could spend to support the Resistance also found expression in 1984 in Project ELEPHANT HERD, under which the CIA was to stockpile weapons and material provided by DoD at the lowest possible cost under the Economy Act.) DoD assured Israel that, in exchange for the weapons, the U.S. Government would be as flexible as possible in its approach to Israeli military and economic needs, and that it would find a way to compensate Israel for its assistance within the restraints of the law and U.S. policy.

2. In late March 1984, National Security Advisor Robert C. McFarlane suggested that he pursue funding alternatives for the Resistance for use after Congressional funding ran out. McFarlane proposed putting a member of the NSC staff in touch with an Israeli official to pursue funding alternatives with the Israelis. In an "Eyes Only," Secret memo, DCI Casey agreed with McFarlane's proposal. Casey informed McFarlane that the CIA was exploring two alternative means of acquiring equipment and material from Israel for use by the Resistance after the funding ran out. First, the CIA was considering the acquisition from Israel of ordnance captured from the PLO. Casey advised McFarlane that in 1983 the USG had acquired some \$10 million worth of weapons and ammunition in this manner from the Israelis (in Operation

Source: District Court for the district of Columbia

<sup>121</sup> On December 24, 1992, President George Herbert Walker Bush (1989-1993) pardoned Caspar Weinberger, Robert McFarlane, Elliott Abrams, and CIA's officials Alan Fiers, Jr., Clair George; and Duane Clarridge, all accused of various crimes and obstruction of justice. Lawrence E. Walsh, the Independent Counsel, accused Bush to abusing his power: "The pardon power was never intended to be used to block the trial of an indicted defendant or to prevent the public exposure of facts". (Firewall (1997)).

<sup>122</sup> Elliott Abrams, was Assistant Secretary of State for Inter-American Affairs 1985-1989 and chairman of the RIG, Restricted Inter-Agency Group. He became Special Assistant for Democracy, Human Rights, and International Operations at the NSC on June 22, 2001; NSC's Senior Director for Near East and North African Affairs (December 2, 2002); and Deputy National Security adviser for Global Democracy Strategy, February 2, 2005.

<sup>123</sup> John Pointdexter, Navy Vice Adm., was deputy National Security adviser (1983-1985) and National Security adviser (December 1985-November 1986). He became Chief of the Information Awareness Office (Defense Advanced Research Projects Agency, DARPA) between December 2002 and August 2003 (George Bush Administration), after serving as an executive at the DoD contractor Syntek Technologies between 1996 and 2002.

<sup>124</sup> USTRANSCOM News Service, 031113-1, 13 November 2003.

## Box 6. From Nicaragua to Angola: Saint Lucia Airways, D. Reinhard and D. Tokoph

**Saint Lucia Airways** (or St. Lucia Airways, STL) was founded in 1975 and incorporated in St. Lucia<sup>1</sup> (PO Box 253, Castries, St Lucia). In 1984, its apparent owner was Ms. Allison Lindo, a St. Lucia resident (according to a document filed in the US by STL in 1984).<sup>2</sup>

The company shares were acquired in 1984/85 by a St. Lucia lawyer, Michael Gordon. Actual director of the company was Dietrich Reinhardt, a German, born in June 1946, presently a resident of Florida and a self-declared personal friend of Angolan UNITA chief Savimbi<sup>3</sup>. St. Lucia Airways had offices in Miami and in Frankfurt (as "Airline Consultants"),<sup>4</sup> and an operative office at the Ostend airport, Belgium,<sup>5</sup> where its B-707s and L-100/20 routinely flew until April 1987 (Ostend airport records, 1984-1987).

Until May 1987 the company was a contractor of the Belgian Sabena Airlines.<sup>6</sup> After revelations of its involvement in the illegal arms shipments to Iran, the company apparently ceased operations in May 1987. Florida Corporations Registry further shows that a company called Unitrans Intl. Inc., based in Punta Gorda, was incorporated September 2, 1976, with Dietrich Reinhardt as president and director.

The company was dissolved October 9, 1992. The same records also show that a company called Majus Aviation Inc. was incorporated August 22, 1988, same address and dissolution date as Unitrans. Dietrich Reinhardt and an attorney, Morris J. Turkelson (based in Littleton, CO), were listed as director and president, respectively.

In addition to the flights to Iran, STL operated covert flights for the CIA in DR Congo and Angola. St. Lucia government records<sup>7</sup> showed that January 29, March 21, April 5 and April 18, 1986, STL aircraft landed in St. Lucia en route to and from Kelly AFB and Cape Verde, a refueling point for flights to DR Congo, under assignment of the US Air Force.

The aircraft (B-707s and the L-100) then reached or departed from DR Congo's Kamina AFB. Over the years, STL operated various aircraft, registered in St. Lucia, Turks & Caicos and the United States. At the time of the flights to Iran, however, the company operated only two B-707s (r/n J6-SLF and N525EJ) and one L-100-20 (J6-SLO).

The St. Lucia's B-707 registered N525EJ was owned (like other aircraft in the St. Lucia's fleet) by Aviation Consultants, a company incorporated in Texas September 25, 1981<sup>8</sup> by pilot David P. Tokoph (then domiciled in El Paso, TX), a Oliver North associate and rumored as the real owner of Saint Lucia Airways. Tokoph later set up two other companies, Aero Zambia and Grecoair, both involved in arms trafficking for the Angolan rebel army UNITA.<sup>9</sup> In 1997, Tokoph acquired Interair South Africa,<sup>10</sup> based in Johannesburg and Lanseria airports.

<sup>1</sup> St. Lucia is an independent state inside the Commonwealth of Nations.

<sup>2</sup> Gup, T., "Tiny St. Lucia Airline Used in Iran Missions", *Washington Post*, February 24, 1987. St. Lucia premier, John Compton, in an interview to Gup, stated that Allison Lindo was a front owner.

<sup>3</sup> See Chambre des Représentants de Belgique, *Enquête Parlementaire* (1989): p. 352.

<sup>4</sup> Gup, T., *Washington Post* (February 24, 1987).

<sup>5</sup> See: CleanOstend at [www.cleanostend.com/](http://www.cleanostend.com/)

<sup>6</sup> See: Chambre des Représentants de Belgique, *Enquête Parlementaire* (1989): p. 123.

<sup>7</sup> Gup, T., *Washington Post* (February 24, 1987).

<sup>8</sup> Texas Secretary of State, Corporations, file n. 57951500.

<sup>9</sup> David and Gary Tokoph and partners Katumbi and Katebe Katoto were at the center of the arms and diamonds business carried out through Grecoair (founded in 1988), Aero Zambia (Lusaka, 1994-1998), and Seagreen Air Transport (Antigua & Barbuda, closed in 1997). In 1999, the Angolan government formally accused both companies of supplying UNITA rebels and violating the UN embargo. See: Peleman, J., "The logistics of sanctions busting: the airborne component". In Cilliers J., Dietrich, C. (eds), *Angola's War Economy*. Pretoria, Institute for Security Studies, 2000, p. 299 and p.314, notes 15 and 16; and Hillgartner, G., "Aero Zambia mystery trip to Asmara," *Africa Online Holdings*, May 25, 2001. According to Hillgartner and *Aviation Safety Network*, an Aero Zambia B-727 (r/n 5Y-BMW) was hit by an Ethiopian missile in Asmara, at the start of the Ethiopian-Eritrea war. The article also quotes the *Times of Zambia* (February 14, 1999) reporting that a Grecoair B-707 (r/n 5Y-BNJ), with Aero Zambia liver, had uploaded arms coming from Belgium in Johannesburg for transport to Huambo's UNITA headquarters in Angola. Further information in UN Security Council, Report of the Group of Experts on DR Congo, December 12, 2008, S/2008/773; IPIS website, CleanOstend website and Norwegian Initiative on Small Arms Transfers at [www.nisat.org](http://www.nisat.org).

<sup>10</sup> Aero Transport DB and Interair website [www.interair.co.za](http://www.interair.co.za).

### Box 7. St. Lucia Airways, Tepper Aviation and Dietrich Reinhardt)

Reinhardt and Turkelson did not go out of business, however, with the dissolution of STL. On June 10, 1991<sup>1</sup> a C-130A Hercules crashed during take-off from Luanda airport (FNLU) in Angola. US Congressman Curt Weldon (R-PA) investigated the crash, in which Weldon's nephew and other crew members died.<sup>2</sup> He discovered that the aircraft was at the center of a web of companies, all leading to Dietrich Reinhardt and the outfits that had hired crews in the US and Europe, supposedly for relief aid flights in Angola.

At the time it crashed, the Hercules was under contract by the Angolan government and operated on lease by a Saint Lucia-based company, Carib Air Transport Co. Ltd, incorporated in 1985 (file n. 095/1985, struck-off January 4, 2001).<sup>3</sup> The aircraft bear a St. Lucia registration (J6-SLQ).

In the first months of 1991, in a rapid sequence of events, the aircraft ownership passed from a Delaware-based company, in which Reinhardt was a partner, called CZX Productions (3422 Old Capitol Trail, Wilmington) to the above-mentioned Reinhardt's Unitrans (see Box 6). The registration number of the aircraft owned by CZX was N9724V<sup>4</sup> and Unitrans re-registered the aircraft in St. Lucia, as J6-SLQ, March 30, 1991. After the change, the aircraft was leased April 15, 1991 to a company called Questline, supposedly based, but never incorporated, in Florida.

The accident report for the Hercules was never made publicly available by the Angola government or the US authorities, despite the efforts by Weldon and the families of the other victims.

Another St. Lucia's L-100-20 (registration J6-SLO, later re-registered as N9205T, manufacturing number 4129) was eventually acquired (January 1988) by a company that was founded just after STL ceased operations: Tepper Aviation.

Tepper Aviation (still active) was incorporated in Florida July 2, 1987 by Bobby L. Owens (president) and Jack Owen (director). Tepper business seemed similar to the one STL had just left. The N9205T aircraft, carrying troops and weapons, crashed November 27, 1989 while approaching UNITA's Southeastern headquarters at Jamba, Angola, in a CIA covert and illegal re-supply mission.<sup>5</sup> The nominal head of Tepper at that time, Pharies "Bud" B. Petty, a veteran CIA pilot, was killed in the accident.<sup>6</sup>

Richard Kolb, in the May 1999 issues of *Veteran of Foreign Wars* magazine, wrote that "during 1990, the CIA began supplying additional weapons to UNITA using Tepper Aviation, based in Crestview, Fla. These so-called "gray ghost" flights became a daily routine. By June, three C-130 Hercules were taking off from Kamina Air Base for Jamba every day. According to one account, "The CIA furnished advisers who operated the military equipment."<sup>7</sup>

Tepper Aviation continued to serve the US intelligence community in various countries, including Iraq and Afghanistan, and participated in the infamous "extraordinary renditions" program and in the "War on Terror"<sup>8</sup>

<sup>1</sup> Aviation Safety Network.

<sup>2</sup> US Congressional Records, Special Orders, Curt Weldon speech, 1993-08-06

<sup>3</sup> St. Lucia Government Gazette, March 17, 2003

<sup>4</sup> For the previous history of this aircraft see: Titus, J. "Who's Who in the C-130 Scandal (an Update)", in Portland's Free Press, March/April 1997. The report is about missing C-130s planes from the US Forest Services assigned to covert operations with CIA, in a scheme to defraud the US Government

<sup>5</sup> George, A., "Angola CIA Hercules air crash kill Tepper Aviation Chief", *Flight International*, December 13-19, 1989

<sup>6</sup> Gup, T., *The Book of Honor: Covert Lives and Classified Deaths at the CIA*, p. 322-326, New York: Doubleday, 2000

<sup>7</sup> Kolb, R. K., "Into the Heart of Darkness: Cold War Africa Part 2, Angola." *VFW, Veterans of Foreign Wars Magazine*. May 1999

<sup>8</sup> See Claudio Fava, Rapporteur, European Parliament of the European Union's Temporary Committee "to investigate the alleged use of European countries by the CIA for the transport and illegal detention of prisoners", Brussels, 2006; Shane, S., Grey, S. and Williams, M., "C.I.A. Expanding Terror Battle Under Guise of Charter Flights", *New York Times*, May 31, 2005; Amnesty International/TransArms, "United States of America. Below the Radar: Secret Flights to Torture and 'Disappearance'". Amnesty International April 5, 2006.

## Box 8. From Nicaragua to the War on Terror: Southern Air Transport/Southern Air and Arrow Air

**Southern Air Transport/Southern Air.** The company was founded in 1947 and based in Miami, Florida. In 1960, it was acquired by the CIA, then sold to its previous owner, Stanley G. Williams, in December 1973 and privatized as a cargo carrier, following the inquiries on CIA covert activities by the Church Committee.<sup>1</sup> In 1979, Williams re-sold the company to an investment group led by James H. Bastian (SAT chairman from 1981 to 1998), an aviation lawyer who had worked for the CIA.

In 1983, to replace Williams (who remained on the board of directors, along with other former CIA operatives, including Hugh Grundy, former managing director of Air America Inc., a CIA proprietary), Bastian hired William G. Langton, who had previously worked for another CIA proprietary, the Flying Tigers, and eventually became the SAT president (1984-1995). Langton was the former VP for cargo sales at Evergreen International Airlines. In August 1985, Evergreen's vice-president of finance, Robert H. Mason, became SAT's vice-president and Comptroller (1986-1995) and Davew Mulligan became Chief of Operations (1985-1995). During its history, the company also received millions of dollars in defence-related contracts and was also active in Angola (for both the US and Angola governments) between 1984 and 1986.<sup>2</sup> The company maintained close relationships with South Africa's Safair during the apartheid regime and leased the L-100s used in the Contra re-supply chain from Safair.<sup>3</sup>

SAT's pilots – some with previous experience in Vietnam – also played an important role in the Iran-Contra re-supply chain, sometimes volunteering for risky missions outside those contracted by SAT. For example, William J. Cooper, SAT and Contra-contracted pilot, managed the Contra air operation and volunteered to continue his assignment when North and his associates ran out of operating funds (he died in the October 5 crash of the C-123K that exposed the involvement of the US in Contra operations). Paul Gilchrist, SAT's Chief of Flights, volunteered to transport missiles and US officials to Iran and piloted the "sanitized" aircraft that reached Iran in February 1986. Eugene Hasenfus, SAT's loadmaster and sole survivor of the October 5, 1986 crash, also volunteered to remain in the Contra re-supply chain, as did Cooper. Wallace B. Sawyer, one of the main SAT pilots, carried out several missions to Central America and Europe and he too died in the October 5 crash.

The Iran/Contra affair did not end SAT's relationships with the US government: in 1991, SAT aircraft participated in US logistic operations in support of the Gulf War against Iraq.

In October 1998, Southern Air Transport filed for bankruptcy in Columbus, Ohio. A group of investors that included former SAT executives acquired SAT's assets and route licenses March 10, 1999 and renamed the company Southern Air, with its base in Columbus. Southern Air's president, Thomas A. Gillies, has previously served as Southern Air Transport's VP for System Operations.<sup>4</sup>

**Arrow Air.** After its involvement in the Iran-Contra scandal, Arrow Air was reorganized in 1988 and operated until 1995, when it voluntarily grounded its fleet to avoid being closed down by the US Federal Aviation Administration for various safety problems and for falsely declaring the airworthiness of parts removed from a Boeing-727 of foreign origin (the company settled the dispute by paying a fine of \$5 million, see *Flight International*, May 13-19, 1998). In July 1998, Guillermo Cabeza became Arrow's president and CEO substituting the founder, J. Batchelor (*Flight International*, July 15-21, 1998). In the Spring of 1999, Arrow Air was acquired by Fine Air, which kept the name Arrow Air. The company was again in financial trouble some years later and filed for bankruptcy protection in January 2004. After another change in ownership, it was re-acquired by a group led by the former CEO, G. Cabeza. At the end of 2004, it re-started under the ownership of Arrow Air II LLC.<sup>5</sup> Since the early 80s, Arrow Air has been awarded hundreds of millions dollars in defence contracts.

<sup>1</sup> US Senate Select Committee to Study governmental Operations with Respect to Intelligence, "Interim Report: Alleged Assassinations Plots Involving Foreign Leaders", 1975; Staff Study, *Covert Operations in Chile 1963-1973*, 1975; *Final Report*, 1976.

<sup>2</sup> See: Prados, J. *Presidents' Secret Wars: CIA and Pentagon Covert Operations from World War II Through The Persian Gulf*. Ivan R. Dee Publisher, expanded and revised edition, chapter XVIII. (First edition 1986, New York, William Morrow, p. 374)

<sup>3</sup> *The Chronology* (1987).

<sup>4</sup> *Flight International*, March 21-27, 2000; April 3-9, 2001.

<sup>5</sup> Aero Transport DB; *Flight International*, March 16-22, 2004; Florida Corporations Registry, records from 1979 to 2008.



The 1994 truce was frequently violated<sup>133</sup> and skirmishes between Nagorno Karabakh forces and Azerbaijan's armed forces at border outposts periodically erupted.<sup>134</sup>

In the wake of the 1994 cease-fire and the agreement on weapons quotas that Armenia and Azerbaijan should observe as members of the Treaty on Conventional Armed Forces in Europe (CFE).<sup>135</sup> Armenia and Azerbaijan have frequently accused each other of violating those limits (in particular the limit of 220 tanks and 285 units of field artillery and mortars)<sup>136</sup>. The accusations reached a peak in February 1997, when Russian authorities themselves unveiled the details of a massive and illegal transfer of weapons from Russia military depots to Armenia.<sup>137</sup>

On March 13, the Russian defence minister Mr. Igor Rodionov "confirmed the fact of illegal supplies of Russian weapons to Armenia. The information on the supplies of the Russian weapons, including 84 T-72 tanks and 50 BMP-2 armoured infantry fighting vehicles, worth 271 billion roubles handed over to Armenia free of charge in 1994-1996, is presented in the letter by the defence Minister to Mr. Aman Tuleyev the Russian Minister on the CIS affairs, sent on February 28"<sup>138</sup>. This was when public exposure of the case began. A report on covert trade followed these revelations, prepared at that time by a former Lt. General and Chairman of the Duma Committee on Defence, Lev Jakovlevich Rokhlin.

Rokhlin gave his account on the covert trade on April 2, 1997, at the plenary meeting of the Russian State Duma, following an earlier decision of the same Duma to carry out an inquiry into the affair. After hearing the report, the Duma decided to prosecute those implicated.<sup>139</sup>

#### Box 9. Lev Jakovlevich Rokhlin

Born in 1947 in Aralsk, Kazakhstan, in 1995 - after a long career in the Soviet Armed Forces (serving in Germany, Leningrad, Turkestan, Afghanistan and then as one of the commanders in the Russian Federation's North Caucasian Military District) - he was elected a deputy of the Duma on the list of Our Home is Russia (Viktor Chernomyrdin's party) and was a strong supporter of then-Minister of Defense Igor Rodionov. In January 1996, he became Chairman of the Committee on Defense. He was an outspoken advocate of the need to stop the reduction of funds being allocated to the Defense Ministry in the federal budget. He also supported cleaning up the military establishment of the epidemic corruption that had characterized it under the tenure of Defense Minister Marshal Pavel Grachev, Yeltsin's protégé.

In July 1996 he delivered a shocking account to the Duma of various cases of corruption and fraud involving the military.<sup>1</sup> He cited a firm called Lyukon (as having received compensation for "phantom" work projects) whose co-founder was a son of Army General Konstantin I. Kobets, then Chief Military Inspector; General Vasili V. Vorobev, Budget Chief at the Defense Ministry (for the sale of ammunition to Bulgaria in which US\$23 million worth of taxpayers' money disappeared); General Dmitri K. Kharchenko (for frauds involving the Military Insurance Company); General Vyacheslav V. Zherebtsov, Chief of Mobilization (for establishing a battalion of "slave" soldiers and using it to make money by building dachas for other generals, four of which were for himself); General Vladimir T. Churanov, Chief of Rear Services and Supply (for misallocating Defense ministry apartments and Army surplus property sales).

<sup>1</sup> See Staar, R. F. "Russia's Military: Corruption in the Higher Ranks," Perspective, Volume IX, 2, November-December 1998, Hoover Institution and Boston University's Institute for the Study of Conflict, Ideology, and Policy.

<sup>133</sup> See: International Crisis Group (ICG), "Nagorno-Karabakh: Getting to a Breakthrough", *Europe Briefing* (EB) n. 55, October 7, 2009, p.2.

<sup>134</sup> See, for example: "5 Armenian militaries died and 3 injured from attacks on Azerbaijani National Army", *Trend News*, September 10, 2009.

<sup>135</sup> Treaty on Conventional Armed Forces in Europe, [www.osce.org/documents/doclib/1990/11/13752\\_en.pdf](http://www.osce.org/documents/doclib/1990/11/13752_en.pdf), (November 19, 1990 and successors (1992 and CFE-II, 1999). For Armenia's and Azerbaijan recent positions on CFE, see Peuch, J.-C., "Armenia, Azerbaijan mull CFE Treaty withdrawal in year of 'many uncertainties' for OSCE", *Eurasianet.org*, January 7, 2008; and Zellner, W., "Can this Treaty be saved? Breaking the Stalemate on Conventional Forces in Europe", *Arms Control Today*, September 2009.

<sup>136</sup> Ghazinyan, A., "Arms Race?: Armenia concerned over Azerbaijan's increasing military spending" *ArmeniaNow.com*, December 16, 2008.

<sup>137</sup> In a press conference, Russian minister for the cooperation with the CIS countries, Aman Tuleyev was reported saying that "the illegal arms supplies were transferred to the Republic of Armenia by evading the President and the Government of Russia." [...] "The minister stressed that these unlawful activities are carried out by certain groups in the Russian leadership" (*Interfax*, February 14, 1997). Quoted from Statement of the ministry of Foreign Affairs of the Azerbaijan Republic, Baku, February 21, 1997. See also: "Azerbaijan attacks Russian arms sales to Armenia", *Reuters*, Baku February 22, 1997; and March 3 and 13, 1997; and January 29, 1999 statements by Azerbaijan ministry of Foreign Affairs. ([www.president.az/contents/Karabakh\\_Problem\\_Appendix](http://www.president.az/contents/Karabakh_Problem_Appendix)). The website provided the translation in English of the texts in Russian.

<sup>138</sup> Quoted from the March 13 Azerbaijan Foreign ministry's statement.

<sup>139</sup> On April 11, 1997, the Duma adopted the resolution "On measures to enforce Russian laws in the process of arms supplies to foreign states" that requested the president and the Prosecutor General to take appropriate measures.

The Rokhlin Report revealed what was in essence a case of reverse military outsourcing, where a private shell company acted as a freight forwarder and broker - using military transport equipment owned by the Russian military and, in particular, AN-124 Ruslan and Il-76MD aircraft belonging to the Air Force - for the profit of corrupt military officials and their associates.

Rokhlin's main supporter, Rodionov (sworn in as Defence Minister in July 1996), was fired May 22, 1997 after a public confrontation with Yeltsin. Nearly a year later, the outcome of a long feud with Yeltsin, Rokhlin was replaced as Chairman of the Committee on Defence (May 1998). In the early hours of July 3, Rokhlin was shot dead at his dacha near Moscow.<sup>140</sup>

### 3.2 A case of reverse military logistics outsourcing

After a deal to divide weapons and facilities (belonging to the former Soviet 7th Army) was carried out between Russia and Armenia (1990-1992), no further claims by Armenia to Russian military property were possible. Military bases in Gyumry and Yerevan continued in Russian possession (Group of Russian troops in Transcaucasus, GRVZ). Yet, according to the Rokhlin Report, *"in a period from 1993 to 1996 the GRVZ transferred to Armenia huge quantity of arms and ammunition."*<sup>141</sup>

Five main actors were involved in the affair: President Yeltsin and his closest aides; Defence Minister Pavel Grachev;<sup>142</sup> high officials of the Army and Air Force (with a minor role played by the Navy); the private company RRR; and the Defence Ministry of Armenia.

According to Rokhlin, a first series of shipments began in 1992, but only in 1993 did Grachev "officially" grant permission for the transfers.<sup>143</sup> In a table accompanying his report, Rokhlin detailed types and dollar costs of the military equipment transferred to Armenia - transfers that in part followed directives given to the military by Gen. Kolesnikov<sup>144</sup> and in part were the result of RRR initiatives.

RRR acted mainly as a freight forwarder and as a principal for the receipt of money, as well as an organizer of the Air Force aircraft flights. The private company employed close relatives of the Command staff who *"dealt with wholesale trade, air transportation, using first of all military transport aviation. Obviously, not accidentally, only the insiders were admitted to arms operations."* After completion of the air shipments *"the account of 'RRR' Ltd. in the 'Oktyabrsky' branch of 'Inkombank' was closed on August 20, 1996."*<sup>145</sup>

Armenian authorities paid the bills in US dollars and provided fuel from commercial suppliers when the Russian military did not have sufficient reserves. *"The transfer of all this equipment, arms and ammunition to Armenia was supervised by General-Major A. Stepanyan - former Deputy Minister of Defence of the Republic of Armenia for external relations. [...] This transfer was made without the conclusion of any interstate agreement, and that fact has caused the infringements.... [...] For all these arms Russia has not received one single ruble."*<sup>146</sup>

<sup>140</sup> See: Rogachevskii, A., "The Murder of General Rokhlin", in: *Europe-Asia Studies*, Vol. 52, No. 1 (January 2000): pp. 95-110. On July, 7, 1998, Interfax reported that *"the autopsy on Rokhlin was performed at the defence Ministry's central forensic laboratory and never made public"* (RFE/RL Newswire, July 7, 1998).

<sup>141</sup> Letter dated 29 January 1999 from the Permanent Representative of Azerbaijan to the United Nations Addressed to the Secretary-General, 29 January 1999, S/1999/93. The Rokhlin report was translated in English by Azerbaijan's Presidency and posted on its website, "Karabakh Problem," Appendix

<sup>142</sup> Gen. Grachev (1948), after commanding a parachute landing regiment in Afghanistan (1981-1983), headed the Staff of the 7<sup>th</sup> Army in Lithuania (1983-1985), division commander in Afghanistan (1985-1988), then commander of the USSR Air Landing Forces (1990-1991) In May 1992, he was sworn Defence minister. He supported Yeltsin during the 1992-1993 constitutional struggle with the Parliament in 1993. Grachev was dismissed in June 1996 in an wave of accusations of corruption and mismanagement of the Chechen war.

<sup>143</sup> Rokhlin report, Letter by the minister of Defence of the Republic of Armenia, Sarkisyan, addressed to the *"minister of Defence Grachev and dated November 2, 1993: 'Dear Pavel Sergueyevich, regarding current difficulties in the repairs of armored vehicles of Armenian Armed Forces, I request your assistance in purchase of spare parts according to enclosure. I guarantee payment'. Follows resolution of Grachev dated November 4, 1993: 'I allow the sell in due order.'"*

<sup>144</sup> Directives of General Staff No.316/3/0182 (September 29, 1994): 25 T-72 and spare parts from the Gyumri GRVZ base; No.561/16/831 (August 8, 1995): 50 MP-38, 20 82mm AGS-17 grenade launchers, 300 PK machine-guns, 10,000 submachine-guns; No.316/3/0220 (August 18, 1995) and 8/824 (September 25, 1995): other 55 T-72 tanks granted to Armenia; No.16/338 (November 23, 1995) from GRVZ: 12 D-30 howitzers, 4 BM-21, 50 (14.5mm) KPVT machine-guns, 3(12.7 mm) NSVT machine-guns, 40,000 (14.5mm) B-32 bullets, 64,000 BZTA bullets, 110,000 MDZ bullets, 10,000 (12.7mm) B-32 bullets as well as 7 fifth category howitzers; No.316/3/048 (February, 2 1996): 4 T-72 tanks and 50 BMP-2; No. 561/16/457 (March 11, 1996): 4 million bullets and 5,000 MRV-U fuses; No.503/23-26 (July 20, 1996): 85 tons of spares transported by 5 IL-76 planes from Chkalovsky airport.

<sup>145</sup> Rokhlin Report.

<sup>146</sup> Rokhlin Report.

After the collapse of the Soviet Union, the Russian Army and Air Force were in grave financial difficulties, verging on crisis. Military equipment and aircraft (including cargo planes) were sold on the market at the price of scrap and many high-ranking officials rushed to cash in on whatever they could from the large endowment left under their control in the chaotic years that followed the ascent to power of Boris Yeltsin. This was the basis not only of the huge arms transfers to Armenia but also of the birth of the many questionable air cargo companies that in the following years helped fuel Africa's wars using former military AN-12, Il-18, An-26 and Il-76 aircraft. RRR profited here too, but instead of buying the aircraft it needed (in a deal that, in the end, was worth around 1 billion dollars), it directly "outsourced" its operations to the military, acting as a hidden principal for the Air Force units it "employed."

**Table 1. Transfers of military equipment from the Russian Federation to Armenia, 1993-1996, and estimated costs**

Item	No.	Average cost in USD	Total in USD
Different type of bullets	227,253,000	1	227,253,000
Shells for howitzers, battle tanks, BMP-1	489,160	400	195,664,000
Missiles for 'Krug' (c)	349	300,000	104,700,000
T-72 battle tanks (d)	84	1,200,000	100,800,000
Shells for BMP-2 and 'Shilka'	478,480	30	14,352,000
BMP-2 armored combat vehicle	50	280,000	14,000,000
Hand grenades	345,800	30	10,374,000
Surface-to-air systems 'Krug'	27	300,000	8,100,000
Missiles for 'Osa' surface-to-air complex	40	200,000	8,000,000
Missiles for 'Igla'	200	40,000	8,000,000
Other anti-tank self-targeting missiles	945	8,400	7,938,000
Missiles for R-17 (b)	24	210,000	5,040,000
'Grad' multiple missile systems	18	250,000	4,500,000
D-30 howitzers (caliber 122mm)	36	52,000	1,872,000
Missile R-17 complexes' launchers (a)	8	210,000	1,680,000
Portable 'Igla' anti-aircraft systems	40	40,000	1,600,000
BM anti-tank self-targeting missiles	4	330,000	1,320,000
Assault rifles	7,910	120	949,200
18 D-1 howitzers (caliber 152mm)	18	50,000	900,000
D-20 howitzers (caliber 152mm)	18	40,000	720,000
Mortars	26	12,000	312,000
Machine guns	306	400	122,400
Pistols	1,847	60	110,820
Grenade launchers	20	2,500	50,000
Other type of military equipment (e)	-	-	270,000,000
Total (estimated)	-	-	988,357,420

Source: Elab. from Rohlin report. Notes: (a) Four axle eight wheeled Transporter-Erector-Launcher (TEL) vehicle MAZ 543P (length 13.4m, width 3m, weigh 37.4 ton with missile); (b) Soviet: R-17 (8K14) Makeiev (designer), NATO: SS-IC Scud B (length 11.2m, range 300km, built by Votkinsk MachineBuilding Plant, entered in service in 1962); (c) ZRD-SD, 2K11 (SA-4 Ganef); (d) Entered in service in 1973; (e) such as 64,200 tons of fuel and 41,003 km of cable.

### 3.3 The logistics of the illegal arms transfers to Armenia

The logistics of the operation were anything but simple. In fact, because of the substantial quantity of military equipment transferred and the various and lengthy routes involved, it was a large-scale, multi-modal maneuver, which included shipments from the Russian Far East to the shores of the Caspian Sea (using the Trans-Siberian and other railways) and flights out of military airports in the vicinity of Moscow to the Black Sea and the Caucasus.

Railways delivered six troop-trains of heavy military equipment (including tanks, artillery guns and ammunition) to Armenia. The convoys covered enormous distances, running along different routes from the Far East to the Caucasus, from Irkutsk (near Baikal Lake) to Omsk, from Perm, Sverdlovsk (Yekaterinburg) and Volgograd) to the Vladiminovka AFB in Akhtubinsk (in the Astrakhan Oblast).<sup>147</sup>

<sup>147</sup> 100 miles Southeast of Volgograd on the Volgograd-Astrakan railway.

Railways were also used to transfer military equipment belonging to the GRVZ from Gyumri<sup>148</sup> to Yerevan and to ship ammunition from two of Russia's four military bases in Georgia (Batumi and Vaziani)<sup>149</sup> to Armenia.

Maritime routes were used to send ammunition from the Black Sea port of Novorossiysk (Russia) to the port of Batumi (Georgia), where they were loaded onto railcars and sent to Yerevan. The ammunition was delivered by two ships, the *General Ryabikov*<sup>150</sup> and a vessel the Rokhlin Report described as a PRTB-33.<sup>151</sup>

The airborne component consisted of a total of 139 flights made by military cargo planes, from Russian Air Force bases to Armenia. The first shipments took place between 1992 and 1994. Some 1,300 tons of ammunition were flown from the Russian AFB in Mozdok (North Ossetia)<sup>152</sup> to Yerevan's Zvartnots Airport from August 1992 to January 1994. The transfers required 66 flights by Il-76s and 2 flights by AN-12s.

A second set of shipments relating to the equipment arrived by rail from the Far East and the Ural region to the Akhtubinsk base, Vladimirovka. From November 8 to 28, 1995 and from June 28 to August 6, 1996, AN-124 Ruslans and Il-76s<sup>153</sup> transported to Svartnots<sup>154</sup> a variety of heavy military vehicles and weapons, including 50 T-72 tanks and spare parts; 38 D-30 howitzers; 18 D-20 howitzers; 18 D-1 howitzers; 18 "Grad" multiple missile systems; 40 portable "Igla" anti-aircraft systems and 200 related missiles; 12,600 shells for guns, including 1,440 "Grad" systems. The transfers required 31 flights by AN-124s and 13 flights by Il-76s.

A third set of shipments took place in July 1996, using Il-76s to transport a variety of spare parts (some of which were for T-52 tanks) to Gyumri. Five flights took off from the Chkalovsky Air Force Base (near Moscow),<sup>155</sup> with a total of 85 tons of spare parts; three flights took off from the Kubinka AFB (near Moscow); one flight took off from the Kamenka Base near Penza.<sup>156</sup> In addition to the 121 flights whose routes were specified in the Rokhlin Report, another 18 flights to Armenia took place between 1993 and 1994,<sup>157</sup> for a total of 139 flights.

According to Rokhlin's report, the total cost of the 139 flights was in theory 7.9 billion rubles, the equivalent in 1996 to 1,648,000 US dollars. Rokhlin noted that *"the cost of the same flights with civil*

Map 3. The Airborne Component of Arms Transfers from Russian Federation AFBs to Armenia



Source: IPIS vzw/Transarms, Belgium/USA

<sup>148</sup> Kumajri, Russian military bases in western Armenia.

<sup>149</sup> Vaziani was a strategic airdrome located 18 miles east of Tbilisi and connected by rail with Yerevan via Kirovakan and Gyumri. The evacuation of Vaziani - in compliance with the November 1999 agreements - was initiated in the summer of 2001. However, Russian authorities considered the Vaziani airfield as a separate entity from the military base and they wanted to continue the operations. See "Russia will fully withdraw its military base from Vaziani, Georgia by July 1", *Interfax*, May 28 2001; Boese, W., "Russia Has Mixed Success With CFE Implementation", in *Arms Control Today*, September 2001; "Russian Bases in Georgia," in: *Strategic Comments*, London, May 2001. According to the Independent Information Centre Glasnost-Caucasus "All flights to Vaziani airbase have been cancelled since January 2001 because of Russia's debt of about USD200,000 for the use of Georgian airspace".

<sup>150</sup> The shipments took place from February to June 1994. According to Bulgarian diplomatic news, the General Ryabikov was granted permission to enter the port of Varna for repairs in September 1995.

<sup>151</sup> Plavuchaya Raketno-Tekhnicheskaya Basa category.

<sup>152</sup> Mozdok was one of the bases for Russian nuclear strategic bombers. See Kudava, M., *Developing a Regional Approach in the South Caucasus: Georgian View*, Georgia, June 1999 (<http://www.nato.int/acad/fellow/97-99/kudava>).

<sup>153</sup> The military variants include cargo complex operating in full autonomy and they may load more cargo than commercial ones, i.e 150 ton instead of 120 for the AN-124 and 46/50 ton for the Il-76MD instead of 40 for Il-76TD. The AN-124 Ruslan has a maximum cruising speed of 498 mph (800 km/h); the Il-76TD's maximum cruising speed is 530 mph (850 km/h); and the AN-12 maximum cruising speed is 341 mph (550 kmh).

<sup>154</sup> Yerevan's Svartnots International Airport hosted a section reserved to the military.

<sup>155</sup> Chkalovsky was the most sensitive training and aerospace test facilities of the Moscow Oblast.

<sup>156</sup> About 500 miles East of Moscow.

<sup>157</sup> A brief mention by Rokhlin seems to indicate that the flights were made by AN-124s

commercial organizations" by AN-124s and Il-76s would have been "1.5 and 2.2 times more expensive." Rokhlin stated that the Armenian side paid large sums for the transfers, but Russia received no payments at all. Moreover, by using military personnel and hardware for the transfers, military commanders and the RRR were able to manipulate the prices the Armenians paid and to cash in on at least part of the difference between the military and commercial costs.

**Table 2. Transfers of military equipment from the Russian Federation to Armenia by air**

From RF	To ARM	Military equipment	No of flights
Chkalovsky (Moscow Oblast)	Gyumri	Spare parts	5
Kubinka (Moscow Oblast)	Gyumri	Spare parts for T-72	3
Vladimirovka - Akhtubinsk	Zvartnots	Tanks/Artillery	44
Kamenka (Penza Oblast)	Gyumri	Spare parts for T-72	1
Mozdok (N. Ossetia )	Svartnots	Ammunition	68
n.a.	n.a.	n.a.	18

**Table 3. Aircraft, flights and route distance**

Aircraft	Route	Nautical miles	Flights	Total n/m performed.
IL-76MD	Kubinka-Gyumri	933	3	2,799
Il-76MD	Chkalovsky -Gyumri	912	5	4,560
IL-76MD	Kamenka-Gyumri	743	1	743
Il-76MD	Vladimirovka-Svartnots	496	13	6,448
AN-124 Ruslan	Akhtubinsk-Svartnots	496	31	15,376
Il-76MD	Mozdok-Svartnots	219	66	14,454
AN-12	Mozdok-Svartnots	219	2	438
n.a.	n.a.	n.a.	18	-

Source: Elab. from Rokhlin's report.

### 3.4 The Rokhlin report resurfaces in 2009

Nearly two decades after the cease fire between Armenia and Azerbaijan and the events Rokhlin denounced, the conditions the refugees and the internally displaced population find themselves in remain precarious and sometimes extremely difficult,<sup>158</sup> despite some progress in Armenian-Azerbaijan relations.<sup>159</sup>

The restoration of Nagorno-Karabakh's lost sovereignty by military force is still considered an option, or at least a threat that reappears regularly in the debate over the future of the provinces that seceded from Azerbaijan. In these last few years, Armenia and Azerbaijan have continued their arms build-ups to the maximum extent of their budget capabilities (in 2009, the Azerbaijan defence budget reached the equivalent of USD2.3 billion and Armenia's was USD402 million, up from USD600 million and USD187 million, respectively, in 2006).<sup>160</sup>

Early in 2009, the two countries were also involved in a dispute over an alleged large transfer of arms from Russia to its Gyumri base in Armenia, which was then passed on to the Armenian military.<sup>161</sup> In January, an Azeri media source<sup>162</sup> published a document (allegedly leaked by the Azeri secret services<sup>163</sup>) with a

<sup>158</sup> Beach, M. R., *The Politics of Relocation and Resettlement: The Case of IDPs and Nagorno-Karabakh*, School of Public Policy, Pepperdine Un., Azerbaijan Diplomatic Academy, Vol. II, No. 17, September 1, 2009; Internal Displacement Monitoring Center, *Azerbaijan: IDPs still trapped in poverty and dependence*, December 31, 2008, June 30, 2008, [www.internal-displacement.org](http://www.internal-displacement.org).

<sup>159</sup> "Azerbaijani, Armenian presidents' Munich meeting was positive: Azerbaijani presidential administration", *Today.az*, December 4, 2009; ICG, "Azerbaijan insists on 'self-rule' for Karabakh", *rfe/rl*, December 2, 2009, [www.reliefweb.int](http://www.reliefweb.int); "Nagorno-Karabakh: Getting to a Breakthrough", *EB* n. 55, 7 October 2009.

<sup>160</sup> See for the last years defence figures and 2010 projected defence budgets: Khachatrian, H., "Armenia to Cut its Budget Next Year Despite Expected Economic Recovery", *Central Asia-Caucasus Analyst*, Johns Hopkins Un., November 11, 2009; Harutyunyan, S., "Ex-official Concerned over Actual Military Budget Cut", October, 6, 2009, at [www.azatutyun.am](http://www.azatutyun.am)); "Ziyad Samedzadeh: Defense expenditures could not be cut", *APA Azeri Press Agency*, March 10, 2009; Ghazinyan, A., "Arms Race?: Armenia concerned over Azerbaijan's increasing military spending" *ArmeniaNow*, December 16, 2008; "Azerbaijan: Defence Sector Management and Reform", *EB* n.50, October 29, 2008; Barabanov, M., "Nagorno-Karabakh: Shift in the Military Balance", *Moscow Defense Brief* 2 [12], 2008; "Nagorno-Karabakh: Risking War", *EB* n.187, November 14, 2007.

<sup>161</sup> "Moscow arming Armenia: Azerbaijan", *The News*, March 14, 2009; "Azerbaijan slams Russia over alleged Armenia arms supplies", *Central Asia Today*, January 15, 2009.

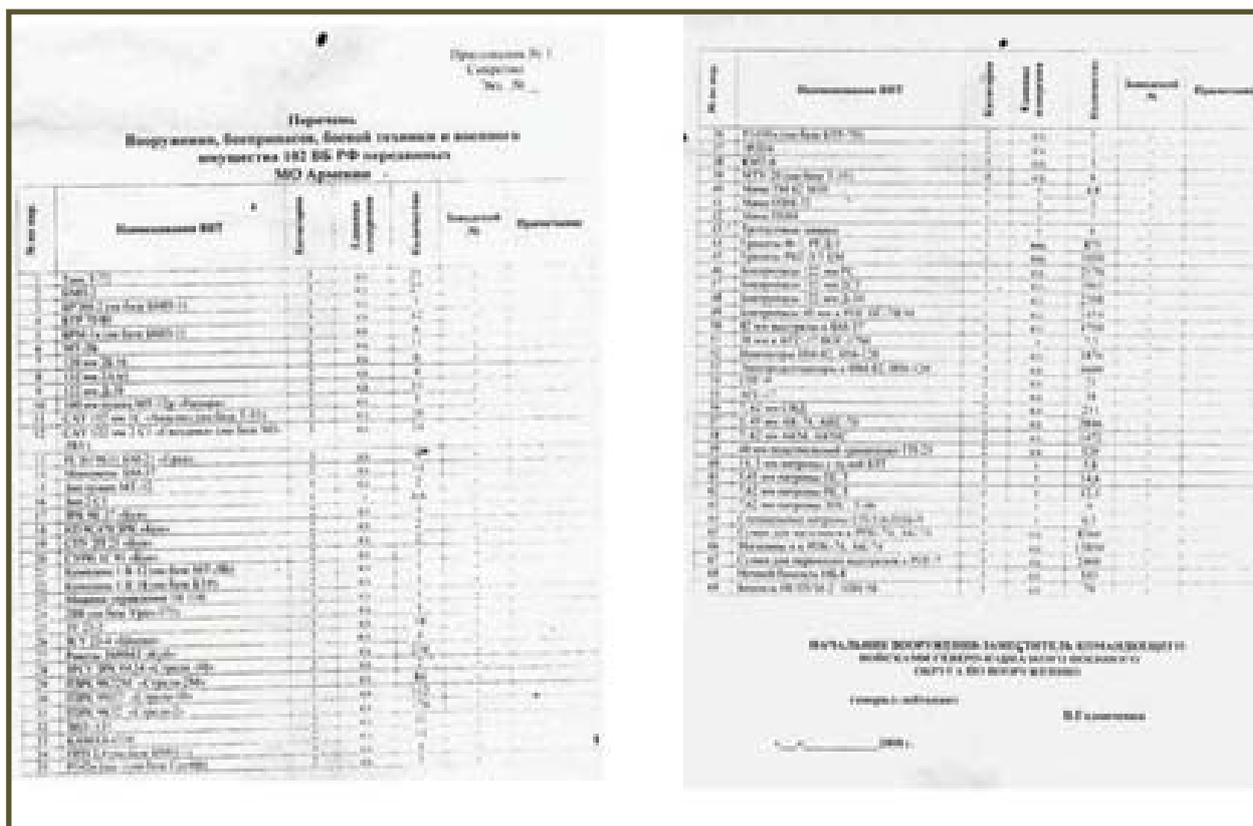
<sup>162</sup> [www.mediaforum.az/articles.php?article\\_id=20090108032400605&page=00&lang=az](http://www.mediaforum.az/articles.php?article_id=20090108032400605&page=00&lang=az), January 8, 2009.

<sup>163</sup> Ismailzade F. (January 28, 2009).

list of the weapons to be transferred to Armenia, apparently signed by Lt. Gen. Vyacheslav Golovchenko, Deputy Commander of Armaments for Russia's North Caucasus military district.

The list included 27 T-72 tanks, other armored vehicles, missiles, grenade launchers, mines and other infantry weapons, valued at USD800 million in total. Russia denied the claims,<sup>164</sup> as did Turkey,<sup>165</sup> accused afterwards of having allowed arms flights over its airspace.<sup>166</sup> Russian and Turkish denials, however, and uncertainty over the authenticity of the document itself, have not ended suspicion that something similar to the schemes denounced in the Rokhlin Report may again be at work.<sup>167</sup>

**Document 16. The contested documents**



Source: [www.mediaforum.az/articles.php?article\\_id=20090108032400605&page=00&lang=az](http://www.mediaforum.az/articles.php?article_id=20090108032400605&page=00&lang=az)

<sup>164</sup> "Russia neither passed nor sold ammo to Armenia in 2008: Foreign Ministry", *Trend News*, January 21, 2009; "Official, Moscow wants to make examination on its arms supply to Armenia", *ANS Press*, January 19, 2009; "Russia does not Provide Weapons to Armenia", *Panorama.am*, January 17, 2009 [Statement by Russia's Foreign Affairs minister Serguey Lavrov]; "Russian Foreign Minister comments upon weapon delivery to Armenia", *ANS Press*, January 16, 2009.

<sup>165</sup> International Strategic Research Organization, "Ankara Has Denied the Information about Arms Shipments to the Russian Military Base in Armenia via Turkish Airspace", *The Journal of Turkish Weekly*, August 16, 2009; "Turkish Foreign Ministry Responds to ACNIS Director Richard Giragosian" (Noyan Tapan, 08/19/09), in *AGBU Armenia News Bulletin*, August 21, 2009; "Baku: Ankara denied allowing arms shipments to Rus mil base in RA", *Trend News*, August 16, 2009. Giragosian is Armenia Strategic and National Research Center's Chairman.

<sup>166</sup> "Turkey allowed Russia to use its air spaces for arming military base in Armenia", *PanArmenian.net*, August 13, 2009, at [www.panarmenian.net](http://www.panarmenian.net); "Claims of a secret agreement between Turkey and Russia", August 15, 2009.

<sup>167</sup> Abbasov, S., "Eurasia Insight: Azerbaijan, Russia Agree to Disagree on Arms Transfer and More", *Eurasianet.org*, March 12, 2009; Ismailzade F., "Russian Arms to Armenia Could Change Azerbaijan's Foreign Policy", *Central Asia-Caucasus Analyst*, Johns Hopkins Un., January 28, 2009; Abbasov, S., "Azerbaijan: Arms Scandal Stirs Suspicions of Moscow", *Eurasianet.org*, January 27, 2009.

## 4. Fueling Wars and Human Rights Violations in Central Africa

### 4.1 Aviation companies in the Second Congo War

The Second Congo War broke out in the Eastern provinces of the Democratic Republic of Congo (DRC) on August 2, 1998,<sup>168</sup> initially as a rebellion of the 10<sup>th</sup> and 12<sup>th</sup> Brigades of the *Forces Armées Congolaise* (FAC) against the government of Laurent-Désiré Kabila, installed in Kinshasa at the end of the war (the First Congo War, 1996-May 1997) that put an end to the dictatorship of Mobutu Sésé Séko.<sup>169</sup>

The war witnessed a massive involvement of civilian aviation<sup>170</sup> in support of military operations and in the exploitation of DRC's natural resources, especially in the war zones, with devastating effects on the country's population and territory. Some of the companies involved are still engaged today in the business of war and arms transport.

Rwanda and Uganda, who had helped bring Kabila and his AFDL<sup>171</sup> to power, now reversed themselves and, increasingly disaffected by the Congolese president's controversial policies and by his inability to master the rivalries of his allies within the country,<sup>172</sup> crafted and supported the rebellion against him, with the complicity of various other countries. The rebellion was intended to create the conditions for a blitzkrieg-style operation directed at occupying Kinshasa in a matter of weeks, but in fact it resulted in an international war lasting nearly four years.

The conflict was accompanied by human rights violations on a catastrophic scale, and (as documented and denounced by Amnesty International and several other international organizations)<sup>173</sup> they were perpetrated by all the involved parties. In April 2003, some months before the end of the main military operations, Amnesty wrote: *"Four years of conflict in the Democratic Republic of Congo have proved among the most disastrous in the history of modern Africa. Some three million people are believed to have lost their lives and more than two-and-a-half million have been driven from their homes, 500,000 to neighbouring countries [...] Thousands of Congolese civilians have been tortured and killed during military operations to secure mineral-rich lands. Foreign forces have promoted interethnic conflicts and mass killings as a means to secure mining zones [...] Children as young as 12 have been among those forced into hard labour in the mines. Human rights defenders who have reported or criticized such abuses have been beaten, detained, forced to flee, or killed."*<sup>174</sup>

The war involved the armed forces of Angola, Namibia, Zimbabwe and Chad in support of the DRC government and of Uganda, Rwanda and Burundi in support of the armed Congolese anti-government

<sup>168</sup> See: Willame, J.-C., *L'Odysée Kabila: Trajectoire pour un Congo nouveau*, Paris, Karthala, 1999; Madsen, W., *Genocide and Covert Operations in Africa, 1993-1999*, E. Mellen Press, Lewiston NY, 1999; Clark, J.F. (Ed.), *The African Stakes of the Congo War*. New York, Palgrave Macmillan, 2002; Barousky, D., *Laurent Nkundabatware, His Rwandan allies, and the ex-ANC Mutiny*, Ch. 1, "Background," Bayreuth Un. (Germany), IAS, African Discussion Forum, December 17, 2007; Prunier, G.: *Africa's World War: Congo, the Rwandan Genocide, and the Making of a Continental Catastrophe*, Oxford University Press, 2008; Reyntjens, F., *De grote Afrikaanse oorlog. Congo in de regionale geopolitiek 1996-2006*, Meulenhoff/Manteau, 2009.

<sup>169</sup> Mobutu's dictatorship (1965-May 1997) stemmed from *wocoup d'état* (September 14, 1960 and November 25, 1965) that he led after Congo's independence from Belgium and the assassination (1961) of Congo's first elected premier, Patrice Lumumba. See further Box 9 and 10.

<sup>170</sup> Documentation collected by the Judicial Commission of Inquiry into Allegations of Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo (Porter Commission, May 2001-November, 2002), *Final Report*, November 2002, Annexes and air movements tabulations and logs; Cooper T., P. Weinert, J. Kyzer, A. Grandolini, *Zaire/DR Congo since 1980*, Air Combat Information Group, September 2003;

<sup>171</sup> *Alliance des Forces Démocratiques pour la Libération du Congo* a coalition of various anti-Mobutu political and armed groups dominated by Rwanda, Uganda, and Angola. Contingents of Eritreans, Ethiopians, Kenyans, Somalis, and Tanzanians contributed to the AFDL military operations.

<sup>172</sup> See, for example, "Congo's bloody-go-round", *The Economist*, August 15, 1998; Tucker, N., "In Congo, a Rebellion Battered Down, Instead of a Swift End, the Fighting Threatens to Draw in Entire Region", *Knight Ridder News Service*, October 11, 1998; International Crisis Group, *How Kabila Lost His Way: The performance of Laurent Désiré Kabila's government*, Nairobi, May 21, 1999.

<sup>173</sup> See: Amnesty International, *DRC: A long-standing crisis spinning out of control*, September 2, 1998; H.R.W., *DRC: Casualties of War. Civilians, Rule of Law, and Democratic Freedoms*, February 1999; Garretton, R, Special Rapporteur on the Situation of Human Rights in the DRC, *Oral Presentation*, 55th session of the HRC, Geneva, March 31, 1999; A.I., *DRC: Amnesty International urges peace negotiators to place the protection of DRC human rights defenders on the agenda*, June 29 1999; A.I., *DRC: Government terrorises critics*, January 10, 2000; A.I., *DRC: Massacres of civilians continue unabated in the East*, January 17, 2000; United Nations, H.C.R., *Background Paper on Refugees and Asylum Seekers from the DRC*, UNHCR, Geneva, May 2000; A.I., *DRC: Killing human decency*, May 31 2000; H.R.W. *Eastern Congo Ravaged. Killings Civilians and Silencing Protest*, May 2000; A.I. *DRC: Human Rights in DRC*, Annual Report, 2001; H.R.W. *DRC: Reluctant recruits: children and adults forcibly recruited for military service in North Kivu*, May 2001; H.R.W. *The War Within the War. Sexual Violence Against Women and Girls in Eastern Congo*, June 2002; H.R.W. *War Crimes in Kisangani, The Response of Rwandan-backed Rebels to the May 2002 Mutiny*, August 2002; Nlandu, T. et Al., *Impact des conflits armés sur le déplacement et le recrutement des enfants en RDC*, Social Science Research Council, Kinshasa, April 2005; Tagba Mondali, J., *La dimension nouvelle des opérations de maintien de la paix des Nations Unies (1998-2002)*, Un. de Lubumbashi, Thesis, 2007.

<sup>174</sup> Amnesty International, *DRC: Our brothers who help kill us*, Amnesty International April 2003.

groups.<sup>175</sup> Other African countries, the United States, and the European former colonial powers<sup>176</sup> aligned themselves, secretly or openly, with either side, often using the services of mercenary companies (from South Africa, in particular).<sup>177</sup>

Rwanda and Uganda claimed to have initiated their interventions in the Second Congo War as a measure to secure their borders from the attacks of hostile armed groups from the DRC and as a temporary operation aimed at supporting the rebellion of Tutsi communities in the DRC. These justifications did little to hide Rwanda and Uganda's common goal of exploiting the natural resources of the Eastern DRC<sup>178</sup> by eliminating an ally who had become uncooperative, increasingly repressive,<sup>179</sup> and impatient of their tutelage.<sup>180</sup>

Angola, Zimbabwe and Namibia cited clauses of the SADC Charter<sup>181</sup> as the motivating factors behind their intervening to defend the DRC government, but, in fact, they tried from the beginning to obtain concessions for the exploitation of mineral resources in the DRC, in exchange for their support. Angola was also eager to continue its alliance with Kabila in opposing UNITA<sup>182</sup> operations in the Angola-DRC border regions.

Two decisions by Kabila, both aimed at signaling the increasing distrust he felt for Rwanda and Uganda (and their Western supporters), triggered the first operations of the war. On July 11, 1998, Kabila took the position of DRC Interim Army Chief of Staff away from Ugandan-born Lt. Col. James Kabarebe, the Rwandan commander who led Kabila's army in the First Congo War and who had remained with Kabila as the *longa manus* of Rwanda inside the DRC.<sup>183</sup> Kabarebe quickly returned to Rwanda and was replaced by a Congolese general, Celestin-Josue Kiwifa,<sup>184</sup> a relative of Kabila's. Soon afterwards, on July 27, 1998, Kabila ordered all foreign troops who had been stationed in the DRC after the fall of the Mobutu regime (May 1997) out of the country.<sup>185</sup> Commercial aircraft commandeered by the DRC government transported Rwandan troops and officials from Kinshasa to Kigali and, on their re-entry,

<sup>175</sup> Forças Armadas Populares de Libertação de Angola, FAPLA; Namibia Defence Force, NDF; Zimbabwe Defence Forces, ZDF; Forces Armées Nationales Tchadiennes, FANT; Ugandan People's Defence Forces, UPDF; Rwandan Patriotic Army, RPA; Forces Armées Burundaises, FAB. For Chad's 1,000-strong expeditionary mission see: "Chad sends troops to aid Congo president", *Agence France Presse* in English, September 29, 1998.

<sup>176</sup> See: International Crisis Group (ICG), *Congo at War*, Congo Report N°2, November 17, 1998; Berghezan, G., F. Nkundabagenzi, *La Guerre du Congo-Kinshasa, analyse d'un conflit et transferts d'armes vers l'Afrique Centrale*, Les rapports du GRIP 2/99, Brussels 1999; ICG, *Africa's Seven-Nation War*, DRC Report N° 4, May 21, 1999; Madsen, W. (1999); Ray, E., "U.S. Military and Corporate Recolonization of Congo", *Covert Action Quarterly*, Spring/Summer, 2000.

<sup>177</sup> Pech, K., W. Boot, A. Eveleth, "South African Mercenaries in DR Congo Aid Kabila", *Mail and Guardian*, August 28, 1998.

<sup>178</sup> See: U.N., Report of the Panel of Experts on the *Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo*, S/2001/357, April 12, 2001, and *Addendum*, S/2001/1072, November 13, 2001; Dietrich, C., *Hard Currency: The criminalized diamond economy of the DRC and its neighbours*. Partnership Africa Canada, IPIS, and Network Movement for Justice and Development, Antwerp June 2002; Raeymaekers T., *Network War, An Introduction To Congo's Privatised War Economy*. IPIS, 2002; Cuvelier, J., T. Raeymaekers, *European Companies and the Coltan Trade: an Update*, IPIS, September 2002; U.N. Report of the Panel of Experts, S/2002/1146, October 16, 2002; Porter Commission (November 2002); Stabrawa, A. *Environmental Endowment and Conflict: the Case of Diamonds in the DRC*, UNEP, Brown Un., February 9, 2003; Human Rights Watch (H.R.W.), *The Curse of Gold*, New York 2005; Danssaert, P., Johnson-Thomas, B.: *Greed & Guns. Uganda's role in the rape of Congo*, IPIS vzw, 2006; *Case Concerning Armed Activities on the Territory of the Congo* (DR Congo vs. Uganda) - Judgement of 19 December 2005, International Court of Justice.

<sup>179</sup> For example, the government banned (April 3, 1998) DRC's leading human rights organization AZADHO (Association Zairoise de défense des droits de l'homme, see Minority at Risk Project, website, Un. of Maryland), and persecuted journalists (Julliard, J-F., RDC, *Les cachots du 'Mzee': Plus de cent dix journalistes emprisonnés depuis la prise de pouvoir par Laurent Désiré Kabila*, Reporters Sans Frontières, May 2000).

<sup>180</sup> Kabila had soon alienated (and sometimes incarcerated and executed) even his closest allies, while his repressive policies and confrontational behaviours against Western countries and investors - as justified they may have been after decades of political intrusions and economic exploitation during Mobutu's regime - had created hostility among his former international allies. See: "Finance minister released", *Deutsche Presse-Agentur*, July 31, 1998; Hranjski, H., "Rebels honour veteran Congo commander reportedly executed by Kabila's army", *AP*, December 16, 2000; "Congo's bloody-go-round", *The Economist*, August 15, 1998; International Crisis Group, *How Kabila Lost His Way: The performance of Laurent Désiré Kabila's government*, Nairobi, May 21, 1999; Ray, E. (2000).

<sup>181</sup> Southern Africa Development Community. The SADC's Charter includes mutual defence in case of an external aggression to one of SADC's member. See: "SADC defence ministers reportedly agree to aid Kabila against rebels", *SAPA news agency*, August 18, 1998 (*BBC Summary*, August 20, 1998).

<sup>182</sup> União Nacional para a Independência Total de Angola.

<sup>183</sup> During his tenure as commander of the FAC, Kabarebe had apparently manoeuvred for maintaining DRC army in a condition of ineffectiveness, while reinforcing with ethnic Tutsis the brigades of the Eastern provinces. See: "DR Congo army 'recovering' from Rwandan 'trap': commander", *AFP*, October 07, 1998.

<sup>184</sup> Celestin-Josue Kifwa was formerly a general in the so-called Katanga Tigers, a militia based in Angola that had served until 1997 with Angolan army and was then integrated in the FAC. The Katanga Tigers originated from the "Katanga Gendarmes," formed during the Katanga secession in 1960-1962, with an intricate history of shifting alliances, eventually supporting Kabila's ADFL. Lt. Col. Kabarebe was named Kifwa's "special military adviser." August 16, 1998, Kifwa was in his turn removed and replaced as Chief of Staff by the present DRC president, Joseph Kabila. See: "Kabila appoints new senior military, police officials", *RTNC TV*, Kinshasa, July 13, 1998 (*BBC Summary*, July 16, 1998); Cariou, M., "Kabila removes Rwandan troops from DRC Army", *AFG*, July 28, 1998; ICG, *Congo at War* (1998); ICG, *How Kabila Lost His Way: The performance of Laurent Désiré Kabila's government* (1999).

<sup>185</sup> Matsiko, G., "Kabila Expels Rwandan Troops", *New Vision* (Kampala), July 29, 1998.

landed in Goma,<sup>186</sup> on Lake Kivu. In the meantime, Rwanda took the lead in forming the RDC, an anti-Kabila movement.<sup>187</sup>

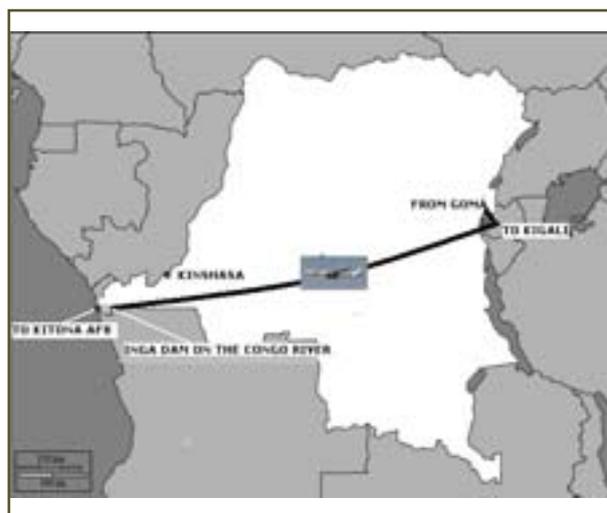
It was in effect in Goma that the first major incident of the war took place, an act of international air piracy perpetrated under the command of then Lt. Col. James Kabarebe (presently Rwanda's minister of Defence).<sup>188</sup>

## 4.2 The war began with an act of international air piracy

August 2, 1998, apparently in a coordinated action,<sup>189</sup> FAC units composed mostly of ethnic Tutsi soldiers and based in Bukavu (12th Brigade, South Kivu) and Goma (10th Brigade, North Kivu) rebelled, while Rwandan soldiers in Kinshasa and Kisangani refused further repatriation and attacked the military bases at Tshatshi, Kokolo and Kisangani. The same day, units of the Rwandan army secretly crossed the DRC border and made their way to Goma<sup>190</sup> and Birava on Lake Kivu, while in Kinshasa and Kisangani the mutiny of Tutsi soldiers was put down with bloodshed and loss of life.<sup>191</sup>

Between August 3 and 4, a commando group led by Kabarebe reached Goma's airport and hijacked three of the aircraft that had transported the Rwandan troops back to Kigali. Between 500 and 600 soldiers boarded the planes, a Boeing 727 and two Boeing 707s. These aircraft were the first of a series of "commandeered" planes (including Fokkers, Antonovs and an Il-76)<sup>192</sup> that allowed the anti-Kabila forces in few days to deploy more than

Map 4. The Goma-Kitona Air Bridge



Source: IPIS vzw/TransArms, Belgium/USA

<sup>186</sup> Ourdan, R., «Les « chevaliers du ciel » de Goma, otages de la rébellion», *Le Monde*, October 9, 1998.

<sup>187</sup> The *Rassemblement Congolais pour la Démocratie* was founded in July 1998 in a suburb of Kigali, Kabuga, and formally announced its goals and structure August 16, 1998. Robert Gibbon, US Ambassador to Rwanda, played an important role in the formation of the RCD. See: "DRC: Rebels formally announce new movement, leadership", *IRIN*, Nairobi, August 17, 1998; Lemarchand, R., *The DRC: From Collapse to Potential Reconstruction*, C.A.S., Un. of Copenhagen, October 16, 2001. See also Barouski, D. (2007).

<sup>188</sup> Lt. Col. James Kabarebe (Uganda 1959, and also called Kabaré, Kabaréré, and Kabarehe) was Paul Kagame's aide-de-camp from 1994 to 1997 and then Commander of the Republican Guard Brigade and Chief of Plans of the Rwanda Patriotic Army (RPA). He was RPA's Operations Commander during the First Congo War. In May 1997, Kabila appointed him military commander of the FAC in Kinshasa. In early December 1998, he became FAC's interim Army Chief of Staff, replacing Maj. Anselme Masasu Nindanga, arrested at the end of November 1998, allegedly for preparing a coup (Masasu was sentenced to 20 years in prison in May 1998, then released and re-arrested November 1, 2000 and extra-judicially executed November 24, 2000 in Kantonja, Katanga). After his removal as FAC's Chief of Staff, Kabarebe rejoined the Rwandan army, leading the rebellion against Kabila. He was appointed RPA's Deputy Army Chief of Staff in February 2000, became Brigadier General in September 2000 and in 2001 was appointed Chief of Staff, then (July 2002) Chief of Defence Staff of the RDF (Forces Rwandaises de Défense, so renamed in 2002). See: Rwanda ministry of Defence website; "Uganda, Rwanda appoint new officers to Kisangani in Congo", *Xinhua News Agency*, August 19, 1999; "What happened in Kisangani?", *New Vision*, Kampala, September 20, 1999; "Rwandan Deputy Army Chief of Staff Appointed", *Xinhua GNS*, February 19, 2000; Hranjski, H., "Rwandan Army promotes officers", *AP*, September 28, 2000; "Reshuffle at top levels of Rwandan security forces", *AFP*, February 23, 2000; Hranjski, H., "Rebels honor veteran Congo commander reportedly executed by Kabila's army", *AP*, December 16, 2000; Manahal, C. R., "From Genocide to Regional War", *African Studies*, 4, 2000; Comité des Observateurs des Droits de l'Homme, *Communiqué*, January 9, 2001; Musangu, F., "James Kabarehe donne les raisons du retrait de la Rwanda Défense Force", *Le Phare*, April 24, 2002; "L'interview du Général rwandais James Kabarebe et les Congolais", *Le Potentiel*, Kinshasa December 27, 2007; Agaba, G., "Gen. Kabarebe to testify in Gen. Nkunda's case", *256News.com*, February 24, 2010.

<sup>189</sup> August 9, 1998, the DRC government presented a formal request to the UN and OAU to investigate the attacks. See: "Congo-Rwanda trade accusations", *IPS-Inter Press Service*, August 11, 1998; Duke, L., "Revolt in Congo Had Multiethnic Genesis. Tutsis Not Alone in Drive to Oust Kabila", *Washington Post*, October 27, 1998. On the international manoeuvres to have Kabila ousted, see: Clark, J.F. (Ed.) (2002); Madsen, W. (1999); Hoyos de, L., "London's Warlords Launch War to Grab Congo - Again", *Executive Intelligence Review*, August 21, 1998 (from *The New Federalist* and *The American Almanac*).

<sup>190</sup> See: "Military and Tutsis in mutiny against President Kabila", *Deutsche Presse-Agentur*, August 3, 1998.

<sup>191</sup> See Willame, J-C. (1999): p. 220-224; *Témoignage: Massacre des officiers congolais à Kavumu, le 2 août 1998*, August 21, 2007, <http://kakuuigi.unblog.fr>.

<sup>192</sup> See: Smith, S. "Les dix jours de la bataille de l'Ouest. Ou comment le commandant James a plongé la capitale dans le noir", *Liberation*, August 15, 1998 and August 22-23, 1998; Hranjski, H., "Congolese rebels use hijacked pilots, planes to fly troops", *AP*, September 17, 1998; Ourdan, R., "Les « chevaliers du ciel » de Goma, otages de la rébellion", *Le Monde*, October 9, 1998; Ourdan, R., "La seconde croisade congolaise du mystérieux «commandant James»", *Le Monde*, October 9, 1998;

3,000 troops (including Rwandan and Ugandan soldiers) and their armaments to DRC's Kitona Air Force Base in the Bas-Congo province.<sup>193</sup>

According to the testimony of one of the Boeing 707 pilots, Raymond Gngang,<sup>194</sup> Lt. Col. James Kabarebe compelled the crew at gunpoint to fly to Kigali to refuel and to take on a load of ammunition. From there, they flew directly to Kitona. Located 1,037 nautical miles (1,920 km) West of Goma, the air base was Kinshasa's only strategic air defence outpost close to the Atlantic, but the DRC air force, at that time, had no more than a handful of attack helicopters and most of its other aircraft were in a state of disrepair.<sup>195</sup> Kitona, however, was a relatively short distance from two strategic targets: the Inga Dam on the Congo River, which provided electricity to Kinshasa and Katanga; and DRC's only maritime gateways: Matadi, Boma (near the mouth of the Congo River) and Banana (on the Atlantic Ocean). The expedition was in effect aimed at taking control of the dam<sup>196</sup> and the ports,<sup>197</sup> as a first step to taking Kinshasa itself.

Kitona was home to an FAC "re-education camp," initially for 37,000 former Mobutu soldiers, but at the time of the expedition, its population had been reduced to some 10,000 due to defections and deaths caused by lack of food, disease and ill-treatment by the Rwandan officers in charge of the camp,<sup>198</sup> for which Kabarebe himself, as a former FAC commander, bore some responsibility (and he also bears responsibility for other crimes perpetrated by his troops during the First Congo War).<sup>199</sup>

By landing in Kitona, Lt. Col. Kabarebe and one of his former enemies, Gen. Baramoto Kpama Kata (Mobutu's feared head of the *Garde Civile* and then Zaire's Army Chief of Staff),<sup>200</sup> hoped to mobilize ex-FAZ (*Forces Armées Zairoises*) soldiers against Kabila, something they achieved after a gun battle in which the planes were damaged.<sup>201</sup>

After a rapid takeover of several locations in the Bas-Congo, including the Inga Dam, the expedition turned into a disaster when Angolan armored troops and aircraft entered the conflict, attacked (August 22-29) and took control of Matadi, the Inga Dam, and Kitona,<sup>202</sup> where they deployed eight MiG-21MFs.

<sup>193</sup> Kitona (ICAO: FZAI) had a relatively long runway, 2,400 m, able to accommodate large cargo aircraft, such as the Il-76, Antonov 12 and 22, DC-8, Boeing 707 and 727, and Lockheed L-100. The Boeing used in the operation can cover the distance between Goma and Kitona in about 2:15 hours.

<sup>194</sup> "Aircraft returns to Kinshasa from rebel-held Kitona", *RTNC TV*, Kinshasa, August 9, 1998 (BBC August 11, 1998); "Report gives details about detained aircraft, situation in Goma", *Radio France Internationale*, August 9, 1998 (BBC, August 11, 1998); French, H. W., "Pilot's account seems to confirm Rwanda role in Congo strife", *New York Times*, August 10, 1998; Smith, S. (August 15, 1998 and August 22-23, 1998).

<sup>195</sup> Cooper T., P. Weinert, J. Kyzer, A. Grandolini (September 2003).

<sup>196</sup> The Inga Dam, a powerhouse for electricity to all Central Africa, and its airport (ICAO: FZAN) is about 71 nautical miles (132 km) East of Kitona (160 km by road). Its runway is 1,100 m long and can accommodate only small planes such as the Fokkers and Cessnas or plane specially designed for STOL (Short Take-Off and Landing), such as the DHC-5 Buffalo.

<sup>197</sup> Boma is about 100 km East of Kitona by road and 80 km by river and 130 km by road from Matadi. Matadi is linked to Kinshasa by road and rail (about 370 km) and has an airport (FZAM) with a 1,571 m runway.

<sup>198</sup> See: "Human rights abuses reported at Kitona "re-education camp", *De Financieel-Economische Tijd*, November 19, 1997 (BBC November 22, 1997).

<sup>199</sup> During the First Congo War, ADFL's troops, under Kabarebe command, massacred thousands civilians and in particular ethnic Hutus. He also supervised the re-integration of former Mobutist soldiers in "re-education" camps in which severe human rights violations were committed. See: UN Security Council, *Report of the Joint Investigative Mission Team*, June 29, 1998, S/1998/581; Human Rights Watch, *What Kabila was hiding: civilian killings in the Congo*, New York, October 1997; "Human rights abuses reported at Kitona re-education camp", *De Financieel-Economische Tijd*, November 19, 1997 (BBC November 22, 1997); *Avocats Sans Frontiers, Concernes: Plainte à charge des Présidents Museveni et Kagame, les Officiers Kazimi, Kabaraehe et consorts du Chef des crimes contre l'humanité*, July 28, 2000, Afriqui/Info asbl; U.N. Report S/2002/1146, October 16, 2002, "Persons for whom the Panel recommends a travel ban and financial restrictions."

<sup>200</sup> "South African dogs of war in Congo", *Mail and Guardian*, August 28, 1998; Brummer, S., A. Eveleth, "Congo Kinshasa, The rebels with many causes", *Mail and Guardian*, September 11, 1998; *Africa Confidential*, August 1998. On Baramoto's role and his early attempts to topple Kabila see: "Radio profiles new head of the army", *Voix du Zaïre*, Kinshasa, November 21, 1996 (BBC Summary, November 23, 1996); Russell, A., "Mobutu's generals try to fund rebellion: Using proceeds from sale of stolen riches to regain former Zaire", *The Gazette (Montreal)*, July 15, 1997; "Jailed Congolese plotted uprising", *Mail and Guardian*, December 19, 1997; "Former Zairian general's Johannesburg home robbed", *Agence France Presse*, February 27, 1998; Brummer, S., A. Eveleth, "South Africa, Showdown over Mobutu's generals", *Mail and Guardian*, February 13, 1998; "Congo Kinshasa, Mobutu General Joins The Rebels", *New Vision (Kampala)*, February 3, 1999; "D.R. Congo: Rebels Refuse To Team Up With Ex-Mobutu Heavyweights", February 4, 1999, *IPS-Inter Press Service*; "Rebels Disown General", *New Vision*, Kampala, March 20, 1999; "A chacun son mobutiste", *La Lettre du Continent*, July 1, 1999. See also: "Former aide to Zaire dictator Mobutu detained in Belgium: report", *Agence France Presse*, August 26, 2003; "Belgium releases former aide to Mobutu", *Agence France Presse*, September 11, 2003; "Belgian Authorities Re-Arrest Mobutu's Former Army Chief Baramoto", *World News Connection*, September 12, 2003.

<sup>201</sup> Willame, J.-C. (1999): p. 222, note 29.

<sup>202</sup> "Kabila launches double offensive", *The Independent*, August 10, 1998; Simpson, C., "Rebels Control Power, Kabila Flees Capital", *IPS-Inter Press Service*, August 14, 1998; Hranjski, H., "Government to airdrop troops, wins support from neighbors", *AP*, August 19, 1998; "Information minister announces aerial bombardment of Kitona", *RTNC*, August 19, 1998 (BBC Summary August 21, 1998); Ourdan, R., "Sous la menace militaire, les insurgés font volte-face", *Le Monde*, August 21, 1998; Stewart, I., "Rebels say Angolan troops enter Congo's civil war", *AP*, August 23, 1998; Onishi, N., "Congo recaptures a strategic base", *New York Times*, August 24, 1998; "Information minister: Kitona being secured, rebels fleeing", *RTBF Radio 1* (BBC Summary, August 25, 1998); "Rebels in Congo suffer setbacks", *Deutsche Presse-Agentur*, August 24, 1998; "Angolan forces reportedly capture Ugandan, Rwandan troops", *SAPA Johannesburg*, August 25, 1998; "Details emerging on battles in Bas-Congo; 'carnage' reported in Kitona", *Radio France Internationale*, August 31 1998 (BBC Summary, September 2, 1998).

Lt. Col. Kabarebe and Gen. Baramoto for all intents and purposes abandoned the soldiers they had mobilized, most of whom were killed in battles with Angolan and DRC troops, the remainder reaching UNITA outposts, to return later to Kinshasa after an agreement with the DRC government.<sup>203</sup>

The DRC government and media reports stated that the hijacked planes belonged to three different companies. The Nigerian/British company Air Atlantic Cargo owned a B-707 (on lease to Lignes Aériennes Congolaises, LAC). The two remaining planes both belonged to Congolese companies, Blue Air Lines (the B-727) and Congo Airlines (the other B-707).<sup>204</sup>

Further research carried out for this report has shown that the registration number (r/n) of the Boeing 727-100 (the first to land in Kitona)<sup>205</sup> was 9Q-CDM.<sup>206</sup> Blue Air Lines<sup>207</sup> had registered it in DRC on January 18, 1992. After being used in the Goma-Kitona air bridge, the plane was briefly operated from the old airport of Entebbe (Uganda) for two military-designated flights to Goma, September 20 and October 6, 1998.<sup>208</sup> Probably damaged, it was later abandoned (2000/2001) at the side of the Goma Airport runway.<sup>209</sup>

The B-707 operated by Congo Airlines<sup>210</sup> had 9Q-CKB as its r/n. It was subsequently in the fleet of the Congolese airline Hewa Bora Airways,<sup>211</sup> which inherited Congo Airlines' assets and (on April 5, 2000) re-registered the aircraft as 9Q-CKK. The plane was retired in 2006.<sup>212</sup> The other B-707, operated by Air Atlantic Cargo<sup>213</sup> on a lease to Lignes Aériennes Congolaises (LAC),<sup>214</sup> had 5N-AOO as its registration

<sup>203</sup> "Soldiers return to Kinshasa from Angola after "adventure" with Rwandans" *RTNC TV*, Kinshasa, February 18, 2000, *BBC* February 22, 2000.

<sup>204</sup> DRC Government, *Armed Activities on the Territory of the Congo* (Democratic Republic of the Congo v. Rwanda), International Court of Justice, Application Instituting Proceedings Filed in the Registry of the International Court of Justice, June 23, 1999; DRC Government, *Affaire Relative aux Activités Armées sur le Territoire du Congo* (République Démocratique du Congo c. Ouganda), Mémoire de La République Démocratique du Congo, Volume 1, Mémoire, Cour Internationale de Justice, July 2000; Bayolo, H. C., *L'église profanée. Chronique des violations des droits du clergé pendant la guerre d'agression (1998-2000)*, Kinshasa, Ed. Concordia, 2002; International Court of Justice, *Case Concerning Armed Activities on the Territory of the Congo* (Democratic Republic of the Congo v. Uganda). The Hague, December 19, 2005.

<sup>205</sup> Willame, J.-C. (1999): p. 221-223.

<sup>206</sup> Manufacturing number (m/n) 18919, entered in service July 28, 1965, with All Nippon Airways.

<sup>207</sup> Founded in 1984 as Business Cash Flow Aviation and renamed Blue Airlines in 1991 (ICAO: BUL, Head T. Mayani), Blue Airlines has been based in Kinshasa. At the time of the event it operated six aircraft: the 9Q-CDM (B-727) 9Q-CZN and 9Q-CZL (AN-28s, later radiated from the DRC Registry), 9Q-CZP (AN-2, grounded for expiration of the airworthiness certificate in 2007), 9Q-CZK (former RA-26230, c/n unknown, AN-26, took the r/n of a B-707 abandoned since 2002 in Kisangani as 9Q-CGO), and possibly some old L-188-a Electra (see JP Airline-fleets International 1998-1999/2000-2001; AeroTransport Databank (ATDB, [www.aerotrtransport.org](http://www.aerotrtransport.org)). The company Air Operator Certificate (CAB/MIN/TC/038/2005) was revoked in 2005 and re-instated in 2006 (409/CAB/MIN/TC/0109/2006; last 409/CAB/MIN/TVC/028/2008). The airlines was listed in the European Union's list of companies banned from the European skies (from 2006 to present, Commission Regulation No 474/2006 of 22 March 2006 to No 1144/2009, of 26 November 2009). Undeterred, the airlines continues its operations with AN-26 (r/n/ 9Q-CZO) it had operated since March 2000 (DRC Aircraft Registry) and was spotted on the apron of Kinshasa's N'Djili airport March 14, 2009 and in flight over Kinshasa July 15, 2009 (Photographic evidence, same dates, photographer Angelo Matari, <http://russianplanes.net/EN/REGS/9Q-CZO>). The 9Q-CZO was registered in DRC March 29, 2000, m/n 47313402, in DRC Registry as airworthy. See also: Soviet Transports on-line DB [www.scrumble.nl/sovdb.htm](http://www.scrumble.nl/sovdb.htm); ATDB, [www.aerotrtransport.org](http://www.aerotrtransport.org); and ACAS DB.

<sup>208</sup> Porter Commission, Entebbe airport flight logs (see further below). During the war, the "Old airport" was used for thousands of flights to DRC's rebel-occupied provinces.

<sup>209</sup> Photographic evidence, December 22, 2004; October 15, 2006, photographers Michael Fabry and Guido Potters, respectively, *Airliners.net*.

<sup>210</sup> Congo Airlines (ICAO: ALX, Head José Endundo-Bononge) was founded in 1997, in a long list of name changes and mergers dating back to Shabair (founded in 1984, ATDB).

<sup>211</sup> Hewa Bora Airways (ICAO: ALX) was founded in 2000. Hewa Bora was listed on the EU list of companies partially banned from European skies (March to October 2006; March to November 2007), and totally banned in 2008 and 2009 (April to November 2009). Hewa Bora has continued to fly in Africa after the EU ban. Among other aircraft in its fleet presently active, it is using its formerly registered 9Q-CJD B-767-200 (radiated from DRC Registry in 2008 but re-registered in DRC as 9Q-COG at the end of 2009 after being registered in São Tomé as S9-TOP in the same 2009). The company also uses a DC-9-82 (m/n 49176), registered in São Tomé as S9-TOA and a B-707-351C registered as 9Q-CKR (m/n 19411), whose airworthiness certificate expired August 7, 2008 but was apparently renewed. See: JP Airline-fleets International 2008/2009; AeroTransport Databank (ATDB, [www.aerotrtransport.org](http://www.aerotrtransport.org)). See for registration S9-TOP, Commission Regulation (EC) No 1144/2009, of 26 November 2009.

<sup>212</sup> Manufacturing number 20761/867, delivered in 1973 to Egypt Air, registered by Congo AL as 9Q-CKK March 17, 1997 (formerly 9Q-CKK by Express City and Zaire Express). It was re-registered as 9Q-CKB March 1, 1998 and retired from Hewa Bora's fleet March 20, 2006. It was leased to the Congolese Wimbi Dira Airways in 2004/2005. ACAS DB, JP Airline-fleets International 1998-1999/2006/2007; AeroTransport Databank (ATDB, [www.aerotrtransport.org](http://www.aerotrtransport.org)).

<sup>213</sup> The company (ICAO: ANI) was founded in 1994 and based in Lagos (Nigeria) and Ostend (Belgium), with a fleet of various B-707s. It was incorporated as Air Atlantic Cargo Ltd in the UK (Beckenham, Kent) February 22, 1996 by MCM Services Ltd and Action Company Services Ltd. In a 1997 document filed to the British registrar (Companies House), the director was stated as Adrian Baulf. It was compulsorily dissolved January 13, 1999 for insolvency. It was liquidated March 31, 2004 under the Insolvency Act 1986 at the final meeting of creditors. The company was controlled by the UK-based and Nigerian citizen Chief Adebiji Olafisoye. Both Olafisoye and Baulf were named as major debtors of Afribank PLC in 2009, see *Economic Confidential*, May 31, 2009. For previous indictments of Olafisoye, as chairman of Fidelity Bond of Nigeria and in the context of the inquiry into Nigeria Airways set up by President Obasanjo, see: "Nigeria Airways: Olafisoye's Counsel Says Commission Illegally Constituted," *This Day*, December 15, 2003. According to official records of Companies House, Adrian Baulf – indicated as the head of Air Atlantic Cargo in all the industry DBs, is presently a Director in 10 companies and was previous Director or Secretary of 57 other companies. In addition to be a Director of Air Atlantic, Olafisoye was in 1991 a Director in Majorport Ltd. between 1991 and 1993 (Companies House records).

<sup>214</sup> The company was founded in 1997 and ceased operations in 1999, with subsequent attempts to restart operations in 2002-2003 and apparently restarting in 2005 as LAC/ First Transworld with 2 B-737s (registered in 2006 and 2007, but sources contrast on r/n). Included in the EU total ban list from March 2006 to November 2009. See: DRC

number.<sup>215</sup> Air Atlantic Cargo was involved - before and after the events in Goma - in arms trafficking on behalf of both the rebel armies and the DRC government.<sup>216</sup> The B-707 pilot declared that he was able to take off from Kitona and to escape his captors, returning to Lagos and then to Kinshasa, where he revealed the story - as reported above - in a radio broadcast.<sup>217</sup> However, interviews with the Air Atlantic crew carried out by the London-based *Observer*<sup>218</sup> revealed that on August 4, 1998 a B-707 belonging to Air Atlantic delivered a cargo to Goma consisting of 38 tons of arms on-loaded in Burgas (Bulgaria) and directed toward the rebels. Soon afterwards, according to the *Observer*, the same B-707 delivered 21 tons of arms to Namibia and 36 armored vehicles to Botswana, both cargoes destined for Kabila's troops.

During the war, Rwanda, Uganda and the rebel groups they supported<sup>219</sup> gained control of vast portions of DRC territory, in particular the mineral-rich Northern and Eastern provinces. The takeover and control of those provinces was facilitated by Congo's dense network of airports and airstrips (nearly 400 in total and about 200 in the Northeastern and Eastern Provinces),<sup>220</sup> a network that - along with its system of inland-water navigation<sup>221</sup> - had formed the backbone of DRC's transport system since colonial times.<sup>222</sup> In successive waves, Ugandan, Rwandan and rebel troops seized and took control of strategic airports like Goma and Beni in North Kivu; Bukavu in South Kivu; Kisangani, Isiro, Buta-Zega and Bunia in the Orientale; Kindu in Maniema; Bumba and Gbadolite in Equateur; and others as well.

The war's main military operations ended in 2002, after several attempts<sup>223</sup> to restore peace in the region. Final peace agreements were signed between DRC, Rwanda and Uganda<sup>224</sup> soon after the assassination of Kabila.<sup>225</sup> The principal Congolese armed groups and the DRC government signed a peace agreement

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Registry; Commission Regulation (EC) No 474/2006 of 22 March 2006 to No 1144/2009, of 26 November 2009; JP Airline-fleets International 2006/2007 and 2008/2009; ATDB, [www.aerotrtransport.org](http://www.aerotrtransport.org)..

<sup>215</sup> A Boeing 7077-351C, manufacturing number 19263/516.

<sup>216</sup> Honigsbaum, M., A. Barnett, "UK firms in African arms riddle; Mystery of cargo planes and lethal trade that is fuelling a continent's murderous civil wars", *The Observer*, January 31, 1999; "Bulgaria arms in Africa", *PARI Daily*, February 18, 1999 (*Financial Times, Global News Wire*, February 21, 1999).

<sup>217</sup> See: "Aircraft returns to Kinshasa from rebel-held Kitona", *RTNC TV*, Kinshasa, August 9, 1998 (*BBC* August 11, 1998). See pilot Gngang above for other sources.

<sup>218</sup> Honigsbaum, M., A. Barnett (*The Observer*, January 31, 1999).

<sup>219</sup> The main Uganda and Rwanda-backed rebel forces were: Ex-FAZ, Forces Armées Zairoises, including DSP - Mobutu's Division Spéciale Présidentielle; FLC, Front pour la Libération du Congo, alliance between MLC, RCD-ML and RCD-N; MLC, Mouvement de Liberation du Congo and its military wing ALC, Armée de Liberation Congolaise; RCD, Rassemblement Congolais pour la Démocratie, formed in August 1998, splintered in RCD-Goma (military wing ANC, Armée Nationale Congolaise), RCD-K (ML), based in Kisangani, later based in Bunia and referred to as RCD-ML (military wing APC, Armée Populaire Congolais) and RCD-National, located in Bafwasende; UNITA, União Nacional para a Independência Total de Angola, Angolan rebels; UPC, Union des Patriotes Congolais, Hema, Alur, Lugbara and Kakwa militia; and UPR, Union pour la République, neo-Mobutists.

<sup>220</sup> TransArms Database.

<sup>221</sup> Inland river navigation of Category 1 reaches 2,150 km, of which 1,615 km from Kinshasa to Kisangani on the Congo River and 534 km from Kinshasa to Hebo on the Kasai River. Navigation of Categories 2 and 3 along rivers and lakes (excluding Lake Tanganika), reaches in total 8,950 km. During the colonial times, a network of about 5,000 km of railways (managed since 1997 by SNCC, Société National de Chemins de Fer Congolais) served the main mining locations. During the Second Congo War most of the rail network was unserviceable, except the lines from Lubumbashi (DRC capital 1999-2003) to the Southern African railroad system and the Matadi-Kinshasa.

<sup>222</sup> See: Nagle, P., "The Congo: Africa Best Aviation", *Montreal Gazette*, January 7, 1961 (on a UN-Canadian training and cooperation mission). See also: Burchall, H., "Air Services in Africa", *African Affairs*, London, Vol. 32, N. 126, pp. 55-73, 1933; Cumming, D., "Aviation in Africa", *African Affairs*, London, Vol. 61, N. 242, pp. 29-39, 1962.

<sup>223</sup> See: US State Department, *Lusaka Ceasefire Agreement*. Bureau of Political-Military Affairs, Washington, DC, July 10, 1999; Masire, K. "The Lusaka Agreement, Prospects for Peace in the Democratic Republic of Congo", *African Security Review*, Vol. 10 No 1, 2001, ISS, Pretoria; "African 'World War' peace signing", *CNN.com*, July 30, 2002; Inter-Congolese Dialogue, *Political negotiations on the peace process and on transition in the DRC, Global and Inclusive Agreement on Transition in the Democratic Republic of the Congo*, Pretoria December 16, 2002; U.N. Security Council, *Resolution 1445 (2002)*, December 4, 2002.

<sup>224</sup> DRC and Rwanda July 23, 2002; DRC and Uganda July 30, 2002. The agreements included the withdrawal of Rwanda and Uganda troops from the DRC territory. See: Musangu, F., (*Le Phare*, April 24, 2002); "DRC-Rwanda: Text of the Pretoria Memorandum of Understanding (July 30, 2002)", *IRIN*, Nairobi July 31, 2002; "Uganda and DR Congo make peace", *BBC*, September 6, 2002; Asiiwe, A., "Rwanda pulls out of DRC, but warns off 'Negative forces'", *AFP*, September 23, 2002; Ngowi, R., "Rwandan army steps up withdrawal from Congo", *AP*, October 1, 2002; "Last Rwandan soldier quits DRC", *Panafrican News Agency*, October 5, 2002.

<sup>225</sup> Laurent-Désiré Kabila (1939-2001) was assassinated January 16, 2001 in yet un-explained circumstances. February 9, 2001, interim president Joseph Kabila set up a commission of inquiry on the assassination, consisting of members of the Congolese security services as well as Angolan, Namibian and Zimbabwean army. Between February and March 2001, the commission - on the basis of un-explained authority - ordered the arrest and detention of dozens alleged conspirators in the plot. May 23, 2001, the commission made public its report. Col. Eddy Kapend, Kabila's special military assistant (arrested February 24, 2001) was accused to have organized the plot. The trial began March 15, 2002, instructed by the "Cour d'Ordre Militaire" of Kinshasa (public sessions were held only from September 25, 2002) and included 135 defendants, detained at the infamous "Prison Central de Makala" (Kinshasa). January 7, 2003, the Court condemned to death 26 of the alleged conspirators, acquitted 45, and condemned the remaining to various jail terms. To date, the death sentences have not been carried out, but the new DRC president, Joseph Kabila, has so far opposed a revision of the trial, widely considered unfair. See: *CNN*, "[Congolese president dead following apparent coup attempt, sources tell CNN](#)", January 16, 2001; *CNN*, "[Kabila's body returns home to Congo](#)", January 20, 2001; Clancy, J., "African leaders look to Kabila assassination as an opening for peace", *CNN*, January 21, 2001; A.I., *Deadly conspiracies?*, March 27, 2001; A.I., *DRC: From assassination to state murder?*, February 23, 2002; La voix des sans voix pour les droits de l'homme (vsv), "La famille du colonel Eddy Kapend martyrisée par le parquet près la COM", *Communiqué de Presse N°024/Rdc/Vsv/Cd/2002*, Kinshasa, March 12, 2002; *IRIN*, "DRC: Kabila assassination trial postponed", Nairobi, March 20, 2002; *Digitalcongo*, "[Procès des présumés assassins de L.D.Kabila](#)", Kinshasa, October 24, 2002; *IRIN*, "Defendants in Kabila Assassination Trial Plead Not Guilty", 21 December 2002; A.I., *DRC: Thirty sentenced to death after unfair trial*, January 7, 2003; *IRIN*, "DRC: Court condemns 26 to

in December 2002, with a subsequent Final Act (April 2003) that allowed for the inauguration of the "Transitional Government."<sup>226</sup> Military operations continued in some DRC provinces (in Ituri especially), and a state of latent or open warfare lasted until 2010.<sup>227</sup>

### 4.3 Violations of the Chicago Convention

During the period August 1998-February 2002, Uganda's Entebbe airport, located on the Northern shore of Lake Victoria, functioned as a main hub for military and civilian flights to and from DRC's rebel-held areas. A number of flights also stopped in Entebbe on their way to Rwanda and Kenya, as well as to Egyptian and European airports.

Entebbe was not the only non-DRC airport that served the operations of the invading forces, but it was one of the very few in Central Africa that operated as a connecting point to Europe, the Middle East and both Northern and Southern Africa (and it still does).

In May 2001, in an attempt to verify allegations included in two UN reports<sup>228</sup> on the illegal exploitation of natural resources in the DRC, Uganda set up a commission of inquiry (the Porter Commission)<sup>229</sup> that concluded its work in November 2002. The Commission eventually found that most - if not all - of the UN findings were correct.<sup>230</sup> It concluded that high-ranking officials of the Ugandan army (UPDF), such as Maj. Gen. James Kazini and Lt. Gen. Salim Saleh, along with Ugandan, Congolese and other foreign businessmen, had formed companies<sup>231</sup> to do business in DRC's occupied zones and to exploit and export DRC's natural resources (cobalt, niobium, gold and diamonds, in particular).

In the course of its activities, the Commission collected information on the flight movements at the Entebbe airports, in particular at the military-controlled "Old Airport," which is adjacent and connected to the international one. The records showed that during the war period (August 1998 to February 2002) thousands of flights took off from Entebbe to DRC's occupied areas, most of them designated as military flights.

Uganda's Ministry of Defence and private companies in fact used a multitude of aviation companies to fly troops, businessmen, arms, other military cargoes, and civilian goods as well to DRC's occupied zones, often returning loaded with natural resources. As shown by the Commission's records, several flights flew arms, equipment and food directly to anti-Kabila armed groups, such as the FLC.<sup>232</sup>

The Commission stated that the majority of the flights transporting goods to and from DRC had no right to be defined military flights and therefore had no right to be exempted from paying Customs duties for the goods they transported. Several companies evaded taxes for hundred of thousands of

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death, acquits 45 in Kabila murder trial"; Kinshasa, January 7, 2003; Isango, E. "Convicts in Kabila assassination escape", [www.iol.co.za](http://www.iol.co.za), October 24, 2006; Tshilombo Munyengayi, "46 ans de grandes controverses constitutionnelles en RDC", *Le Potentiel*, Kinshasa, August 4, 2006; *Radio Okapi (MONUC)*, "Assassinat de Laurent Désiré Kabila: La défense des condamnés réclame la reprise du procès", January 17, 2008; "Lawyers seek amnesty for Kabila's killers", [www.iol.co.za](http://www.iol.co.za), January 16 2008; *Radio Okapi (MONUC)*, "9 ans après l'assassinat de LD Kabila: Mwenze Kongolo clame l'innocence d'Eddy Kapend", January 16, 2010.

<sup>226</sup> It was inaugurated July 18, 2003, after the "*Global and Inclusive Agreement on Transition in the DRC*" was signed in Pretoria, December 16, 2002 (between DRC government and the Congolese Rally for Democracy RCD; Movement for the Liberation of the Congo MLC; Congolese Rally for Democracy/Liberation Movement RDC/ML; Congolese Rally for Democracy National RCD/N; the Mai-Mai. See: Inter-Congolese Dialogue, *The Final Act*, Sun City, South Africa, April 2, 2003.

<sup>227</sup> See: U.N. S.C., Resolution 1533 (2004, *Report of the G.o.E.s*, December 12, 2008 (S/2008/773); *Report of the G.o.E.s*, November 23, 2009 (S/2009/603); International Court of Justice, *Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo V. Uganda)*. The Hague, December 19, 2005; Amnesty International, *On the precipice: the deepening human rights and humanitarian crisis in Ituri*, March 2003; ICG, *Congo Crisis: Military Intervention in Ituri*, Africa Report N°64, June 13, 2003; Woudenberg, Van A., *Ethnically Targeted Violence in Ituri*, ISS, Pretoria, September 2003.

<sup>228</sup> U.N., Report of the Panel of Experts on the *Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo*, S/2001/357, April 12, 2001; Report of the Panel of Experts *Addendum*, S/2001/1072, November 13, 2001. See also for the reaction to the UN reports: "[DRC: Mixed Reaction to UN Report on Resource Exploitation - UN Security Council](#)", IRIN, November 22, 2001; "[Reaction of Rwanda to the final report of the Panel of Experts on the Illegal Exploitation of the Natural Resources and Other Forms of Wealth of DR Congo](#)", S/2003/1048, October 30, 2003. Both Rwanda and Uganda rejected the findings of the UN Group of Experts. Some of the findings and allegations were actually unsupported by hard evidence, but the bulk of them proved to be true. Similar findings, included in subsequent reports, were rejected by Rwanda, Uganda, Belgium and other countries, only to be confirmed true at a later time.

<sup>229</sup> See: Porter Commission, *Final Report* (November 2002).

<sup>230</sup> See: Porter Commission, *Final Report* (November 2002) and U.N. Report of the Panel of Experts, S/2002/1146, October 16, 2002.

<sup>231</sup> Such as the Victoria company, registered in Goma, DRC.

<sup>232</sup> Front pour la Libération du Congo, alliance between MLC, RCD-ML and RCD-N.

dollars by trading goods under the cover of military-designated flights departing or arriving at the “Old Airport,” where the presence of the Ugandan Revenue Authority (URA) was barred for nearly a year at the beginning of the war.<sup>233</sup> In addition, some of the companies contracted to the Defence Ministry had no valid aviation licenses,<sup>234</sup> used non-airworthy aircraft, and were eventually accused of overcharging the Ministry for millions of dollars.<sup>235</sup> It is alleged that some of them were later cleared of the charges,<sup>236</sup> but there is no mention of this in the Porter Commission’s final report.

The Porter Commission further maintained that some of those flights served the needs of the civilian population or those of legitimate commerce, and might have taken place anyway as normal import-export traffic with the DRC. In fact, an analysis of the flight logs shows that traffic clearly surged in connection with the war operations. Whereas only a few flights left Entebbe for DRC airports in the period January-July 1998, the period August-December 1998 saw 342 flights taking off to DRC’s occupied zones (most of them round trips, by implication). In 1999, the number of these flights surged to 627, reached 723 in 2000, and 818 in 2001.

In July 1999, Uganda’s Civil Aviation Authority issued a ban on commercial flights from Entebbe to DRC’s rebel-held Eastern provinces, but the Defence Ministry continued to allow businessmen to fly to DRC on its chartered aircraft. The ban – which affected some Uganda-based companies and shifted cargo contracts for the DRC to Kigali – was routinely violated, however.<sup>237</sup>

Concerned with investigating the truth of the UN accusations against certain individuals and companies linked to Ugandan military personnel, businessmen and politicians, the Commission apparently did not pay much attention to the legal implications of the logistic operations. While discussing the distinction between civilian and state flights, it failed to throw light on violations of some of the most important provisions of the International Civil Aviation Organization’s “Chicago Convention,”<sup>238</sup> which regulates civil aviation activities. Among those provisions are the followings:

Art. 1: *“The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory.”* The flights to and from DRC had no permission granted by DRC authorities and were in effect illegal.

Art. 3: a) *“This Convention shall be applicable only to civil aircraft, and shall not be applicable to state aircraft. b) Aircraft used in military, customs and police services shall be deemed to be state aircraft. c) No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with terms thereof.”* Therefore, even if all the “military-designated” (state) flights were really flights made by state-designated aircraft (and they were not), Uganda would have violated the Convention, not least of all because no official war declaration existed between the two countries and the “traffic” by state aircraft would have had to follow the Convention’s provisions.

Art. 4: *“Misuse of civil aviation: Each contracting State agrees not to use civil aviation for any purpose inconsistent with the aims of this Convention.”* The dozens of civilian aircraft that flew to and from the DRC and the companies that operated them clearly violated this provision, in particular by exposing civilian crews and passengers to the risk – as actually happened to a B-727<sup>239</sup> - of being shot down by DRC government forces.

Art. 35: a) *“No munitions of war or implements of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State.”* Cargo manifests and cargo loading schedules of the Ugandan army, collected by the Commission, clearly show that

<sup>233</sup> Porter Commission, *Final Report* (2002).

<sup>234</sup> See further in this section.

<sup>235</sup> Ochieng, L., O. Opolot, “Moves to Stop Uganda-Congo Smuggling Racket”, *The East African*, May 5- 12, 1999; Wasike, A., “Defence Lost 6 Billion on Congo Flights”, *New Vision* (Kampala), March 7, 2002; “Defence Overpaid Rugasira [head of VR Promotions that operated Knight Aviation aircraft in Uganda, nda] By Shs 5bn”, *The Monitor* (Kampala), March 7, 2002. At that time, the loss was roughly equal to USD4 million. were later allegedly cleared by the accusations

<sup>236</sup> Knight Aviation, Eagle Aviation, and United Airlines. See: Mugisa, A., “Porter Probe Clears Airlines” *New Vision* (Kampala), March 21, 2002.

<sup>237</sup> Allio, E., Y. Abbey, “Airlines Defy Congo Ban”, *New Vision* (Kampala), August 16, 1999.

<sup>238</sup> ICAO, Convention on International Civil Aviation, signed December 7, 1944. Text of articles quoted below are from the 2006 version, Doc. 7300/9.

<sup>239</sup> The incident occurred October 10, 1998 resulting in 41 casualties. The Boeing 727, registration number 9Q-CSG belonging to Congo Airlines, was shot down by the rebels during the take off at the Kindu airport. See: DRC Government, International Court of Justice (1999); *Air Safety Network* database (incorrect company name).

civilian aircraft, without DRC permission, flew to the country with cargoes of weapons, loaded with or without army supervision.

The same Commission noted that Uganda's Civil Aviation Authority objected to military authorities about the safety of army-hired aircraft, which it had not licensed to fly in Uganda because they lacked proper maintenance and documentation. Article 3 of the Chicago Convention, in comma d), reads: "*The contracting States undertake, when issuing regulations for their state aircraft, that they will have due regard for the safety of navigation of civil aircraft.*"

According to Commission documents, the Ugandan Ministry of Defence directly contracted about 460 flights between 1998 and 2000.<sup>240</sup> Uganda was not, of course, the only country whose military officials, politicians and businessmen exploited the war for their own gain and surely not the only one to use civilian aircraft for military and business "operations." Zimbabwe is a case in point.<sup>241</sup>

The laying down of sanctions on those who contravened the Chicago Convention was not among the various international measures aimed at ending the war or at deterring violations. And so aviation companies who infringed the rules incurred no other risks than those connected with doing business in a war zone.<sup>242</sup>

#### 4.4 Aircraft and companies in DRC's war zones: the Entebbe flight logs

A revised version<sup>243</sup> of the Entebbe flight logs shows a total of 2,681 entries, which mostly refer to round-trip flights to and from the DRC's occupied zones and a few other foreign locations (one entry in these cases means two flights in and out Entebbe on the same day). This total excludes some 400 entries related to flights operated on behalf of the United Nations, the Red Cross and humanitarian NGOs, as well as occasional flights made only once or twice by small aircraft.<sup>244</sup> Media reports and official probes made afterwards have, however, exposed cases in which some airlines, such as Service Air, submitted permission requests for "humanitarian relief aid" flights that actually transported smuggled goods.<sup>245</sup>

No less than 92 different aircraft (accounting for 96 registration numbers)<sup>246</sup> flew in and out of Entebbe during the August 1998-February 2002 period, carrying troops and businessmen, as well as civilian and military cargo destined to the DRC, and often returning - according to Porter Commission documents - with loads of minerals, precious stones, timber and other goods destined to local or foreign markets.

As stated above, most of the flights took off from Entebbe's military-controlled "Old Airport,"<sup>247</sup> but none of them was made by military transport aircraft.. Instead, the flights were performed by civilian planes, belonging to companies willing to fly in war zones, either under agreements with private shippers or in the service of the Ugandan military and rebel groups.

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<sup>240</sup> Porter Commission, "*Flights into and from the Democratic Republic of the Congo by Aircraft Contracted or Chartered by Ministry Of Defence/Uganda Peoples Defence Forces, 1998-2000.*"

<sup>241</sup> See for example the case of Avient and Antonair and the use of their contracted aircraft (three Antonov 26 and a Mi-24 attack helicopter) for bombing rebels' positions out of Kinshasa, Mbandaka and Lubumbashi that resulted in hundred of casualties in the civilian population. See: *Africa Confidential*, "Soldiers of misfortune," September 18/15, 2000; Sary, B., A. Shikayi, *Le Bilan socio-economique de la gestion de L.D. Kabila*, Observatoire de l'Afrique Centrale, April 3 2001; House of Commons (UK), minutes, July 9, 2001; U.N., Report of the Panel of Experts, S/2002/1146, October 16, 2002; *Africa Confidential*, "The British Connection," October 21/25, 2002.

<sup>242</sup> The same articles of the Convention could and should be applied to the aviation companies and countries that supported the first wave of missions for the invasion of Iraq in 2003, before the establishment of the UN mandate. Those companies performed the same kind of support seen in the Second Congo War and, similarly, most of them were under contract of ministries of Defence, in that case the US' and UK's.

<sup>243</sup> The original flight logs and the tabulates used by the Commission has been revised according to historical aircraft/operator and aircraft/type data; elimination of unjustified double entries; reconciliation of nominal operators with type of aircraft they used, correction of material mistakes.

<sup>244</sup> Excluded are also 35 entries related to the US-based Summer Institute of Linguistics International, a Dallas (TX)-based Christian Faith organization, whose "humanitarian" activities could not be verified. See on SIL "intelligence" activities: Colby, G., C. Dennett, *Thy Will Be Done: The Conquest of the Amazon: Nelson Rockefeller and Evangelism in the Age of Oil*, HarperCollins Publishers, 1995.

<sup>245</sup> See, for example, the probe of a Service Air AN-12, reg/n 9Q-CIH (formerly 9L-LEC), that crashed January 2005, en route between Entebbe and Kinshasa, killing all crew members. See: "Crashed Plane Had Smuggled Cargo Between DRC and Uganda," *The Monitor* (Kampala), January 10, 2005; "Crashed Plane Mystery Deepens," *The Monitor* (Kampala), January 11, 2005; *Aviation Safety Network*, January 8, 2005. The smuggled goods included "a Jeep Cherokee and Toyota RAV4, 20 tonnes of beans and an assortment of Vodaphone-labeled T-shirts." May 26, 2009, an AN-26 operated by Service Air (9Q-CSA) and transporting 7 tons of cigarettes departed from Goma and crashed near Isiro-Matari, killing three of its 4 crew.

<sup>246</sup> Some aircraft changed registration during the concerned period.

<sup>247</sup> The Old airport runways was connected to the runways and facilities of new international airport. The Old airport is presently a MONUC logistic base .

On their way back from the DRC, a number of planes used Entebbe as a stopover on their way to foreign locations, Rwanda and Kenya in particular. Two of the origin/destinations most recorded were Goma's airport (used as a transit and transshipment point to and from other DRC airports) and Kisangani, theater of major military and mineral resources operations, including fights between the Rwandan and Ugandan armies for the control of mines.

**Table 4. Entebbe flight logs August 1998-February 2002 - Selected destinations**

Destination	Province/State	Entries
Kisangani-Bangoka and Kisangani-Simisimi	Orientale	917
Bunia	Orientale	473
Goma Intl.	North Kivu	403
Isiro Matari	Orientale	167
Buta-Zega	Orientale	162
Beni-Mavivi and Beni-Wageni	North Kivu	157
Gbadolite	Equateur	141
Kigali	Rwanda	73

Source: Elaboration on Porter Commission flight logs.

**Table 5. Number of entries by type of aircraft**

Aircraft	Max Payload tons	N. of entries
Antonov 12	20.0	560
De Havilland Canada DHC-6 Twin Otter	1.0	377
Beech King Air, Twin. Baron,	2.5	385
Ilyushin 76	45.0	358
Let 410 (Czech R.)	1.7	268
Antonov 26	6.0	143
Boeing 707 and 707-300	43.0	121
Piper 31, 32, 34	-	103
British Aero BA 748 Andover C91	6.0	102
Lockheed L100	23.0	75
Cessna (Stationair to Centurion)	2.0	17
Antonov 72 STOL	-	40
Antonov 124	120.0	28
Douglas DC-4	-	20
Douglas DC-8F-55	43.0	17
Ilyushin 18	13.0	7
<b>Total including 60 by Others*</b>		<b>2,681</b>

Source: Elaboration on Porter Commission flight logs; Manufacturers specifications. Note (\*): Antonov 2 (9); Antonov 24 (7); Antonov 32 (3); Antonov 8 (26); Boeing 727 (2); Grumman G159 Gulfstream (4); Yakovlev 40 (9)

The planes that did most of the flying were of two types: Soviet- and Western-built freighters, often with 30/35 years of service; and medium/small passenger planes, adapted to carry between 1 and 3 tons of cargo, along with a reduced number of passengers. Medium/small aircraft were more frequently used for commuting people and relatively small cargoes per flight, but the frequency and flexibility of their operations allowed for a constant flow of goods in and out of the DRC's occupied zones.

As far as the aviation companies<sup>248</sup> that operated the flights are concerned, research accounts,<sup>249</sup> UN reports (2001 and 2002) and the Porter Commission singled out a handful of small Ugandan, Congolese,

<sup>248</sup> Sources of company and fleet information are AeroTransport Databank ([www.aerotrtransport.org](http://www.aerotrtransport.org)); JP Airline-fleets Intl. 1998/1999 to 2008/2009; ACAS database; Soviet Transports on-line DB [www.scrabble.nl/sovdb.htm](http://www.scrabble.nl/sovdb.htm), as well as companies' websites and manufacturers' production lists. Various reports by Amnesty International, Human Rights Watch, GRIP, and UN Group of Experts on DRC Congo Angola, Liberia, Sierra Leone, and Somalia - from 2001 to 2009 - also include information and documents on several companies quoted in this paragraph. Other sources are specifically indicated in footnotes. Company information are here limited to essential or Congo-related information. On some of the indicated companies' arms trafficking activities an extensive literature exists, unfortunately a mixture of few serious works supported by evidence and an array of reports, books, and articles plagued by innuendos and un-substantiated claims.

<sup>249</sup> See for example Wood B., J. Peleman (1999); Amnesty International, *DRC: Killing human decency*, May 31, 2000; Peleman, J. (2000); CleanOstend, *Ostend airport/Arms running*, March 24, 2001, website.

Kenyan, British and Swiss aviation firms and brokers, along with some sizeable cargo carriers such as Air Cess,<sup>250</sup> Centrafrican Airlines<sup>251</sup> and Sabena Cargo.<sup>252</sup> On the Rwandan side, the UN reports named other companies,<sup>253</sup> some of which were also present on the Entebbe flight logs. These companies, in effect, played a pivotal role as receivers of contracts for military and business operations in the DRC's rebel-held territories, but could hardly be considered logistic partners.<sup>254</sup> Most of them had only a few small aircraft, others had no aviation assets or crew at all and still others hadn't so much as a valid Air Operator Certificate.<sup>255</sup>

The companies most frequently named were Air Alexander<sup>256</sup> and Take Air;<sup>257</sup> Air Navette;<sup>258</sup> Bogol Airlines;<sup>259</sup> Eagle Aviation;<sup>260</sup> Knight Aviation (VR Promotions);<sup>261</sup> Showa Trade Air;<sup>262</sup> TMK;<sup>263</sup> United Airlines;<sup>264</sup> Uganda Air Cargo;<sup>265</sup> and the Swiss company Aviation Support & Trading Organization (AVISTO).<sup>266</sup> With three exceptions (Eagle Air, TMK, United Airlines), the above-mentioned companies engaged in no aviation activity other than to hire aircraft from real cargo carriers and exploit their

<sup>250</sup> Air Cess (Holdings) Ltd was incorporated in Gibraltar June 12, 1997. The registration documents show that July 31, 1997, the British citizen Michael G. Harridine was appointed Company executive. August 1 1997, 99 out of 100 of Air Cess Holding's ordinary shares were allotted to Victor Butt, domiciled in Sharjah and defined as Company executive. The last filing was dated August 12, 2000. See: Gibraltar Registrar of Companies (Companies House), *Air Cess (Holding)*, n. 61793, courtesy by Mike Lewis, Amnesty International.

<sup>251</sup> Centrafrican Airlines (ICAO: CET) was formed in 1998, incorporated in Gibraltar and registered in the Central African Republic. Victor Butt has been named as its head in JP Airline-fleets International 1998/1999. Its license was revoked by the CAR government in 2000 for illegally registering its aircraft through a corrupted official. The company suspended operations in 2001. Eight out of ten aircraft it operated in 1998/1999 were previously registered with Air Pass in Swaziland (3D-). Centrafrican Airlines shareholders in Gibraltar incorporation documents were Ronald de Smet's company WestBound Ltd, SouthBound Ltd, and ATCLtd. In a 2001 fax dated 3.1.2001 related to the sale of an AN12 aircraft (TL-ACR, formerly 3D-LDR, serial 2340809) to West Africa Air Services Inc. (head: Leroy Urey), Serguei Denissenko is named as General Manager of Centrafrican Airlines and the company address is given as c/o San Air General Trade, Ajman Free Zone, PO Box3962, Sharjah, Office 1304, 13th floor, Borj Tower Building, Boorj Avenue (Sanjivan Ruprah trial, Crema Court, Italy). In a HSBC Middle East bank's internal document (related to a 1999/2001 inquiry by United Arab Emirates' Central Bank on money laundering at the HSBC's Sharjah Branch), dated January 24, 2000, an official of the Sharjah branch informs his superiors that the two of the accounts held by San Air General Trading Co. have been closed - along with other customers' ones - for alleged money laundering activities. In a document dated June 19 2000, the same HSBC Sharjah branch informs the UAE Central Bank that San Air's accounts 040-188435-001/100 and 040-188435-252/253/254 have been closed April 1 and March 13, respectively (Source: TransArms databank, photocopies of HSBC original documents).

<sup>252</sup> On Sabena see Box 10 and U.N. Report of the Panel of Experts (S/2001/357, April 12, 2001), paragraph 76. According to documents collected by the Commission (RC-3-85 from 001 to 039), Sabena transported tons of cargoes from Entebbe destined to European firms, including DRC's cassiterite, coltan, gold, and diamonds from 1998 to 2000.

<sup>253</sup> New Gomair, Air Boyoma (head: Ondekane, vice president RDC Goma), Air Navette, Compagnie Aérienne des Grands Lacs, Sun Air Services, Kivu Air Services, and Cargo Fret International.

<sup>254</sup> For an analysis of Uganda aviation sector at that time see: Kayabwe, S.K.. *A Situation Analysis of the Air Transport Sector in Uganda*, Makerere Un. (Kampala), July 1999.

<sup>255</sup> See: "Aviation MD Allowed Risky Planes to Fly to Congo", *The Monitor*, August 15, 2001. The companies that did not meet CAA safety and operational standards were: Knight Aviation (license denied by CAA, but hired by the UPDF); Air Navette, VR Promotions, and Showa Trade Air (Sam Engola) did not have a license and "operated on letters issued by the permanent secretary of the ministry of Defence."

<sup>256</sup> Air Alexander International Ltd was incorporated in Kampala February 7, 1994 by Caleb K. Akandwanaho (aka Gen. Salim Saleh, Kampala), Ramesh Sheth (Nairobi), Roy D. Ndisi (Mombasa), Wolfgang Thome (Kampala, later chairman of Great Lakes Airways, Uganda). The company was named after Alexander Mahuta (at that time 3-year old). In January 1999, Saleh transferred his shares to his wife, Jovial Akandwanaho and to Alexander Mahuta (the latter defined as an adult businessman in the documents). Jovia Akandwanaho was the sister-in-law of President Museveni. See Porter Commission document SS/7/100. The company used a Boeing 707 leased from DRC-based Planet Air.

<sup>257</sup> Take Air was incorporated in Kampala July 28, 1994. See Porter Commission document SS/7/101. It was controlled by Salim Saleh's wife.

<sup>258</sup> Air Navette Ltd was incorporated in Uganda April 28, 2000 by Shiraz Hudani, following the incorporation of his connected (Hamida Hudani) other import-export company Alfa Rover Ltd, January 3, 1997. See Porter Commission documents SH/2a/111 01-05. See also: Allio, E., "Two Planes Crash In DRC", *New Vision* (Kampala), June 24, 2000. According to official DRC's CAA records (UN, GoE report, dated December 12, 2008, S/2008/773), Air Navette has never registered an aircraft in DRC. According to UN GoE report, dated June 15, 2006 (S/2006/525), the company has its headquarters in Kisangani. In a document dated August 17, 1999 (AKA/2A/76) the UPDF requests CAA Entebbe to allow the landings of an AN-12 (referred as LZ -FK, actually LZ-SFK) operated by Air Navette. The company is still active.

<sup>259</sup> Bogol Airlines was based in Kampala and owned (AKA/2A/78) by Ugandan MP John Ndege's wife, Mrs. Hope Ndege).

<sup>260</sup> Eagle Uganda/Eagle Aviation (ICAO: EGU) was founded in 1994 and based in Entebbe. It is active as Eagle Air. See Porter Commission's document AKA/2A/75. Eagle Aviation (Kenya, ICAO: EQA) was founded in 1986 and based in Mombasa.

<sup>261</sup> Knight Aviation was incorporated September 4, 1996 in Feltham, Middlesex (UK). The address given to the UK Registrar (House of Companies) matches the one of the Porter Commission document AR/02A/117 (*Knight Aviation's Aircraft Time Log and Flight Report* for flight performed in 1999 and 2000 by aircraft it operated, an A748 3C-KKC; a BE20 ZS-LST, two I176s UR-UCA and UR-UCC). The company was represented in Uganda by VR Promotions (Andrew Rugasira). It is still active in Nairobi, Kenya, with two Fokker 27.

<sup>262</sup> Owned by Sam Engola, at time of writing second vice-president of the Uganda National Chamber of Commerce and Industry.

<sup>263</sup> According to the first UN Report on the war (March 2001), as an effect of the war, "well-established companies such as TMK saw their share of the market erode" in favour of newcomers. Actually, the DHC6 with registration number 9Q-CBO, belonging to the Goma-based TMK (owned by Hubert W. Esselen) was the single most used aircraft in all the war period (754 flights to and from Goma, Beni, Bunia, Butembo, and Kisangani).

<sup>264</sup> At that time based in Nairobi and directed by Valentino Wendo and Eli Alwale.

<sup>265</sup> Founded in 1975, based in Entebbe (ICAO: UCC), active.

<sup>266</sup> Amnesty International, *DRC: Killing human decency*, May 31, 2000. See further below on this company.

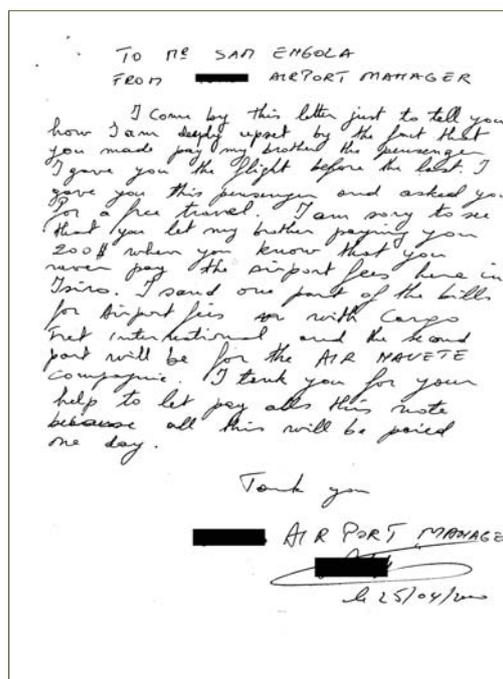
“connections,” as shown in a letter addressed to Showa Trade Air’s owner, Sam Engola, by an airport manager (see below).

**Box 10. Letter by \* Airport manager to Sam Engola (Showa Trade Air)**

To Mr. Sam Engola from [...] Airport Manager

“I come by this letter just to tell you how I am deeply upset by the fact that you made pay my brother the pensence (sic)...I asked you for a free travel. I am sorry to see that you let my brother paying you 200 \$ when you know that you never pay the airport fees here in [...]. I send you part of the bills for airport fees with Cargo Fret International and the second part will be for the Air Navette compagnie (sic). I thank you for your help to let you pay all this note because all this will be paid one day.

Thank you



Map 5. Entebbe Old and new International airport (ICAO: HUEN)



Credit: Elaboration of photo by Brian McMorrow, [mccrow.org.uk](http://mccrow.org.uk)

According to the Ugandan Civil Aviation Authority (CAA), some of those companies and the Ministry of Defence, in a dispute with CAA, left their airport fees unpaid,<sup>267</sup> which is confirmed by a Porter Commission document.<sup>268</sup> For landing, navigation, parking and other service fees, the Ministry of Defence owed CAA USD695,566; Air Cess USD96,817; Knight Aviation USD21,925; Air Navette USD16,632; VR Promotions USD31,724. In addition, the Swiss company AVISTO allegedly overcharged the Ministry of Defence for

<sup>267</sup> “Aviation MD Allowed Risky Planes to Fly to Congo”, *The Monitor*, August 15, 2001.

<sup>268</sup> “Revenues billed and collected in respect of operations at the Old airport for the period September 1998-June 2001.”

repairing and operating Uganda Air Cargo's L-130 Hercules (r/n 5X-UCF).<sup>269</sup> The air companies that served the Entebbe-DRC cargo routes also transported 5,300 private passengers on "military" flights between 1998 and 2001.<sup>270</sup>

An analysis of the companies who had control over the 92 aircraft that flew the Entebbe-DRC routes during the war period reveals the international dimension of the logistic support to Uganda's military and business operations in the DRC. The fact that the real operator/owners of those aircraft leased their planes to some of the small outfits mentioned above is in some ways irrelevant, not least because those outfits did not have the capability to service the planes with their own crews and maintenance staffs.

**Table 6. Companies with more than 50 entries**

Real Operator/Owner	Country	S	E	Aircraft Registration	Types
TMK	DRC	A	377	9Q-CBO	DHC6
Eagle Air	Uganda/K	A	265	5X-CIV, -CNF, -GNF, -JNF	PA34, L410
Ukraine Cargo AW	Ukraine	A	196	UR-UCA, -UCK, -UCS, -UCY, UCN	IL76, AN12
United Airlines	Kenya	NA	108	5Y-RFT, TAM, UAL, UAG	BE58, P31, L410
748 Air Services	Kenya	A	102	3C-KKB, KKC, 9L-LBG	A748
Avia-Pusk/Varty Pacific	Kazakhstan	D	87	UN-11001	AN12
Uganda Air Cargo	Uganda	A	75	5X-UCF	L130
Air Atlantis	R. Congo	D	72	TN-AGC	AN12
Knight Aviation-Tawakal	Kenya	NA	72	ZS-LWD, 5Y-BWD	BE20
Air Grand Lucs/Interflight	Swaziland	D	70	3D-WKU	B703
Volga Atlantic	S. Africa	A*	68	9U-BHM, -BHN/BHO**	AN26, AN12
Khors Air Company	Ukraine	A	66	UR-UCC	IL76
Bio Air/Phoenix Aviation	Bosnia H.	A*	64	T9-CAC	IL76
Air Urga	Ukraine	A	59	UR-26143, 47316, ELC	AN26, AN24
ATI Air Co./ Lvov AL	Ukraine	A	53	UR-78758, 76717	IL76
Centrafrican Airlines	C.A.R.	D	53	TL-ACJ, CAN, ACU***, ACZ	AN12/26, IL76

Note: A, Active; D, Defunct; NA, Not available; (\*) Active with different names; (\*\*) Same aircraft; (\*\*\*) 3D-RTX. Centrafrican Airlines often operated under the call sign ACS (Air Cess Liberia).

**Table 7. Companies with 10 to 49 entries**

Real Operator/Owner	Country	S	E	Aircraft Registration	Types
Air Sofia	Bulgaria	D	47	LZ-SFK, -SFN	AN12
Varty Pacific	Kazakhstan	D	43	UN-11005	AN12
KNG Transavia Cargo	Eq. Guinea	A	41	3C-AAG, -AAL	AN12
Air Pass	Swaziland	D	40	3D-RTA, -RTV, -RTX*	IL76, AN72
AD Aviation	Kenya	NA	36	5Y-BKA	BE20
Veteran Airlines	Ukraine	A	36	UR-PAS	AN12
Etel Air	Russia	D	27	RA-11117	AN12
Dairo Air Services	Uganda	A	25	5N-ARQ	B703
King Air Services	S. Africa	NA	24	ZS-OAE	BE90
Interocean Aw	Mozambique	NA	20	C9-ATF	DC4
Azov Avia/ATI	Ukraine	D	19	UR-UCU	IL76
Liberia World Airlines	Liberia	D	17	EL-AJQ	DC85
Daallo AI/Skyair Cargo	Djibouti	A	16	EL-ALI	B703
ICAR Airlines	Ukraine	D	12	UR-11819	AN12
Antonov Design Bureau	Ukraine	A	10	UR-82007, UR-82027	AN124
Inter Trans Air	Bulgaria	D	10	LZ-ITD	AN12
Santa Cruz Imperial/Lotus	Liberia	D	10	EL-ALA	AN12
Volga Dnepr	Russia	A	10	RA-82043/-82078/-82079	AN124

Note: A, Active; D, Defunct; NA, Not available; (\*) 3D-RTX became TL-ACU

<sup>269</sup> Kaheru, S., "Nopark Mp Quizzed Over Army Plane Repair Costs", *New Vision* (Kampala), May 9, 1999; Abbey, Y., "Mystery Surrounds USD8.5m C-130 Plane Repair Tender", *New Vision* (Kampala), May 16, 1999; Allio, E., "Government Spent 2bn In A Year To Run Air Cargo Plane", *New Vision* (Kampala), November 7, 1999. AVISTO was then domiciled in Oberglatt, Switzerland, see: *Flight International*, "World Airline Directory", 24/30, 1999; *Financial Times*, "Industry Sector Analysis", January 28, 1998.

<sup>270</sup> "Aviation MD Allowed Risky Planes to Fly to Congo", *The Monitor*, August 15, 2001.

Out of the total 92 aircraft, 83 were operated - at the time their flights occurred - by 54 different companies and 9 by operators who could not be identified (their registration numbers probably being forged).

It is worth noting that among the 54 identifiable companies, 29 are still active, either under their original names or under new designations. Still in operation too are 33 of the aircraft, with either the same or a different company, whereas 11 were subsequently destroyed in accidents and 23 were scrapped or stored. The fate of the other 25 is unknown. Eleven registrations present on the Entebbe flight logs did not have a known owner/operator, their registration numbers being unknown or possibly forged

**Table 8. Companies with less than 10 entries**

Real Operator/Owner	Country	S	E	Aircraft Registration	Types
Tian-Shan	Kazakhstan	A	9	UN-79954	AN2
Aerocom	Moldova	D	8	RA-26050/ER-AFE**	AN26
IRS Aero/Elf Air	Russia	D	7	RA-75851	IL18
River Cross Air Services	Kenya	NA	7	5Y-ADK	BE55
Take Air	Uganda	D	7	5X-SAL	C206
Tapo-Avia	Uzbekistan	A	7	UK-76821	IL76
First Intl. Aw/Johnsons Air	Aruba/Ghana	A*	6	9G-OLD	B703
Heavy Lift Cargo	UK	D	6	RA-82045, 82047	AN124
Air Bateleur	Kenya	NA	4	5Y-BMA	BE20
Lviv Airlines	Ukraine	A	4	UR-76778	IL76
Phoenix Aviation	Kyrgyzstan	A*	4	EK-46741	AN12
Skyways Kenya	Kenya	NA	4	5Y-BLR	G159
Artem Avia	Ukraine	A	3	UR-26094	AN26
Ilex V./Ukr. Air Alliance	Cyprus	A	3	EX-48138	AN32
Astral Aviation	Kenya	A	2	9L-LBL	L410
Blue Airlines/Scibe	DRC	A	2	9Q-CDM	B727
Letny Otryad 224 Y	Russia	A	2	RA-82025	AN124
Scibe Airlift	DRC	A*	2	9Q-CBW	B707
Tarom	Romania	A	2	YR-ABA	B707
Tiramavia	Moldova	D	2	ER-ADB	AN12

Note: A, Active; D, Defunct; NA, Not available; (\*) Active with different names; (\*\*) same aircraft

**Table 9. Unknown or forged registrations**

Operator in Logs	E	Unknown Aircraft Reg.	Aircraft manful/n.	Country of Reg.	Types
Knight/Tawakal Air	200	ZS-LST/5Y-BIR*	BB-0051	South Africa	BE20
FLC DRC***	58	9T-ALC **	NA	DRC military	AN26
Central Africa Air	28	EL-ALR	NA	Liberia	AN72
FLC DRC	26	9T-MLC **	NA	DRC military	L410
Central Africa Air	20	EL-WVA	OE3440	Liberia	AN8
Kivu Air	10	ZS-OPE	28B0687	South Africa	C208
Zel Air	9	5X-ZEL	32-7540001	Uganda	PA32
Cargo Fret	6	EL-WHL	0Zhé3450	Liberia	AN8
Unknown	3	ZS-NPO	NA	South Africa	BE20

Note: (\*) Same aircraft; (\*\*) See note;<sup>271</sup> (\*\*\*) Front pour la Libération du Congo (MLC, RCD-ML and RCD-N).

## 4.5 Still active, still flying

As reported by the UN Group of Experts in subsequent years, several companies who made up the core of those engaging in military and business operations at Entebbe continued their activities in the DRC. Table 106 shows aircraft that are still active with the same or a new registration. Some of them

<sup>271</sup> Dirk Draulans ("De criminele verhalen van de brave soldaat Butt", in *Knack*, May 16, 2001, an English translation is provided by Ruud Leeuw, [www.ruudleeuw.com](http://www.ruudleeuw.com)) reported - in regard of 9T-ALC and 9T-MLC, two planes he apparently attributed to the control of Victor Butt in DRC - that the prefix 9T- was "unknown although it may be for domestic use in Congo." The prefix 9T- was instead and since a long time used for Congo/Zaire military designated aircraft. See: *Flight International*, December 3, 1964, p. 977. The prefix, for example, was used for two C-130 Hercules (9T-TCC, 9T-TCF, dispatched to France for overhaul in 1996). See: Cooper T., P. Weinert, J. Kyzer, A. Grandolini (September 2003); UN GoE report on DRC, S/2006/53, January 27, 2006; Soviet Transports on line DB.

have serviced routes to Iraq and Afghanistan, providing logistic support to NATO troops and have flown United Nations and NGO relief flights as well. Entebbe Airport was the most important hub for military and business operations into the DRC's occupied zones, but it was by no means the only one.

For example, as reported in 2001 by researchers of the Pretoria-based Institute for Security Studies, Bukavu's Kavumu Airport (FZMA) served "a large range of commercial private aircraft involved in constant air traffic that shuttles to and from the interior of the province. More than 12 airline companies from Rwanda, the DRC, France, Belgium and South Africa have been identified. A similar trend is evident at Kilembwe airport where the same researcher reported evidence of ongoing military support to the armed groups."<sup>272</sup>

Document 17. Phoenix Aviation/Bio Air fax to Air Navette for its hired IL76 (T9-CAC)



Source: IPIS vzw, /Transarms, Belgium/USA

Table 10. Aircraft presently active with the same or a new registration

Reg	Serial	Type	Reg	Serial	Type
3C-AAG	7344801	AN12	UR-26094	27312706	AN26
ER-ADB	402007	AN12	3D-RTV	36572080777	AN72
UN-11005	5342802	AN12	UR-76778	83483502	IL76
LZ-SFN	2340806	AN12	UK-76821	23441200	IL76
LZ-ITD	347107	AN12	5X-UCF	4610	L130
RA-11117	5402707	AN12	UR-UCA	73479394	IL76
UR-PAS	2401105	AN12	UR-UCU	73476275	IL76
UN-11001	5343408	AN12	UR-UCC	83489647	IL76
UR-11819	6344009	AN12	UR-ELC	57310410	AN24
5X-GNF	Z892320	L410	UR-26143	37312908	AN26
5X-JNF	Z861809	L410	UR-47316	67310503	AN24
5X-UAG	Z871904	L410	RA-82045	9773052255113	AN124
YR-ABA	20803	B707	RA-82047	9773053259121	AN124
5X-CIV	34-8233118	PA34	RA-82043	9773054155101	AN124
UR-82007	19530501005	AN124	RA-82078	9773054559153	AN124
UR-82027	19530502288	AN124	RA-82079	9773052062157	AN124
TL-ACP	9510439	YAK40			

Source: Elaboration on Entebbe flight logs.

#### 4.6 Does facilitating a war of aggression constitute a crime?

The corporate officials who supported the logistics of the Second Congo War and also engaged in the exploitation of natural resources in the DRC's occupied zones have never been prosecuted. Some of them have actually displayed a kind of patriotic pride for having provided the Ugandan and Rwandan armies with what they needed to wage what was in fact – despite the justifications they gave for invading the DRC at that time – a war of aggression by Uganda, Rwanda and the rebel armed groups they supported with arms, intelligence and political recognition.

What's more, doing business in the occupied zones with their Congolese partners was even reported<sup>273</sup> as a moral necessity because the population would actually have suffered more without the flows of

<sup>272</sup> Cilliers, J., M. Malan, *Peacekeeping in the DRC, Monuc and the Road to Peace*, Institute for Security Studies, Pretoria, Monograph n. 66, Chapter 7 ("The situation in the Kivus"), October 2001.

<sup>273</sup> See Porter Commission Final Report (2002).

goods in and out the DRC's occupied zones. And so, to this way of thinking, the companies that hired the aircraft mentioned above and those that furnished them in reality helped provide the civilian population with essential services.

Corporate responsibility in facilitating wars of aggression and crimes against humanity occurring as a consequence of those wars has long been a matter of debate, not least because of the conclusions reached by the International Military Tribunal and subsequent bodies at Nuremberg.<sup>274</sup>

In the Second Congo War, some of the airline companies – including small outfits that provided the contracts and actual cargo companies that provided aircraft and crews – *directly supported* the war efforts of the Ugandan and Rwandan armies, while other airline companies directly supported the war on the opposing side. In this regard, a distinction can perhaps be made between local companies headquartered in the countries at war and foreign companies headquartered elsewhere. While it may be difficult for a local company to refuse to support its own government in time of war (see, for example, the case of the US Civil Reserve Fleet during the war of aggression against Iraq, an illegal war as defined by the UN Secretary General), should we not consider a foreign company, headquartered thousands of miles away from the conflict, free from any unbearable pressures and its decisions taken voluntarily?

During the war, some airline companies provided the means to transport not only food, drink, fuel, clothes and relief aid (with or without the sponsorship of relief organizations) but also natural resources extracted or procured in the occupied zones, often under conditions of dire exploitation of the civilian population. Profit was clearly what motivated their decisions.

In his in-depth analysis of corporate responsibility relating to the facilitation of crimes, Maj. (USAF) Jacobson writes: “[...] *at what point should a corporate official be held liable for facilitation of the four core international crimes - war crimes, crimes against humanity, genocide or wars of aggression - when his or her central motive is to make a profit? And should that determination also account for the great harm that can be caused by the amoral decision making of corporations?*”<sup>275</sup>

The answer in his Conclusions, which may easily be applied to the logistics industry, reads: “*Due to the problem of ‘cascading complicity’ inherent in business transactions and due to the problems inherent in proving knowledge on the part of a corporate official whose business transactions have benefited a criminal, the U.N. Security Council should put corporate officials on notice that certain persons or governments are presumed to be committing war crimes and crimes against humanity and that any transactions with them will constitute a criminal violation of international humanitarian law. This alerting of business entities is simply a way to let these entities know that the funds or multipurpose goods they may supply will be transformed into the means or instrumentalities for others to commit crimes. This limited form of prescriptive authority is clearly within the powers of the Security Council. Even if alerting corporate officials to behaviour that will be considered criminal complicity cannot by itself prevent genocide and other serious international crimes, such a notice scheme can help deter those who may have otherwise assisted and allow for easier post hoc prosecution.*”<sup>276</sup>

Document 18. Airway bill, July 17, 1999, from DRC to Germany, Sabena SN571 and Swiss Air SR293 flights

NO.	QUANTITY	UNIT	NET WEIGHT	GROSS WEIGHT	NET VALUE	UNIT VALUE	UNIT OF MEASURE
25	2460		2460	1.65	4059.00		ASSITARTITES

Source: IPIS vzw/TransArms, Belgium/USA

<sup>274</sup> Maj. Jacobson, K.R., “Doing Business with the Devil: the Challenges of Prosecuting Corporate Officials whose Business Transactions Facilitate War Crimes and Crimes Against Humanity”, USAF, *The Air Force Law Review*, Vol. 56, 2005, pp 167-232.

<sup>275</sup> Maj. Jacobson, K.R. (2005): p. 168.

<sup>276</sup> Maj. Jacobson, K.R. (2005): p. 230

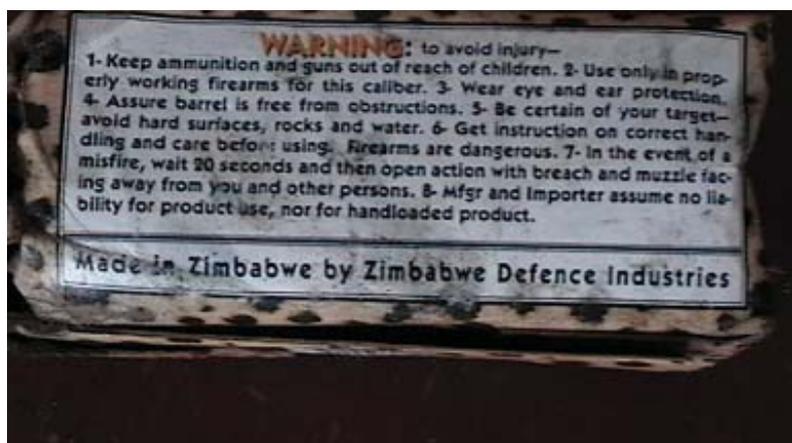
Inherent to the success of provisions and policies aimed at making corporate officials aware that they may be held responsible for facilitating wars of aggression and crimes against humanity is the perception that the authorities - in this case the UN Security Council - will act with determination against whoever may have facilitated the violation of humanitarian international laws.<sup>277</sup>

On the contrary, in the years that followed the end of the Second Congo War<sup>278</sup>, several companies which were on the "Entebbe logs" were not only never brought to trial, but were instead awarded contracts by the United Nations itself and by members of the UN Security Council to support the wars in Iraq and Afghanistan. Meanwhile the flows of arms and military supplies toward Central Africa and the illegal exploitation of its natural resources did continue unabated, as subsequent reports by the APPG and the UN Group of Experts on DRC have shown<sup>279</sup>.

In August 2010, the UN High Commissioner for Human Rights (UNHCHR), Ms. Navanethem Pillay, presented the report *"Democratic Republic of the Congo, 1993-2003. Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003"*, by the Mapping Exercises Investigative Team.

In Section I (Chapter III, August 1998-January 2001, and Chapter IV, January 2001-June 2003) and Section II (Chapter I, §576 to §629) the report detailed the horrible crimes committed by all parties involved in the Second Congo War. In its Conclusion (§ 1143) the report stated:

*"In light of the impunity enjoyed by the perpetrators of serious violations of human rights and international humanitarian law, and the repetition of crimes within the territory of the DRC, there is a manifest urgency for justice and security service reform. The members of the Mapping Team were able to observe the constant fear on the part of affected populations that history would repeat itself, especially when yesterday's attackers are returning in positions that enable them to commit new crimes with complete impunity"*.



*"Keep ammunition and guns out of the reach of children"* Ammunition pack seized by the Congolese Army in a CNDP camp, October 2008. Courtesy of FARDC

<sup>277</sup> See at the end of this report for a discussion of the legal issues surrounding the corporate responsibility.

<sup>278</sup> Selected additional sources on the conflict and its origins: Willame, J.-C., Banyarwanda et Banyamulenge, Violences ethniques et gestion de l'identitaire au Kivu, Cahiers Africains, n° 25, L'Harmattan, Paris, 1997; Shyaka, A., The Rwandan Conflict: Origin, Development, Exit Strategies, Rwanda, The NUR Commission, January 1, 2005; Braeckman, C., «La République démocratique du Congo dépecée par ses voisins», Le Monde Diplomatique, Octobre 1999; Weiss, H., «War and Peace in the DRC. The Second Congo War and Its Consequences», American Diplomacy Vol. V, No. 3 Summer 2000; ICG, Scramble for the Congo. Anatomy of an Ugly War, Africa Report. n26, Nairobi, December, 20, 2000; Global IDP, Profile of Internal Displacement: DRC, May 20, 2003, Norwegian Refugee Council/Global IDP Project, 2003; Lanotte, O. (Ed), Guerres sans frontières, GRIP, Brussels, 2003; Amnesty International, DRC: Arming the East, July 2005; Aust, B., W. Jaspers, From Resource War to 'Violent Peace', Bonn International Center for Conversion, July 2006; Kanyarwung, J.I.N., RDC, Les générations condamnées - Délivrescence d'une société précapitaliste, Editions Publibook, Paris, 2006; Fruchart, D., United Nations Arms Embargoes, Case study: DRC 2003-2006, Stockholm International Peace Research Institute (SIPRI), 2007; Prunier, G., From Genocide to Continental War: the "Congolese" Conflict and the Crisis of Contemporary Africa, Hurst & Co., 2009.

<sup>279</sup> Arms flows in Eastern DR Congo. A report pursuant to UN Security Council Resolution 1533 (para 12), All Party Parliamentary Group on the Great Lakes Region, December 2004. For the last years: United Nations Security Council, Resolution 1533 (2004), Report of the Group of Experts, December 12, 2008 (S/2008/773) and November 23, 2009 (S/2009/603).

### **Box 11. The roots of the Congo Wars: the birth of the *République du Congo***

As part of an agreement reached in Brussels (Round Table Conference, January 20-February 20, 1960) between the Congolese leaders of the independence movement and the Belgian authorities, free elections were held in Congo in May 1960, while the country was still under Belgian rule. The elections resulted in a landslide victory for the *Mouvement National Congolais* (MNC, formed in 1958) and for MNC nationalist leader Patrice Emery Lumumba, whose secretary was Joseph Desiré Mobutu. On June 24, 1960 the new parliament elected Lumumba as the first premier of the *République du Congo* and Joseph Kasa Vubu, Lumumba's adversary in the independence movement and head of the Abako political party, President of the Republic. Independence was officially proclaimed on June 30, 1960. The parliament of the newly independent state elected Patrice Emery Lumumba as premier and Joseph Kasa Vubu as president June 24, 1960.

After Belgian Gen. Emile Janssens, Commander in Chief of the colonial army "*Force Publique*," declared publicly (July 5, 1960) that for the military "before independence=after independence," Congolese soldiers of the Thysville (Mbanza-Ngungu) and Leopoldville (Kinshasa) garrisons revolted. The government dismissed Janssens and appointed Victor Lundula as Commander in Chief of the new *Armée Nationale Congolais* (ANC). During these same events, Mobutu was promoted to the rank of colonel and elevated to Chief of Staff of the ANC.

Lumumba's election and the new premier's plans to strongly assert the independence of the Republic were seen by Belgium and other colonial powers, as well as by the United States, as a threat to their strategic and economic interests, despite the fact that - as later revealed by US government declassified documents - Lumumba had tried in vain to convince the US Administration (led by Dwight Eisenhower) to support his government and to help train the cadres of the new Congo. The Belgium and United States governments - as again shown in several Belgian and US declassified documents - had already decided Lumumba's fate and soon after his election both countries prepared operations aimed at his assassination.

The assassination plans were accelerated - according to the US ambassador in Congo, Clare Timberlake - when Lumumba asked for, and obtained, the military support of the Soviet Union after Belgium, the United States and the United Nations had refused to grant him transport planes to help defeat a Belgian-plotted secession of mineral-rich Katanga. Led by Mose Tshombe, who declared Katanga's independence on July 11, 1960, the secession was supported by the Anglo-Belgian Union *Minière du Haut Katanga*, a large mining company that provided most of the world's supply of copper, cobalt and uranium. At the invitation of Lumumba, the Soviet Union soon dispatched arms, trainers and 15 Il-14s.

Soon after (August 9, 1960) Albert Kalonji, who had split from Lumumba's MNC and formed his own MNC in Kasai province, declared the separation of diamond-rich South Kasai from the main province. Lumumba, who was also Minister of Defense, in attempting to crush the revolt, requisitioned the aircraft of Belgian Sabena Airlines and sent ANC troops to Luluabourg (Kananga, Kasai's capital, August 22). Three days later ANC troops took the city of Bakwanga (Mbuji-Mayie) and carried out a massacre of several hundred civilians.

The massacres in Kasai and the presence of Soviet personnel in the country triggered the reaction of President Kasa Vubu, and a counter-reaction on the part of Lumumba. On September 5, Kasa Vubu dismissed Lumumba, and Lumumba dismissed Kasa Vubu. According to the law, neither of them had the power to dismiss the other in such a circumstance. The feud was soon resolved by Mobutu, who - with the approval of the US Embassy in Kinshasa - carried out a military coup (September 14, 1960) and arrested Lumumba. When Lumumba escaped his captors (November 27, 1960) and tried to reach his supporters in Kisangani, the CIA, Gen. Karl von Horn (commander of the UN troops in Leopoldville) and the Belgian airline Sabena provided the logistic and intelligence support that allowed Mobutu troops to recapture Lumumba (December 1). Later on, Mobutu played a fundamental role in the assassination of Congo's first elected premier, when he dispatched him and his associates Maurice Mpolo and Joseph Okito to Elizabethville (Lubumbashi, Katanga), into the hands of Tshombe and the Belgian officers who were de facto leading the secession.<sup>1</sup>

<sup>1</sup> See Box 10 for sources.

**Box 12. The roots of the Congo Wars: Lumumba assassinated and the role of Sabena and Air Brousse<sup>1</sup>**

On January 16, 1961, a meeting was convened at the Sabena office at N'djili Airport, and Mobutu's affiliates asked the company – which on several occasions had transported arms for the Katanga secessionists - to provide a DC-4 and a DC-3 to transport the imprisoned Congo premier Lumumba and two of his associates, Mpolo and Okito, to either Bakwanga (Mbuji-Mayi) or Elizabethville (Lubumbashi).

In the early morning of January 17, 1961, Lumumba, Mpolo and Okito were transferred from their prison in Thysville (Bas-Congo) to a nearby location (Lukala), where a small airplane (a Dragon Rapide) belonging to Air Brousse flew the prisoners to Moanda, on the Atlantic Ocean, close to the present Kitona Air Force base. In Moanda, a DC-4 sent by Sabena the same morning from Leopoldville flew the prisoners, their guards, Ferdinand Kazadi (Commissioner of Defense) and Jonas Mukamba (Commissioner of Labor) to the Luano airport near Elizabethville.

During the flight, the drunken guards brutalized Lumumba, Mpolo and Okito to such an extent that the DC-4's crew (Piet Van der Meersh, the pilot, with Jean-Louis Drugmand, Robert Fau, and Jack Dixon) locked themselves in the pilot cabin after trying in vain to stop them. After the prisoners landed in Luano, they were again beaten by a crowd of Katanga soldiers, while the UN troops present at the airport stood by without intervening, on the order of the UN commander in Katanga, Ian Berendsen.

Lumumba, Mpolo and Okito were later transported to a prison for some hours, tortured and eventually murdered, under the supervision of Tshombe and Belgian officers who were following the orders of the Belgian Minister of African Affairs, Harold D'Aspremont Lynden. In an attempt to cover up the murder (the death of Lumumba was kept hidden for several weeks), the corpses were incinerated and dispersed two days later.

Despite their earlier plans, the United States and the CIA played no role in the murder of Lumumba, but for the following 36 years supported - along with France - Mobutu's regime, one of the most corrupt and rapacious in post-colonial Africa. At the end of the First Congo War, and under assault of Rwanda, Uganda and Angola-backed Laurent-Désiré Kabila's troops, the regime collapsed. Mobutu fled the country May 17, 1997 and died in Morocco September 7, 1997.

Sabena went bankrupt in 2002 and its assets and routes were taken over by S.N. Brussels Airlines, founded by a group of investors led by Etienne Davignon, a former Belgian diplomat, politician and businessman, presently chairman of the S.N. Airholding and the Compagnie Maritime Belge.

Davignon began his diplomatic career in January 1959 and was assigned to Congo, where he was a frequent visitor to Kasa Vubu's private residence in Leopoldville, after the closing (August 9, 1960) of the Belgian embassy in Leopoldville and the transfer of the Belgian diplomatic mission to Elizabethville, under the authority of Robert Rothschild.

According to a 2001 Belgian parliament inquiry, on September 16, 1960 Davignon wrote to Rothschild the following: "*It seems that Mobutu is acting in accord with Kasa Vubu. General symptom: lack of resolve, which explains why Lumumba is not yet out of a position to do harm ("hors état de nuire").*"

<sup>1</sup> Kalb, M. G., *Congo Cables. From Eisenhower to Kennedy*. MacMillan Pub., London 1982; Gibbs, D. N., *The political economy of Third World interventions. Mines, Money, and U.S. Policy in the Congo Crisis*, Un. of Chicago Press, 1991; De Witte, L. *The Assassination of Lumumba*. Verso, London, 2001 [original version: *De moord op Lumumba*, Leuven 1999]; Chambre des Représentants de Belgique, *Enquête Parlementaire*, Rapport, vol. 1, November 16, 2001; Weissman, S. R., Opening the Secret Files on Lumumba's Murder, based on US Government classified documents, *Washington Post*, July 21, 2002; Devlin, L. *Chief of Station, Congo: Fighting the Cold War in a Hot Zone*, *PublicAffairs*, 2007 (the late Larry Devlin was CIA Chief of Station in Leopoldville/Kinshasa from 1959 to 1967); Vanthemsche, G. (University of Brussels), *The Historiography of Belgian Colonialism in the Congo*, in Lévai C. (Ed.), *Europe and the World in European Historiography*, Pisa Un. Press, 2006. See also Vanthemsche, G., *La Sabena 1923/2001: des origines au crash*. De Boeck, Brussels, 2002; and Johnson, R. C., Heart of Darkness: the Tragedy of the Congo, 1960-67. *Chandelle, a Journal of Aviation History*, October 1997, (<http://worldatwar.net/chandelle/v2/v2n3/index.shtml>).

## 5. Leased Aircraft for Arms Deliveries in D.R. Congo

### 5.1 The Antonov 28 ER-AJG

On October 30, 2003 an Antonov 28<sup>280</sup> (registration number ER-AJG<sup>281</sup>) reportedly en route from Kinshasa crashed<sup>282</sup> near the military base of Kamina (FZSA).<sup>283</sup> It was alleged<sup>284</sup> that the Antonov was ferrying arms and ammunition for armed groups in South Kivu, in contravention of the arms embargo. MONUC<sup>285</sup> received permission to inspect the crash site on November 3, but on arrival the MONUC military observer team was denied access by the Congolese military.

A Kinshasa-based airline company told researchers of the UK All-Party Parliamentary Group on the Great Lakes Region (APPG)<sup>286</sup> that General John Numbi (at that time head of the DRC Air Forces) had tried to pressure them into transporting the cargo, but eventually Gen. Numbi hired Flight Express instead.

Flight Express often leased its planes from a Moldovan aviation company, TEPavia-Trans.<sup>287</sup>

“Tepavia confirmed that one of its aircraft had been chartered for a flight from Kinshasa to Kamina on 31 October 2003 and had crashed. Tepavia also replied that it had conducted its own investigation into the crash and that it was ‘absolutely certain’ that the airplane had not been transporting weapons.”<sup>288</sup> The involvement of Gen. Numbi and the refusal of the Congolese army to allow the inspection of the crash site cast doubt on TEPavia’s statement, however, and about what the airplane it had leased out was transporting.

What’s odd is that TEPavia cancelled the insurance on this aircraft one week after the crash, without having filed an insurance claim.

Some months before the TEPavia An-28 crash, another Antonov-28 aircraft deviated from its flight plan (Aru-Mongbwalu) and was forced to make an emergency landing at Beni Airport (July 2003).<sup>289</sup> Local rebel groups impounded

Document 19. Fax Tepavia-Trans, 25 June 2004



Source: IPIS vzw/TransArms, Belgium/USA

<sup>280</sup> A short-range utility aircraft (17-passenger or 2 flightcrew and few tons of cargo), with two turboprops engines developed by Antonov in 1968/1969 and licensed (1978) to the Polish company PZL-Mielec.

<sup>281</sup> Aircraft manufacturing number 1AJ004-09. The aircraft was operated by TEPavia-Trans. See JP Airline-fleets Intl. 2001/2002 and Soviet Transports on-line DB.

<sup>282</sup> Aviation Safety Network DB. The departing point is given as Kilembwe (airstrip, Katanga, about 163 nautical miles South-East from Kamina, i.e. in the opposite direction of Kinshasa). TEPavia statement says the flight was coming from Kinshasa. According to a report by the Pretoria-based Institute for Securities Studies (October 2001), Kilembwe was used for arms supplies to rebel groups during the Second Congo War.

<sup>283</sup> At that time part of the the Katanga Province and presently in Haut Lomani Province. Kamina AFB was developed by the Belgian armed forces during the colonial time and was taken over by Katanga secessionists in the early 60s.

<sup>284</sup> See “Arms flows in Eastern DR Congo. A report pursuant to UN Security Council Resolution 1533 (para 12)”, All Party Parliamentary Group on the Great Lakes Region, December 2004; S/2004/551, 15 July 2004.

<sup>285</sup> “Mission de l’Organisation des Nations Unies en République démocratique du Congo,” established November 30, 1999 S/RES/1279.

<sup>286</sup> See “Arms flows in Eastern DR Congo” (2004). The report has been commissioned to IPIS researchers and the facts and documents reported in this paragraph are from their inquiries. Aircraft and company information are from TransArms Databank

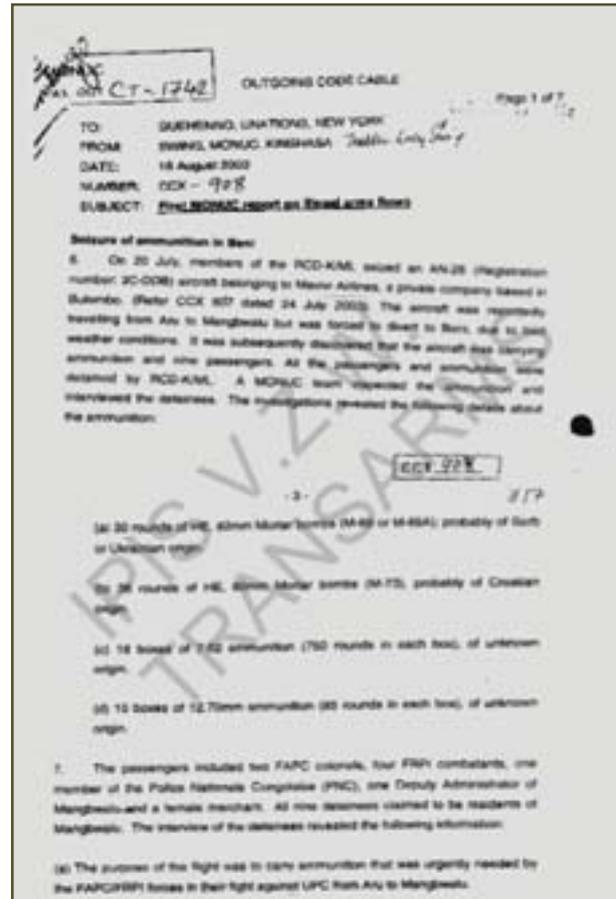
<sup>287</sup> TEPavia-Trans (ICAO: TET, head Alexander Gravitenco) was founded May 18, 1999 and based in Chisinau. The company AOC was suspended in 2007, see Moldova’s Court documents Dosarul nr. 3r- 977/2008 May 28, 2008; Dosarul nr. 3rh-5/09, February 18, 2009. See Chapter 13 for info on Moldova companies whose AOC was withdrawn in 2007.

<sup>288</sup> Arms flows in Eastern DR Congo (December 2004); S/2004/551, 15 July 2004.

<sup>289</sup> See Arms flows in Eastern DR Congo (December 2004); S/2004/551, 15 July 2004.

the plane, seized the cargo and arrested its occupants, who were members of a rival militia. Several days after this incident, the cargo was handed over to MONUC. It included 66 rounds of mortar bombs and 18 boxes of ammunition.

Mavivi Air, a company that the UN referred to as being located in Butembo,<sup>290</sup> leased the plane from Victoria Air,<sup>291</sup> whose owner was interviewed by the APPG researchers. The owner stated that *"his client was the owner of Mavivi, who had been held hostage by armed groups in the area of Mongbwalu after refusing to airlift three planeloads of weapons from Aru to Mongbwalu. He was eventually forced to fly to Aru to pick up arms and on the way back to Mongbwalu, he had to make an emergency landing in Beni... the sender was Commander Jérôme Kakawavu, who was supporting the military activities of the FAPC<sup>292</sup> and the FRPI<sup>293</sup> against the UPC.<sup>294</sup> Reportedly, after the aircraft was impounded in Beni, Commander Jérôme held two other planes in Aru. He wanted to negotiate the release of his cargo with the APC in return for those aircraft. MONUC eventually had the weapons destroyed in Luwero."*<sup>295</sup> The plane was identified as bearing the Equatorial Guinea registration number 3C-DDB.<sup>296</sup>



Source: IPIS vzw/TransArms, Belgium/USA

## 5.2 The Ilyushin RA-75496

A year later, another arms shipment from Russia to the Uruguayan contingent of MONUC stirred up trouble in DR Congo.<sup>297</sup> Because the aircraft lacked the necessary clearance papers and produced an incorrect cargo manifest, it was alleged by the Congolese that UN soldiers were arming rebel groups in Ituri. On February 13, 2004, a Russian registered Ilyushin-18 (registration number RA-75496)<sup>298</sup> landed at Kisangani airport. On board were 9 tons of weapons for the Uruguayan peacekeepers from Rosoboronexport. The cargo manifest referred to them as "equipment."

The APPG researchers noted: *"MONUC personnel arrived at the airport that evening with a fax from their Kinshasa headquarters noting that prior approval had been granted for the plane to arrive in Kisangani. The Congolese security officers, however, were suspicious that the papers had only been organised after the plane had already arrived at Kisangani that day, and refused to accept the documents or release the aircraft. Furthermore, a MONUC colonel reportedly informed the Congolese that the weapons were destined*

<sup>290</sup> U.N. Fourteenth Report of the Secretary-General on MONUC, S/2003/1098, dated November 17, 2003; *Arms flows in Eastern DR Congo* (December 2004).

<sup>291</sup> Victoria Air was part of the Victoria Group (see §2.7.1), one of the main conglomerate that backed the exploitation of the natural resources of DRC's occupied zones. See Porter Commission, Final Report (2002).

<sup>292</sup> Forces Armées du Peuple Congolais, a split (March 2003) from UPC (see below).

<sup>293</sup> Forces de Resistance Patriotique en Ituri.

<sup>294</sup> Union des Patriotes Congolais, a split from RCD-ML (June 2002), supported by Rwanda.

<sup>295</sup> *Arms flows in Eastern DR Congo* (December 2004); S/2004/551, 15 July 2004.

<sup>296</sup> The aircraft registration was illegal and its manufacturing number was unknown. As reported by the APPG, it was likely part of "aircraft [that] had indeed been registered in Equatorial Guinea's capital Malabo but their registrations expired in 2001, and in 2002. The aircraft owners were notified of this cancellation of registration, but many disregarded it and continue to operate aircraft that are now illegal."

<sup>297</sup> *Arms flows in Eastern DR Congo* (December 2004); S/2004/551, 15 July 2004

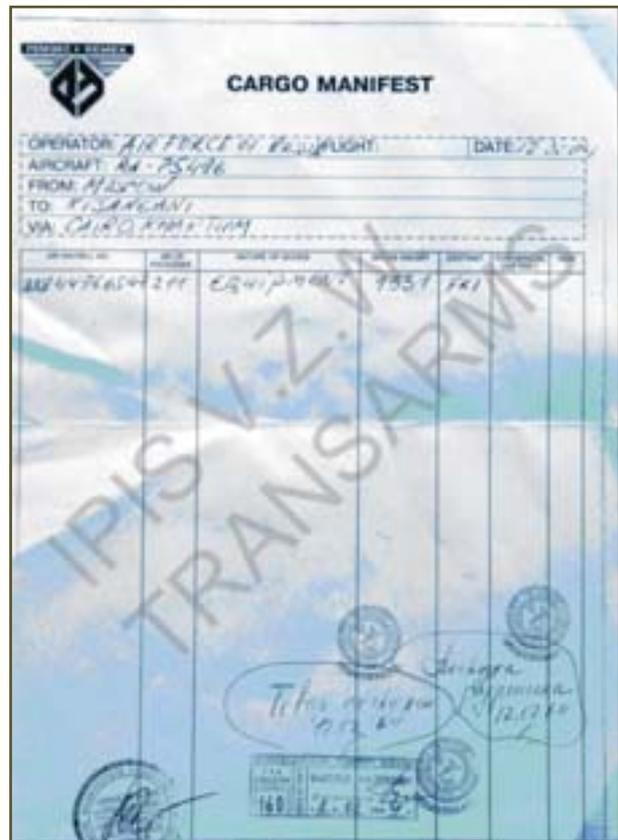
<sup>298</sup> Manufacturing number 189011303, built in 1969 and belonging to Russian Air Force. See Soviet transports, on-line DB.

for the Uruguayan contingent in Bunia, and that there were military instructors on board the aircraft. This contradicted a statement by the pilot that the plane only arrived with four crew – in fact another fourteen individuals were found to be hidden from view inside of the aircraft, and their presence has never been fully explained.”<sup>299</sup>

### 5.3 Azza Transport

Kisangani was again the theater for arms shipments in 2007. The Sudanese aviation company AZZA Transport<sup>300</sup> made 5 flights to Kisangani, reportedly carrying munitions and military equipment. The UN Panel of Experts on DR Congo reported the arrival of an IL-76 with registration number XT-FCB<sup>301</sup> on September 10, 2007. The aircraft, leased by AZZA Transport from Burkina-based Faso Airways,<sup>302</sup> allegedly originated in Tripoli and went via Khartoum to Kisangani carrying 41 metric tons of ammunition and military equipment.<sup>303</sup> MONUC reported that a “FARDC logistics officer in Kisangani did not deny that FARDC had received military equipment. He added that the Government of the Democratic Republic of the Congo had not informed MONUC about what was received or how it was distributed in order to preserve confidentiality and national security.”<sup>304</sup> On November 22, 2007 the UN Group of Experts on DRC witnessed the offloading of large green boxes from an IL-76 operated by AZZA Transport (ST-APS)<sup>305</sup> onto military trucks at Kisangani airport. “According to MONUC and local informants, those boxes contained weapons, ammunition and military equipment. Records that the Group obtained from airport authorities

Document 21. Cargo Manifest, 12 February 2004



Source: IPIS vzw/TransArms, Belgium/USA

at Kisangani-Bangboka airport indicate that Azza aircraft IL-76 ST-APS landed four times in Kisangani on same-day return flights coming from Kinshasa (13 September 2007) and Khartoum (19, 22 and 23 November 2007).<sup>306</sup> The Sudanese government denied allegations that ammunition or military equipment had been transported by AZZA from Sudan to the DR Congo.<sup>307</sup> In early August 2007 an IL-76 (YU-AMJ)<sup>308</sup> arrived in Kinshasa from Serbia.<sup>309</sup> The Congolese authorities informed the UN that the aircraft was operated by ICAR Air - a Bosnian aviation company - and leased from the Serbian company Air Tomisko. The shipment included 5,000 AK-47 assault rifles and 100 M-84 machine guns from the Zastava factory. The United Nations received notification from the Congolese authorities two days after the delivery was made. Credible information received for this report shows that Air Tomisko was not able to get the overflight permissions and ICAR Air was therefore asked to act as an intermediary to obtain them.<sup>310</sup>

<sup>299</sup> *Arms flows in Eastern DR Congo* (December 2004); S/2004/551, 15 July 2004; S/2004/551, 15 July 2004.

<sup>300</sup> AZZA Transport was founded in 1993 and is based in Khartoum. See AeroTransport DB.

<sup>301</sup> Manufacturing number 1023408265, active. See: Soviet Transports on-line DB.

<sup>302</sup> Faso Airways was founded in 2000 and is based in Ouagadougou. See AeroTransport DB.

<sup>303</sup> S/2008/43: § 68-69, February 13, 2008.

<sup>304</sup> S/2008/43: § 69.

<sup>305</sup> Manufacturing number 1023409316, active. See: Soviet Transports on-line DB; AeroTransport DB.

<sup>306</sup> S/2008/43: § 72.

<sup>307</sup> S/2008/43: § 73.

<sup>308</sup> Manufacturing number 1013409303, active as UP-I7626 with the Kazakhstan-based company Beibars (founded in 2006).

<sup>309</sup> S/2008/43: § 75-78.

<sup>310</sup> Confidential email aviation industry source, 30 May 2008.

## 5.4 Enterprise World Airways

In December 2008, the UN Group of Experts on DR Congo also reported on several ammunition deliveries from the DRC to Zimbabwe. These deliveries took place between August 20 and 22, 2008. A Boeing-707-3B4C (registration number 9Q-CRM),<sup>311</sup> registered in the DRC as belonging to EWA (Enterprise World Airways),<sup>312</sup> made four flights, delivering a total of 53 tons of ammunition to the Zimbabwean regime.<sup>313</sup>

**Table 11. Flight details 9Q-CRM<sup>314</sup>**

Date	Cargo	Departure airport	Arrival airport
20/08/08	32 tons 7.62x54mm	Kinshasa	Harare
21/08/08	-	Harare	Lubumbashi
22/08/08	20 tons 7.62x39mm	Lubumbashi	Harare
22/08/08	-	Harare	Kinshasa

It is not clear who initially supplied the ammunition to DR Congo, or whether the supplier intended to use the DRC merely as a transit route to Zimbabwe. The UN Group of Experts, however, undertook a review of the safeguards that had been put in place inside the Congo to prevent the loss of arms and ammunition, and in December 2008 the Group reported: *“The Group focused on stockpile security, maintenance, marking, record-keeping and the accountability of small arms and light weapons and ammunition. According to foreign military advisers and sources within FARDC, stockpile management is almost non-existent. The Government does not know how many of its arms are stored at which depots and with which units. There are accordingly few safeguards in place to prevent the illegal sale of weapons and ammunition.”*<sup>315</sup>

EWA also made nine flights (Kisangani and Kinshasa) in September 2008 and six flights in October 2008 for FARDC, with the same Boeing-707. It was also in Kisangani on October 27, 2008, unloading ammunition for the FARDC from Khartoum.<sup>316</sup> The UN Group of Experts also reported on the delivery of military equipment from Khartoum to Kisangani by a Boeing 707-351C belonging to Hewa Bora Airways,<sup>317</sup> registration number 9Q-CKR.<sup>318</sup>

The flights were made - without the UN being notified by the Government of Sudan - between September 20 and 26, 2008. The aircraft had been requisitioned by Congolese authorities.<sup>319</sup> Additional military flights from Khartoum, made by the same Boeing 707 (9Q-CKR), were reported by the UN Group of Experts in its May 2009 report. These flights took place on December 4 and 5, 2008 and on February 12 and 14, 2009.<sup>320</sup> Various other commercial aircraft were used by the Congolese armed forces to send military equipment to Eastern DRC. The companies involved were Hewa Bora Airways, Gomair, and Trans Air.<sup>321</sup>

<sup>311</sup> Manufacturing number given as 20259 in the DRC Registry (recorded February 22, 2005, expiration of the airworthiness certificate November 1, 2008), active.

<sup>312</sup> EWA (ICAO: EWS, Kinshasa) was founded in 1998 as a presidential outfit, owned by Charles De Schrijver, with Mr. Birindwa and Capt. Michael Snow. A SIPRI report dated May 2009 and authored by H. Griffiths and M. Bromley incorrectly traces (page 8) the information on EWA in the U.N. report of the Group of Experts S/2006/53, dated January 27 2006. The UN firstly reported on this company in the S/2008/773, dated December 12, 2008. De Schrijver is also in partnership with present DRC President Joseph Kabila in the Wimbi Dira Airways (founded 2003). Charles De Schrijver’s brothers, Luc and Christian, control Swala Aviation in Bukavu (see UN Group of Experts report S/2005/30, January 25, 2005). Swala Aviation used small aircraft such as a Let410 and Cessnas, as well as a Antonov-28 (ER-AJC) belonging to TEPavia (see TEPavia-Trans fax above). See: DRC Aviation Registry; AeroTransport DB.

<sup>313</sup> Report of the UN Group of Experts S/2008/773 (12 December 2008): § 146 and 160. IPIS and TransArms’ researchers were part of the Group as arms and aviation experts, respectively.

<sup>314</sup> *Rapport de Mission au Chef EMPP*, de la Cellule Matériel Ordonnance, Département Administration & Logistique, Etat-Major Particulier, 4 September 2008.

<sup>315</sup> S/2008/773: § 138.

<sup>316</sup> The photographic evidence of this aircraft in Kisangani was gathered by the UN Group of Experts in 2008. The subsequent Group of Experts obtained evidence that the flight (along with other ones) came from Khartoum: see S/2009/603, Final Report §269.

<sup>317</sup> As such, founded in 2000 and based in Kinshasa. HBA (ICAO: ALX) stemmed from several previous airlines, eventually called Congo Airlines (AeroTransport DB), see in this report §2.7.1.1.

<sup>318</sup> Manufacturing number 19411, active. DRC Aviation Registry.

<sup>319</sup> S/2008/773: § 145. See also a confirmation of these flights in S/2009/603, Final Report §266.

<sup>320</sup> Report of the UN Group of Experts on the DR Congo, 18 May 2009, S/2009/253: § 69

<sup>321</sup> S/2008/773: §156-157.

## 6. Arms for Rwanda, Uganda, Darfur and Southern Sudan

### 6.1 From the Balkans to Rwanda and DRC rebels

Significant quantities of weaponry and munitions have been shipped from the Balkans via off-shore arms brokers to Rwanda since 2002,<sup>322</sup> specifically from surplus stocks in Albania, Serbia and Bosnia-Herzegovina. From late 2002 to mid-2003, Israeli-based Verona Commodities and BVI brokered at least 10 flights, mainly for ammunition, from Albania's state-run arms marketing company MIECO, using two airline companies, Africa International Airways<sup>323</sup> and Silverback Cargo,<sup>324</sup> as well as other subcontractors in Europe and Israel.<sup>325</sup> At least one of the flights also took off from Belgrade.<sup>326</sup>

A subsequent suspected series of arms shipments to Rwanda from Bosnia-Herzegovina was indicated in documentation and testimony in November-December 2004 and has since been the subject of public reports, notably by SEESAC<sup>327</sup> and Amnesty International.<sup>328</sup>

Further research has shown that Bosnia-Herzegovina and Serbia tried again to ship military equipment to Rwanda in 2004 and 2005, as revealed in recorded interviews with state officials in Bosnia-Herzegovina (BiH) and Serbia, together with documentation obtained from a number of sources. The shipments were carried out despite the exposure of the series of flights from Albania brokered by Verona Commodities and BVI and the official policies of Bosnia-Herzegovina and the Serbian government, who are obliged to adhere to the United Nations arms embargoes and the EU Code of Conduct.

It is uncontested and well documented that on November 18 the international peacekeeping force in BiH (SFOR) approved the transfer of well over 60,000 kg of military equipment (see table 12) to the Rwandan Ministry of Defence.<sup>329</sup> BiH and peacekeeping officials have vehemently denied that these arms were exported to Rwanda.<sup>330</sup>

According to Bosnian Government and NATO officials, the shipment to Rwanda was cancelled on December 9, but it appears that this decision was only publicly announced on December 10, 2004 by BiH authorities.<sup>331</sup> However, SEESAC and Amnesty International reported that, according to the European air-traffic control agency, Eurocontrol,<sup>332</sup> an Ilyushin 76 freighter aircraft actually took off from Tuzla Airport (ICAO: LQTZ, BiH) on December 11, 2004, with a flight plan indicating its destination as Benghazi (HLLB) in Libya, with final destination Kigali (HRYR, Rwanda).<sup>333</sup>

Tuzla was the planned point of export for the arms and ammunition. The IL-76 cargo plane was chartered by the Bulgaria-based Vega Airlines<sup>334</sup> and registered in Kyrgyzstan by Reem Air,<sup>335</sup> with registration number EX-043.<sup>336</sup> Significantly the Libyan Civil Aviation Authority claimed to have lost its data on the

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<sup>322</sup> See: Danssaert, P., *EX-043, or the plane that never was*, TransarmsEurope for UNDP, December 19, 2006. The paper reported the latest information on this case as well as drawing together earlier research undertaken by Amnesty International, IPIS, TransArms, and the U.N. The DRC was still under embargo (U.N.S.C. Resolution 1596, April 18, 2005) and the partial embargo for Rwanda stated that arms may only be imported after officially notifying the U.N.. Such arms cannot be diverted or sent in transit to any entity other than the Rwandan government forces (U.N.S.C. Resolution 1011, 16 August 1995).

<sup>323</sup> See in this report Box 12

<sup>324</sup> Founded in 2002 and based in Kigali (ICAO: VRB), active. One (9XR-SC) of its DC-8-62Afs is still active (AeroTransport DB). For the interesting provenance of Silverback planes, see Amnesty International, *DRC: Arming the East* (2005). Both authors of current report have contributed research to *DRC: Arming the East* (2005).

<sup>325</sup> Amnesty International, *DRC: Arming the East* (2005).

<sup>326</sup> Over-flight data obtained by Amnesty International.

<sup>327</sup> Interview with the researcher hired by SEESAC, Brian Johnson Thomas, 11 December 2006; "BiH Arms Export Licence Applications for Chad and Rwanda," SEESAC Advisory Notes, 13 January & 17 January 2005; "Contested Tuzla Flight - 11 December 2004," SEESAC Advisory Note, 25 February 2005.

<sup>328</sup> Amnesty International, *DRC: Arming the East* (July 2005).

<sup>329</sup> SEESAC in its advisory note of 27 November 2004 confidentially made officials of the European Union, OSCE and NATO aware of this proposed arms export.

<sup>330</sup> See Danssaert, P., *EX-043, or the plane that never was* (2006).

<sup>331</sup> SEESAC advisory note, 13 January 2005. The BiH Ministry of Foreign Affairs was asked on the 12 December 2006 to send the verbatim record of the cancellation announcement but responded that this could only be given through submitting an official request in writing.

<sup>332</sup> The European Organisation for the Safety of Air Navigation.

<sup>333</sup> See: Amnesty International, *DRC: Arming the East* (2005), and Danssaert, P., *EX-043, or the plane that never was* (2006).

<sup>334</sup> Founded in 1997 and based in Plovdiv (ICAO: VEA). After the revocation of its AOC in 2007 and inclusion in the EU ban, it restarted at the end of 2007 with a new AOC as Cargo Air Ltd, based in Sofia. Vega was officially recognized as a Bulgaria's Defence ministry carrier.

<sup>335</sup> Reem Air (ICAO: REK) was founded in 2004, registered in Kyrgyzstan and base in Sharjah (UAE). The company suspended operations in 2007.

<sup>336</sup> See: Amnesty International, *DRC: Arming the East* (2005), and Danssaert, P., *EX-043, or the plane that never was* (2006).

EX-043 flight scheduled to land in Benghazi on December 11,<sup>337</sup> but European aviation authorities have confirmed that the plane did arrive in Benghazi on December 11, 2004, at 15:36 hrs.

**Table 12. Unis Promex to MoD Rwanda – Form 5: Intent to Export**

SFOR received	SFOR approved	Description	Serial Number	Reference
01/09/2004	18/11/2004	- 7.62 x 39mm automatic rifles AK-47	5,000 pcs	2004 09 01 (1600-1)
		- 7.62 x 39mm cartridges	3,000,000 pcs	
		- M75 defensive hand grenades	3,000 pcs	
		- M60 rifle grenades	10,000 pcs	
		- M60 P1 rifle grenades	10,000 pcs	
		- 73mm cartridges for SPG-9	5,000 pcs	
		- 12.7 x 108mm cartridges	1,000,000 pcs	
		- 40mm rounds for RPG-7 (PG-7)	2,000 pcs	

Source: SFOR Form 5

Aviation records show that another of Reem Air's planes (r/n EX-039) flew to Kigali on the evening of December 9, 2004 from Burgas,<sup>338</sup> but the nature of the cargo is unknown. A month earlier, on November 9, 2004 another IL-76 loaded military equipment (disguised as "technical equipment") in Burgas, destined for the Rwandan Ministry of Defence (MoD).<sup>339</sup> It is unknown whether the military equipment included weapons.

In telephone conversations with a BiH Ministry of Foreign Affairs spokesperson with regard to possible exports to Rwanda, he "confirmed" that shipments intended for December 2004 were cancelled, although he added that, according to the Ministry of Foreign Trade and Economic Relations (MoFTER), "*Once, I do not know when, BiH exported some arms to Rwanda*".<sup>340</sup> Intriguingly, the SFOR/EUFOR documentation contains no other export license to Rwanda between 2001 and 2005. The spokesperson further identified the broker who was involved in the December 2004 shipments as an Israeli company called Virona Commodities,<sup>341</sup> which also appears to be known as Verona Commodities.<sup>342</sup> The latter company operated from an entity registered in the British Virgin Islands (BVI) under the name Verona Commodities (British Virgin Islands) Ltd.<sup>343</sup> This company brokered other arms exports for the Rwandan MoD in 2004 (Serbia-Montenegro and Bulgaria) and 2005 (Serbia-Montenegro).<sup>344</sup> Virona was contacted by phone and fax to clarify the December 11, 2004 flight and the shipment of unknown date (and whether the two were one and the same).<sup>345</sup>

Clearly, further investigation into these flights from the Balkans and into the role of the Verona Commodities brokering firm and its network should take place, one good reason being that the Rwandan authorities were subject to UN Security Council arms embargo restrictions. These restrictions did not allow shipments of arms to non-governmental entities or entities outside Rwanda, yet there were credible reports that the Rwandan authorities were supplying arms to armed groups in the DRC's Ituri and Kivu Provinces at that time.<sup>346</sup>

<sup>337</sup> The IL-76 plane was prior to December 2004 and after May 2005 registered in Libya under the wing of the Libyan Air Force. See Amnesty International, *DRC: Arming the East* (2005), and Danssaert, P., *EX-043, or the plane that never was* (2006).

<sup>338</sup> Danssaert, P., *EX-043, or the plane that never was* (2006)

<sup>339</sup> See J. Cappelle, P. Danssaert, and B. Johnson-Thomas: "*Recent Arms Deliveries from the Successor States of the former Yugoslavia*", International Peace Information Service, 19 March 2007.

<sup>340</sup> Telephone conversations with BiH's MFA on 12 and 13 December 2006.

<sup>341</sup> Amnesty International, *DRC, Arming the East* (2005)

<sup>342</sup> According to air waybills and other documentation.

<sup>343</sup> Information from Amnesty International.

<sup>344</sup> Danssaert, P., Cappelle, J., Johnson-Thomas, B.: *Recent arms deliveries from the successor States of the former Yugoslavia*, IPIS vzw, Antwerp, 2007. See also copies of Rwandan end-use certificates.

<sup>345</sup> Telephone conversations 13 and 14 December 2006, fax 14 December 2006.

<sup>346</sup> *DRC: Arming the East* (2005); *DRC - North-Kivu: Civilians pay the price for political and military rivalry*, 28 September 2005, AFR 62/013/2005.

In 2005 Amnesty International also reported on several large ammunition shipments to Rwanda between 2002 and June 2003 from Albania.<sup>347</sup> Up to 400 tons of munitions were delivered to Kigali by companies from Albania, Israel, South Africa, the United Kingdom and Rwanda. In the first series of six flights from MEICO (see above) each carried over 40 metric tons of arms and ammunition between late October and November 2002. The cargo consisted of millions of rounds of Kalashnikov assault rifle ammunition, grenades and rocket launchers. Three companies were operating from the United Kingdom: African International Airways, Intavia Ltd and Platinum Air Cargo.<sup>348</sup> The DC8 cargo aircraft used for the shipments by African International Airways was registered in Swaziland and maintained in South Africa. In addition, Amnesty International obtained testimony from participants pointing to the involvement of other arms brokers and business intermediaries based in Israel, the Netherlands and the Turks and Caicos Islands.<sup>349</sup>

In 2003 as well, a Rwandan company, Silverback Cargo Freighters, used its two DC8 aircraft to carry out another series of ammunition deliveries from Eastern Europe to Rwanda. At least four arms flights were made from Tirana to Kigali between April and June 2003. The manager of Silverback subsequently offered to fly missiles and large quantities of ammunition from Poland to Rwanda in October 2003. Amnesty International was later informed that the aircraft of Silverback Cargo Freighters were used between March and September 2004 to transport additional quantities of arms to Rwanda from Eastern Europe.<sup>350</sup>

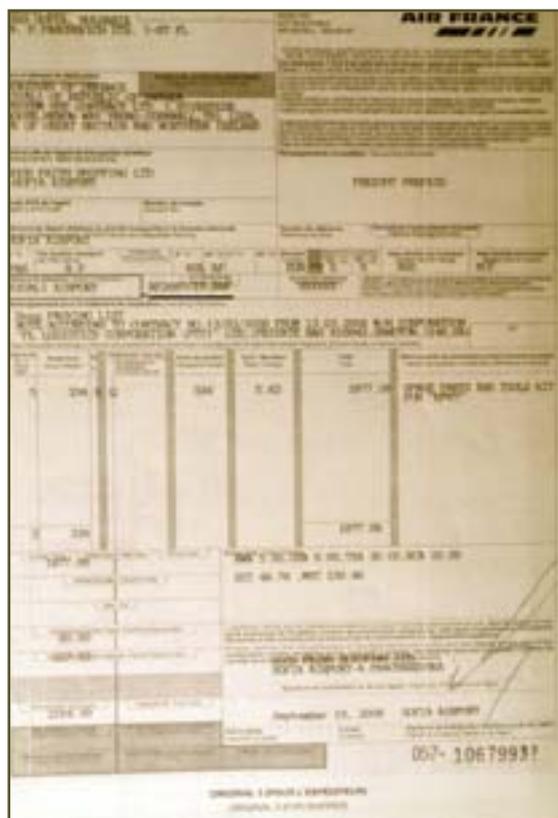
## 6.2 Rwanda and Air France

The transportation of SALW and related equipment to Rwanda was not confined to questionable carriers based in countries with lax regulations.

On January 16, 2007, the Rwandan government issued an end use certificate (EUC) for the procurement of 49 tool kits and spare-part kits for the 14.5mm KPVT machine gun. According to the EUC, the arms broker was System Use Contract Ltd. based in Cornwall (UK).<sup>351</sup> The items were bought from the Sofia-based Armico Ltd.

In a "Declaration" dated July 2, 2008, the Rwanda government announced<sup>352</sup> that "*in accordance to the UN Resolutiuon 1011*" the above-mentioned items were to be shipped via Kigali airport. The announcement "*in accordance to*" Resolution 1011 was in some ways strange, considering that, at the time it was issued, it was no longer necessary. The United Nations, in Resolution 1749 dated March 28, 2007, had in fact already lifted the provision - established by paragraph 11 of Resolution 1011 (1995)<sup>353</sup> - that required all nations to notify the United Nations about

Document 22. Air France airway bill - September 19, 2008



Source: IPIS vzw/TransArms, Belgium/USA

<sup>347</sup> Amnesty International, *DRC, Arming the East* (2005).

<sup>348</sup> Amnesty International, *DRC, Arming the East* (2005) for information on Intavia and Platinum Air.

<sup>349</sup> Amnesty International, *DRC, Arming the East* (2005).

<sup>350</sup> See: Amnesty International, *DRC, Arming the East* (2005).

<sup>351</sup> Rwandan end use certificate, REF: 033/DEF/318/F/007/08 (16 January 2007).

<sup>352</sup> Rwanda government, ministry of Defence, REF/718/DEF/318/F/093/08, dated July 2, 2008

<sup>353</sup> The Resolution 1011, in its turn, had lifted the arms embargo against Rwanda government imposed since 1994 (Resolution 918), but maintained the arms embargo against Rwanda non-State actors.

their exports of arms and military-related equipment to Rwanda and required Rwanda to register and notify the UN about all military-related imports.

Resolution 1749, however, did not lift the provision of paragraphs 9 and 10 of Resolution 1011, which required that (paragraph 9) in “view to prohibiting the sale and supply of arms and related matériel to non-governmental forces for use in Rwanda, that all States shall continue to prevent the sale or supply, by their nationals or from their territories or using their flag vessels or aircraft, of arms and related matériel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary police equipment and spare parts, to Rwanda, or to persons in the States neighboring Rwanda if such sale or supply is for the purpose of the use of such arms or matériel within Rwanda, other than to the Government of Rwanda [...]” and (paragraph 10) “no arms or related matériel sold or supplied to the Government of Rwanda may be resold to, transferred to, or made available for use by, any State neighboring Rwanda, or person not in the service of the Government of Rwanda, either directly or indirectly.”<sup>354</sup>

The Rwandan government’s “Declaration” preceded by more than a week UN Resolution 1824 (dated July 10, 2008), which terminated - on the basis of a questionable analysis of the situation in the Great Lakes region - the prohibitions of paragraphs 9 and 10 of Resolution 1011. Resolution 1824 seemed to imply that there were no more risks that arms and military equipment being “sold or supplied” to the Rwandan government could be diverted to “any State neighboring Rwanda” or to any “person not in the service of the Government of Rwanda, either directly or indirectly,” such as armed groups in the DRC. As denounced by the UN Group of Experts on DRC in its report to the UN Security Council dated December 12, 2008 (S/2008/773), in the same year (2008) the Rwandan government was in fact militarily and financially supporting the CNDP (*Congres national pour la défense du peuple*, led by Gen. Laurent Nkundabatware) in the DR Congo. Diversions to the CNDP of arms procured by the Rwandan government were more than a risk.

The shipment of the tool kits and spare-part kits for the 14.5mm KPVT machine gun was carried out September 19, 2008,<sup>355</sup> by Air France flight AF2687 from Sofia to Paris and forwarded on to Kigali.

It is worth noting that the airway bill lists Good Faith Shipping [& Chartering] Ltd, as Air France’s agent for the cargo. Good Faith Shipping Ltd - founded in 1994 and based at Sofia airport and Burgas seaport<sup>356</sup> - is associated with Good Faith Shipping Co. S.A. (founded in 1966-1970 and presently based at the port of Piraeus), one of Greece’s largest logistic companies, owned by Captain Nikos Fragos, in his turn one of Greece’s richest shipping magnates.<sup>357</sup>

The airway bill also lists, as the company in charge of handling the cargo, the South Africa-based “PL Logistics Corp. Pty Ltd” (actually “Paramount Logistics Corp. Ltd”) of the Paramount Group, both located at the same Sandton address listed in the airway bill.<sup>358</sup> As stated on its website, Paramount Group (founded in 1994, with a European office located in Nicosia, Cyprus, and headed by Ivor Ichikowitz) is a group of defence-related companies that “operates in the international peacekeeping, defence, and internal security industries” and whose “objective is, and always has been, to contribute to global peace and security.” The company, a manufacturer of armored vehicles (among other defence-related products), also has cooperation agreements with Aerosud (refurbished Mirage F1AZs) and Ashok Leyland (mine-protected vehicles).<sup>359</sup> Since 2009 Paramount Logistics Corp. Ltd has been a member of the Association of the Stability Operations Industry.<sup>360</sup> It operates a Boeing 727<sup>361</sup> based in Lanseria Airport (South Africa).<sup>362</sup>

<sup>354</sup> Paragraphs 9 and 10 of Resolution 1011 were lifted by the UN Resolution 1824, dated July 10, 2008.

<sup>355</sup> Air France Airway Bill No 057-10679933, dated September 19, 2008.

<sup>356</sup> See: <http://www.gfs.hit.bg/>

<sup>357</sup> See: “Shoes and Ships”, *Fairplay International Shipping Weekly*, January 10, 2008; “The wealthiest Greeks of 2009”, *GR Reporter*, December 26, 2009, [www.grreporter/info/en](http://www.grreporter/info/en)

<sup>358</sup> “Private Bag, X10042, Sandton, 2146 SA.” See for Paramount Group: [www.paramountgroup.biz](http://www.paramountgroup.biz).

<sup>359</sup> See: [www.paramountgroup.biz](http://www.paramountgroup.biz)

<sup>360</sup> See: <http://www.ipoaworld.org/eng/ipoamembers/32-paramountlogistics.html>

<sup>361</sup> Registration number ZS-PVX, manufacturing number 22825, until 2007 in the Nigeria government’s fleet (Aertransport DB).

<sup>362</sup> The aircraft was recently spotted in Lanseria (September 23, 2009) and Dubai (July 1, 2009), see [www.myaviation.net](http://www.myaviation.net) and [www.abpic.co.uk](http://www.abpic.co.uk).

### 6.3 Mystery plane lands at Entebbe

Late in 2005, an IPIS researcher on mission to Uganda and DR Congo<sup>363</sup> received a photograph of an IL-76 offloading ammunition boxes at Entebbe Airport. The aircraft had arrived on December 5, 2005 and immediately began to discharge its cargo. The aircraft had no visible registration markings, but a careful examination of the photograph reveals a rectangular area on the tail of the aircraft that is painted over just where a banner or company logo ought to be. It has not been possible to identify this aircraft, nor has the Civil Aviation Authority of Uganda been willing to provide information about it.

Photo 5. A IL-76 offloading ammunition in Entebbe December 5, 2005



Credit: IPIS vzw/TransArms, Belgium//USA

### 6.4 Arms to Darfur

Between September 2006 and July 2007 the UN Panel of Experts on Sudan reported, “that aircraft owned by AZZA Transport accounted for 126 military flights to Darfur”<sup>364</sup>. Some of these aircraft were leased from United Arabian Airlines<sup>365</sup> and Trans Attico.<sup>366</sup> The Panel concluded “that aircraft owned or leased by AZZA Transport have flown arms to Darfur for SAF in violation of paragraph 7 of Security Council resolution 1591 (2005)”<sup>367</sup>. The Managing Director of AZZA denied these allegations but did admit to having transported on at least one occasion spare parts for Sudanese Air Force jets in Nyala.<sup>368</sup>

The aircraft most used, according to the UN, were the above mentioned IL76s with registration numbers XT-FCB and ST-APS (see deliveries to DRC §2.7.2.1), and an An-12 with registration number ST-ASA.<sup>369</sup>

On February 24, 2007 an Antonov-12 (ST-AQE)<sup>370</sup> operated by AZZA Transport (though belonging to United Arabian Airlines) crash-landed at El Geneina Airport while carrying arms and military personnel (122mm two artillery howitzers and 40 to 50 olive drab wooden boxes suspected of containing arms and ammunition).<sup>371</sup> On May 29, 2007, AZZA Transport was added to the economic sanctions list of the US Office of Foreign Assets Control for “constituting a threat to peace and stability in Darfur, and to have directly or indirectly supplied, sold, or transferred arms or any related materiel to belligerents in Darfur”.<sup>372</sup>

In August 2007 Amnesty International was able to show a photograph of one such military flight made by AZZA Transport.<sup>373</sup> On July 16, 2007, the above-mentioned Antonov-12 freighter aircraft with registration number ST-ASA was photographed at El Geneina Airport while Sudanese army soldiers were offloading containers onto military trucks. Information obtained by Amnesty International revealed that the aircraft had flown under a military call sign “Gadir 201” and had come from Khartoum.<sup>374</sup>

<sup>363</sup> Peter Danssaert & Brian Johnson-Thomas, “Greed and Guns: Uganda’s Role in the Rape of Congo”, IPIS vzw, 13 July 2006.

<sup>364</sup> S/2007/584, 3 October 2007: §97, §93-96.

<sup>365</sup> Founded in 1995 (ICAO: UAB) and based in Khartoum, active.

<sup>366</sup> Founded in 1998 (ICAO: ETC) and based in Khartoum. See also: S/2007/584, 3 October 2007: §104-105.

<sup>367</sup> S/2007/584, 3 October 2007: §98.

<sup>368</sup> S/2007/584, 3 October 2007: §98, §102.

<sup>369</sup> The U.N. report gives its manufacturing number as 402010 (see also AeroTransport DB). This m/n belonged to a An-12 built at Factory 64 Voronezh-Pridacha, with r/n RA-11374, between 1961 and 1965 (Soviet Transports, 2004 edition). ACAS DB and JP Airline-fleets 2004/2005 report it in the fleet of Gromov Air (Moscow, founded 1995) and soon later on the fleet of Vega-M- NNP (Russia), before being exported to Sudan. The connection between the photographed ST-ASA and the m/n of RA-11374 is uncertain. Neither JP Airline-fleets nor Soviet Transports and ACAS DB report the m/n as belonging to an airline after 2004.

<sup>370</sup> Manufacturing number 1400106. AeroTransport DB; ACAS DB.

<sup>371</sup> S/2007/584, 3 October 2007: §99.

<sup>372</sup> [www.treasury.gov/offices/enforcement/ofac/actions/20070529.shtml](http://www.treasury.gov/offices/enforcement/ofac/actions/20070529.shtml); [http://www.treasury.gov/resource-center/sanctions/Documents/sudan\\_eo.pdf](http://www.treasury.gov/resource-center/sanctions/Documents/sudan_eo.pdf); <http://www.treasury.gov/press-center/press-releases/Pages/hp426.aspx>.

<sup>373</sup> Amnesty International, *Sudan: new photographs show further breach of UN arms embargo on Darfur*, AFR 54/045/2007, 24 August 2007.

<sup>374</sup> Khartoum International Airport Logs page 22588. See also: S/2007/584: §101.

During 2008 the United Nations Panel of Experts on Sudan also repeatedly witnessed the offloading of what seemed to be military supplies onto military trucks from Azza aircraft.<sup>375</sup>

Several trucks are also visible in the photograph. The one on the left of the aircraft appears to be a DongFeng truck, of a model that cannot be precisely identified from the picture. The trucks could be either types EQ2081 or types EQ2082E6D and EQ2100E6D. In August 2005, the UN Panel saw a shipment of green DongFeng trucks in the Port of Sudan, destined for the Ministry of Defence. The Panel was able to identify 212 DongFeng trucks of model EQ2100E6D.<sup>376</sup>

Photo 6. El Geneina, July 16, 2007, AN-12 ST-ASA



Credit: Amnesty International

In early 2008 a BBC Panorama documentary team was able to film two DongFeng trucks - of the same EQ2100E6D model - in Darfur. Both trucks were captured by the JEM<sup>377</sup> from Sudanese armed forces. The production tags on the trucks indicated that both were manufactured in July 2005.<sup>378</sup> This evidence, in the meantime, has been corroborated by the UN Panel of Experts on Sudan.<sup>379</sup>

In July 2008 Azza Transport aircraft were seen offloading boxes with military equipment in Khartoum.<sup>380</sup>

Two other Sudanese aviation companies were identified by the UN Panel for having transported military equipment from Khartoum to Darfur using a military or police call sign. On July 31, 2006 an Ilyushin-76 with registration number ST-BDE<sup>381</sup> and operated by Badr Airlines<sup>382</sup> was photographed by the UN Panel offloading Toyota pick-up trucks mounted with light machine guns. Between November 2006 and April 2007 Badr continued to make flights on behalf of the Sudanese Army and Police.<sup>383</sup>

The Sudanese aviation company Ababeel Aviation<sup>384</sup> also made several flights on behalf of the Sudanese Army and Police. Ababeel provided the UN Panel with information, but none of the military and police flights "by Ababeel noted in the Darfur airports and Khartoum International Airport logbooks are referenced in the documentation Ababeel Aviation provided to the Panel. Three cargo manifests provided by Ababeel Aviation do mention military cargo: 19 tons from Khartoum to El Fasher on IL-76 registered ST-EWX<sup>385</sup> (aircraft leased from Air West)<sup>386</sup>, with Ababeel Aviation civil aviation flight number BBE 900 on 1 September 2006; 10 tons from Khartoum to El Fasher on IL-76 registered ST-WTA,<sup>387</sup> flight number 700A on 16 February 2007; and an undeclared weight of cargo from Khartoum to El Fasher on IL-76 registered ST-WTA, flight number BBE 800 on 29 June 2007."<sup>388</sup>

Other military flights by AZZA Transport and Green Flag Aviation<sup>389</sup> were documented by the UN Panel on May 19 and July 29, 2009.<sup>390</sup> In its 2007 report (S/2007/584), the UN Panel on Sudan recommended

<sup>375</sup> UN Panel of Experts on Sudan, S/2008/647, 11 November 2008: § 67-69.

<sup>376</sup> Amnesty International, *People's Republic of China: sustaining conflict and human rights abuses - the flow of arms accelerates*, ASA 17/030/2006, June 2006.

<sup>377</sup> Justice and Equality Movement.

<sup>378</sup> BBC Panorama, *China's Secret War*, 14 July 2008.

<sup>379</sup> See also 2008 report from UN Panel of Experts on Sudan, S/2008/647, 11 November 2008, paragraphs § 58-64. The UN Panel has also detailed photographs of DongFeng EQ2100E6D being used to offload military equipment from aircraft in Darfur.

<sup>380</sup> Info supplied by industry source (10 July 2008).

<sup>381</sup> Manufacturing number 1013408252 (formerly RA-76809), active, acquired February 2006 by Badr. AeroTransport DB.

<sup>382</sup> Founded in 1997 as Sarit Airlines (ICAO: SRW) and based in Khartoum, it was grounded by Sudanese authorities on safety concerns, but restarted in 2005 as Badr Airlines (ICAO: BDR, based in Khartoum).

<sup>383</sup> S/2007/584: §106-108.

<sup>384</sup> Founded in 2002 (ICAO: BBE) and based in Khartoum, active.

<sup>385</sup> Manufacturing number 101340982, formerly UN-76810 on GST Aero fleet. AeroTransport DB.

<sup>386</sup> Founded as Air West Express in 1992 (ICAO: AWZ), renamed East/East Cargo in 2003, renamed Air West (ICAO: AWZ) in 2005. AeroTransport DB.

<sup>387</sup> Manufacturing number 1023410355 (formerly EX-109 with Click Airways, ICAO:CGK, registered in Kyrgyzstan) and acquired in January 2008 by Asia Airways (based in Dushanbe, Tajikistan, ICAO: ASW, with asset from Click Airways), with r/n EY-604. AeroTransport DB.

<sup>388</sup> S/2007/584: §109.

<sup>389</sup> Founded in 1996 and based in Khartoum (no ICAO call sign), at the service of the Sudanese Air Forces. It operates An-74s, with registration numbers ST-BDT and ST-GFF. AeroTransport DB.

<sup>390</sup> S/2009/562, §182-188.

a ban be imposed on Ababeel, AZZA Transport, Badr Airlines, Juba Air Cargo, Trans Attico and United Arabian Airlines. All these companies are still active and operate or lease the same aircraft mentioned above.

## 6.5 The need to monitor arms movements in Southern Sudan

The Sudan People's Liberation Movement (SPLM) and the central government in Khartoum made a peace agreement in 2006 after 21 years of civil war in the South, and now units of the new integrated armed forces of South Sudan include elements from both the Sudan People Liberation Army (SPLA) and the Sudanese national army commanded from Khartoum.

On August 4, 2006 the Sudan Radio Service announced that the SPLA had embarked upon military training of its guerrilla soldiers with the aim of transforming the SPLA into a professional army.<sup>391</sup> Shortly thereafter, on August 12, 2006, the Sudan Tribune announced that the US private security company DynCorp had been awarded a USD40 million contract by the US State Department to build barracks and provide training to the SPLA. Training was presumed to begin in 2007. DynCorp stressed that "[T]his contract does not involve sending arms to the SPLA. The idea is not to help them in offensive purposes."<sup>392</sup>

On two occasions the International Peace Information Service vzw tried to obtain the DynCorp contract from the US State Department through the Freedom of Information Act.<sup>393</sup> In both instances the FOIA case was closed by the State Department.<sup>394</sup>

On October 13, 2006 the US Congress adopted the *Darfur Peace and Accountability Act of 2006* (public law 109-344).<sup>395</sup> This act granted the US president the right to authorize military assistance to the Government of Southern Sudan for each of fiscal years 2006 to 2008, "for the purpose of constituting a professional military force: (A) non-lethal military equipment and related defense services, including training, and (B) small arms and ammunition under categories I and III of the United States Munitions List (22 C.F.R. 121.1 et seq.), if the President determines that the provision of such items is in the national security interest of the United States".<sup>396</sup>

A FOIA request was sent to the US State Department on December 3, 2007 asking for information about the amount and type of military assistance provided to the Government of South Sudan for fiscal years 2006, 2007 and 2008.<sup>397</sup> A previous FOIA request, dated 27 June 2007, requesting a copy of the \$40 million contract awarded to Dyncorp in 2006 to build barracks, provide telecommunications and training to the former rebel Sudan People's Liberation Army was closed<sup>398</sup>. In addition a FOIA request (dated 3 December 2007) requesting copies of records concerning the amount of funding that has been provided by the U.S. Government to the Kenyan Ministry of Defence to provide bilateral military-to-military assistance to the SPLA is still pending<sup>399</sup>.

Significant quantities of arms have been imported into Southern Sudan using private air charter companies. According to official trade data for 2005, Senegal exported nearly USD8 million of arms and ammunition to Sudan,<sup>400</sup> believed to have ended up in the Southern Sudan.

On the November 23, 2006 an Antonov-28 aircraft, with a São Tomé and Príncipe registration number S9-PSV, was seen in Yei while ammunition boxes were being loaded onto it. A witness has reported that the Russian crew told him that they were flying to Juba on behalf of the Sudan People's Liberation Army

<sup>391</sup> UNMIS Media Monitoring Report, 6 August 2006.

<sup>392</sup> "US firm to turn South Sudan rebels into soldiers", *Sudan Tribune*, 12 August 2006.

<sup>393</sup> FOIA Request 27 June 2007; FOIA 26 September 2007.

<sup>394</sup> Letter State Department 17 August 2007; Letter State Department 17 December 2007.

<sup>395</sup> "An Act to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes", Public Law 109-344.

<sup>396</sup> Public Law 109-344, Section 8 (d) Authorized Military Assistance.

<sup>397</sup> This request is being processed (last communication with State Department, 30 September 2010).

<sup>398</sup> FOIA response U.S. Department of State, 17 December 2007 (Case Number 200705307).

<sup>399</sup> FOIA Case Number 200706475.

<sup>400</sup> UN Comtrade DB

(SPLA).<sup>401</sup> According to aviation documentation, the Antonov-28 registered as S9-PSV (m/n 1AJ008-13) was operated by the São Tomé based air transport company Goliaf Air,<sup>402</sup> but was owned by the UK-registered company Dallex Trade Limited.<sup>403</sup> Article 1 of the European Union Common Position 2004/31/CFSP prohibits the sale, supply, transfer or export of arms and related material (such as ammunition) to Sudan.

A company in the United States is listed as the director of Dallex Trade Limited - Sovereign Pacific Managers.<sup>404</sup> The UK Companies House reports 158 company appointments in the name of Sovereign Pacific Managers. The secretary of Dallex Trade Ltd. is listed as Worldwide Management Corporation in Belize.<sup>405</sup>

In March 2007, East African sources told researchers that the S9-PSV and an Antonov-32, registration number S9-PSE (m/n 2803), were flying for a Kenya-based aviation company called Acariza Aviation Limited,<sup>406</sup> and that allegedly both aircraft were involved in defence logistics for the SPLA.<sup>407</sup> When the researchers called Acariza's head office in Nairobi they asked Acariza Aviation "which aircraft [they] are operating"<sup>408</sup>. They received a quick answer: "They aren't our aircraft as such, we are just the representatives for the operators... we are just helping the guys with logistics in the region."<sup>409</sup> The "guys" were Goliaf Air of São Tomé and Príncipe. "We work with Goliaf in São Tomé. We just help these guys out locally."<sup>410</sup>

In April 2007 journalists of the *Sunday Times* contacted Acariza management to give them a chance to reply to an upcoming article<sup>411</sup> in the newspaper, with regard to the November 2006 flight. An Acariza official denied they were operating an Antonov-28, adding "I have no idea what cargoes this aircraft has been transporting in and around Southern Sudan."<sup>412</sup> In an email to the *Sunday Times* dated April 25, 2007, two days after the article was published, Acariza referred to and included the text of a United States Presidential Executive Order (Executive Order 13412 of October 13, 2006) that excludes South Sudan from sanctions against the government of Sudan by the United States.

The two Acariza staff people responsible for operations in Lokichoggio (Kenya) and Juba (Sudan) had a different story. Both told the researchers that the aircraft were leased from a company in Ukraine,<sup>413</sup> and when the name "Dallex Trade" came up on one occasion,<sup>414</sup> they mentioned that the main clients for Acariza were said to be relief agencies and the SPLA.<sup>415</sup> The two employees responsible for operations in Lokichoggio said that the S9-PSV had been used by Acariza since November 2006.<sup>416</sup>

The Antonov 28 registered as S9-PSV in 2006 was formerly registered in Moldova as ER-AKO, but de-registered in Moldova on August 11, 2006.<sup>417</sup> ER-AKO used to be operated by TEPavia-Trans, with offices in Moldova and Kiev. TEPavia-Trans planes operating in central Africa have previously been under scrutiny by the United Nations, United Kingdom parliamentarians and by Amnesty International.<sup>418</sup>

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<sup>401</sup> Confidential source (20/12/2006).

<sup>402</sup> Founded in 1997 (ICAO: GLE), active. Certificate of Technical Approval, 16/01/2007.

<sup>403</sup> Certificate of Registration of Civil Aircraft (São Tomé and Príncipe), 08/09/2006. The company was incorporated in the UK on 2 December 2004 (Company N° 05318626, Companies House records). It is also reported as active in the DRC (AeroTransport DB).

<sup>404</sup> Address: 942 Windermere Drive, NW Salem, Oregon 97304 (Appointments report for Dallex Trade Limited, Companies House, 9 March 2007).

<sup>405</sup> Appointments report for Dallex Trade Limited, Companies House, 9 March 2007.

<sup>406</sup> Confidential aviation industry source (7 March 2007)

<sup>407</sup> Confidential aviation industry source (7 March 2007)

<sup>408</sup> Head Office Acariza, 26 March 2007

<sup>409</sup> Head Office Acariza, 26 March 2007

<sup>410</sup> Head Office Acariza, 26 March 2007

<sup>411</sup> "British firm breaks Sudan arms boycott", *Sunday Times*, 23 April 2007.

<sup>412</sup> Email from Acariza to *Sunday Times*, 21 April 2007.

<sup>413</sup> Acariza Ops. (Juba and Lokichoggio), 28 March 2007

<sup>414</sup> (Acariza, Juba), 19 March 2007

<sup>415</sup> Acariza Ops (Juba and Lokichoggio), 28 March 2007

<sup>416</sup> Acariza Ops (Lokichoggio), 28 March 2007

<sup>417</sup> CAA Moldova, tel. interview, 19/02/2006.

<sup>418</sup> See: *Arms Flows in Eastern DR Congo*, All Party Parliamentary Group on the Great Lakes Region, December 2004; UN Panel of Experts report S/2005/30, 25 January 2005; and Amnesty International, *DR Congo: Arming the East* (2005).

## 7. Airlines and Brokers for the War in Afghanistan

In various reports Amnesty International has reported on large arms supplies to the Afghan security forces by the US Government and NATO member states,<sup>419</sup> and on the potential risk of flooding an already chaotic landscape with arms – which in turn could lead to further violence against civilians and serious violations of international human rights and humanitarian law.<sup>420</sup> Amnesty estimated that, between 2002 and 2007, 409,022 small arms were imported to and distributed in Afghanistan, including significant arms shipments<sup>421</sup> that were mismanaged by the US DoD and put into the hands of local Afghan security forces accused of abusive behavior and corruption. This on top of the millions of small arms were already available in the country.

New data that has come out in the last few years show that the flow of weapons to Afghanistan has continued unabated, while the deteriorating security situation of land transport and the surge in military operations has diverted a sizeable portion of arms shipments by sea/land to air.

### 7.1 Air carriers for the new surge in arms shipments

Data for the fiscal year 2008 show that - in addition to weapons for use by US forces - the US Department of Defense approved USD723 million in Direct Foreign Sales (FMS) of military equipment (including machine guns, pistols, rifles, ammunition, and spare parts for various weapons) to a number of different entities in Afghanistan.<sup>422</sup> Because FMS only take into account sales above 2 million dollars, the reported amount is probably only a fraction of what Afghanistan forces have been licensed to receive. Actual deliveries that took place in fiscal year 2008 amounted to USD495 million.<sup>423</sup>

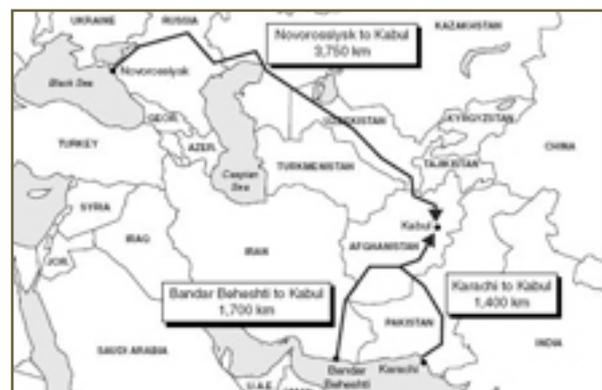
In addition to FMS, in fiscal year 2008 the US Department of State authorized the sales (Direct Commercial Sales) of military equipment of various types worth a total of USD430 million (representing nearly 2 million individual pieces of equipment).<sup>424</sup> Actual deliveries amounted to a total value of USD1.017 billion (which takes into account items authorized for export in previous fiscal years and delivered during 2008).

The foreign affairs ministries of several other countries also approved direct commercial sales of infantry weapons and civilian firearms to Afghanistan in significant quantities between 2006 and 2008 (no less than USD40 million, according to partial data by the UN Comtrade database).

For example: Slovakia shipped 1,450 tons of cartridges (for a value of USD16 million) in 2007; Lithuania 78 tons of cartridges and civilian firearms (for a value of USD3.2 million) in 2007 and 2008; Estonia 133 tons of items coded as “military weapons” and “munitions of war” (for a value of USD2 million) in 2007 and 2008; and the Czech Republic 30 tons of air guns, rifles, pistols, and “truncheons” (for a value of USD1.3 million) in 2007 and 2008.

It should also be noted that several countries applied confidential clauses to the statistics related to their arms exports to Afghanistan, thus hiding them from public scrutiny. Noteworthy is the case of Italy, where official commercial

Map 6. Options for Sea-Land routes to Kabul



Source: Alan Vick et al., *The Stryker Brigade Combat Team: Rethinking Strategic Responsiveness and Assessing Deployment Options*, RAND Corporation, 2002

<sup>419</sup> Amnesty International, *Afghanistan: arms proliferation fuels further abuse*, AI Public Briefing – AI Index: ASA 11/004/2008, 3 April 2008; Amnesty International, *Blood at the Crossroads: Making the case for a global Arms Trade Treaty*, AI Index: ACT 30/011/2008, 17 September 2008.

<sup>420</sup> Amnesty International (April 2008)

<sup>421</sup> Amnesty International (April 2008)

<sup>422</sup> US Deputy Under Secretary of Defense, *Report to Congress on significant FMS for the year 2008*, April 7, 2009

<sup>423</sup> US Department of Defense Security Cooperation Agency, *Facts Book*, September 30, 2008, last available report as for December 2009.

<sup>424</sup> US Department of State, Directorate of Defense Trade Control, *Annual Military Assistance Report*, Section 655 under Arms Export Control Act, Report to Congress, November 2009.

### Box 12. The case of African Intl. Airways

On February 22, 2007, a DC-8-62 cargo aircraft, registered in South Africa as ZS-OZV<sup>1</sup> and operated by then Swaziland-based African International Airways (AIA)<sup>2</sup> was loaded with 70,000 AK magazines at the Doncaster airport (EGCN) in the United Kingdom.<sup>3</sup> The aircraft had arrived the same day as flight AIN219P<sup>4</sup> from Ostend, Belgium, landing in Doncaster at 8:34 (UTC/GMT). Its further destination was apparently Istanbul,<sup>5</sup> as indicated in a flight plan filed by AIA for the ZS-OZV aircraft.<sup>6</sup> On February 23, 2007 at 07:04 (UTC/GMT), the aircraft left Doncaster, but did not fly to Istanbul but returned to Ostend (flight number AIN219), where it arrived at 08:13 (UTC/GMT).<sup>7</sup> The aircraft remained at Ostend until March 5, when it flew to Manston (EGUM), a British RAF base.

Previously, on January 31, 2007, another AIA's DC-8-62 aircraft, registered as ZS-OSI, had arrived at Ostend, coming from Guatemala via Gander (CYQX), Canada. ZS-OSI departed on February 24 (flight AIN219) from Ostend at 19:32 (UTC/GMT) with destination Kabul (OAKB)<sup>8</sup> exactly one day after the arrival of ZS-OZV from Doncaster. ZS-OSI landed in Budapest on February 26 coming from Ashkhabad (Turkmenistan), a possible stopover en-route from Kabul. That same day the aircraft flew to Tripoli.<sup>9</sup>

Several questions remain: where did the 70,000 AK magazines ended up? Were they transloaded into ZS-OSI and directed to Kabul? Was the return to Ostend from Doncaster caused by technical problems or was it an intentional diversion? These questions will remain unanswered. In mid-2008 AIA went out of business and ceased operations.

In March 2006, the European Air Safety Agency (EASA) had placed Swaziland-registered air carriers, including African International Airways, on its list of air carriers banned to use the European airspace.<sup>10</sup> Swaziland authorities revoked AIA's Air Operator Certificate (AOC) but AIA quickly moved to South Africa, where the Civil Aviation authorities promptly released a new AOC in October 2006. Soon after, EU Air Safety Agency decided to remove AIA from the ban list, simply for the reason that the company was no more under the (lack of) control of the Swaziland authorities.

In April 2007, soon after the failed Doncaster-Istanbul flight, the shipping organization Baltic Exchange named AIA "Best Cargo Airline."<sup>11</sup>

In 2002 and 2003, AIA aircraft were chartered by the British MoD. In late 2002, AIA was also involved in the supply of 250 tonnes of munitions from Albania to Rwanda for onward export to armed opposition groups in the eastern DRC. Those shipments included several million rounds of ammunition and at least one shipment containing grenades and rocket launchers.<sup>12</sup>

<sup>1</sup> Previously registered in Swaziland as 3D-CDL, manufacturing number 45986.

<sup>2</sup> The airlines (ICAO call sign: AIN) was founded in 1985 and reorganized in 1988. It was domiciled in Mbabane (Swaziland) and based at the Manizini airport and at Gatwick (Airframes.org; Aero Transport DB).

<sup>3</sup> Confidential email correspondence, February 2007.

<sup>4</sup> Doncaster airport movements, February 2007, [www.egcn.co.uk/movements.htm](http://www.egcn.co.uk/movements.htm)

<sup>5</sup> Source withheld.

<sup>6</sup> Source withheld.

<sup>7</sup> It was 9:13 am at Ostend (CE time). Take-off-landing time (1 hour and 9 minutes) indicates a very slow speed for covering the 197 nautical miles from Doncaster to Ostend.

<sup>8</sup> Doncaster airports movements; Ostend airport movements (courtesy of CleanOstend); email correspondence, CleanOstend, 14 August 2007, and confidential source August 24 2007.

<sup>9</sup> Budapest airport movements, [www.planes.cz](http://www.planes.cz), <http://hungary.planes.cz>.

<sup>10</sup> L 168/20 EN Official Journal of the European Union 21.6.2006.

<sup>11</sup> AIA Press Release, April 19, 2007; Ostend airport Press Release, April 24, 2007.

<sup>12</sup> See: *Democratic Republic of Congo: Arming the East*, Amnesty International, July 2005

statistics<sup>425</sup> reported an export of arms and ammunition (code 93) to Afghanistan in 2007, for a total of 101 tons worth €2,050,620 (about USD3 million), in addition to 29 tons of explosives worth €915,809 (about USD1.3 million). The entries relating to those arms exports were later removed because, according

<sup>425</sup> See: ISTAT, "Banche Dati, Commercio Estero, Consultazione Tematica," <http://www.coeweb.istat.it>. See also [www.unimondo.org/artide/view/159250/1](http://www.unimondo.org/artide/view/159250/1), "Amnesty e Rete Disarmo: l'Italia esporta armi in Afghanistan," April 3, 2008

to the Italian National Institute of Statistics (ISTAT),<sup>426</sup> they had to do with transfers of military items, a category ISTAT statistics does not consider, and therefore had been inserted by mistake. However, the annual report of the Italian Council of Ministries on exports of military arms and equipment<sup>427</sup> included no reference to shipments to Afghanistan in 2007 or 2008, neither as definitive or temporary exports nor as government-to-government transfers. Those exports simply disappeared from the radar, for “confidential reasons.”<sup>428</sup>

Various NATO countries also donated significant quantities of military equipment.<sup>429</sup> Precise data and information on what and how much they donated to Afghanistan have been largely kept away from public scrutiny. NATO officials answered questions about this by saying that NATO “no longer provide(s) exact figures concerning each donation.”<sup>430</sup> The US Government Accountability Office (GAO) reported in January 2009 that 21 countries had donated a total of 135,000 weapons.<sup>431</sup>

A lucrative market for cargo transport services has therefore emerged both because of the increasing volume of military equipment and arms exported to Afghanistan and because of the need to alleviate the tragic conditions endured by a sizeable portion of the Afghan population as a result of fighting between NATO and Taliban forces. Humanitarian aid, arms, military equipment and civilian goods have all traveled on the same ships and planes, impelled by emergencies and urgent re-supply demands.<sup>432</sup>

Taliban re-supply chains are mostly informal and based on land transport from regions along the borders with Pakistan, Turkmenistan, Uzbekistan and Tajikistan, where sympathetic groups are located.<sup>433</sup> If any airborne cargoes of weapons have reached the Taliban in the last few years, it would have been more through mismanagement and corruption along the NATO and Afghan government supply chains, than through any deliberate efforts on the part of the Taliban to use air carriers for arms shipments.

Afghan governmental agencies, private security firms and NATO forces have instead made a consistent use of commercial air carriers and air transport for arms shipments, the least problematic means compared to those by sea and road, both in terms of security and of risks of diversion.

Shipments of military equipment, which – for size, weight and level of hazard – could not be transported by air, have continued to be routed over sea and land bridges, mostly using the Port of Karachi and the road that goes from there to Kabul via Peshawar, despite the problems created by highly visible, corruption-ridden<sup>434</sup> and easy-to-target sea/road supply chains.<sup>435</sup> The search for alternatives,<sup>436</sup> in particular through complex sea/rail connections,<sup>437</sup> has so far proved difficult.<sup>438</sup> Therefore, security- and time-sensitive shipments have been regularly shipped to Afghanistan from airports in Europe, the United Arab Emirates and Central Asia, as points either of origin or of transit and transshipment.

In the last three years, a number of air cargo companies have flown arms and other military and military-related equipment to Afghanistan, using large cargo aircraft such as the Ilyushin Il-76, Antonov AN-124

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<sup>426</sup> Communications and e-mails dated April 9, 2008. Amnesty holds screenshots and copies of the 2007 tables appeared on the ISTAT website.

<sup>427</sup> See: Presidenza del Consiglio dei Ministri, “Relazione sulle operazioni autorizzate e svolte per il controllo dell’esportazione, importazione e transito dei materiali di armamento nonché dell’esportazione e del transito dei prodotti ad alta tecnologia”, years 2007 and 2008.

<sup>428</sup> ISTAT’s Afghanistan trade figures are accompanied by the following statement: “In order to protect, where requested, confidentiality some categories of the classification system have been shaded.”

<sup>429</sup> Amnesty International (April 2008).

<sup>430</sup> Email from NATO to Peter Danssaert (IPIS), March 4, 2008.

<sup>431</sup> “Afghanistan Security – Lack of Systematic Tracking Raises Significant Accountability Concerns about Weapons Provided to Afghan National Security Forces”, GAO-09-267, January 2009.

<sup>432</sup> Interviews with carriers and freight forwarders, April–November 2009.

<sup>433</sup> Ansari, M., “IMU [Islamic Movement of Uzbekistan] and Taliban eye Central Asia again,” *Business Week/Business Exchange*, November 21, 2009, <http://bx.businessweek.com/supply-chain-performance>.

<sup>434</sup> Roston, A., “How the US Funds the Taliban. With Pentagon cash, contractors bribe insurgents not to attack supply lines for US troops,” *The Nation*, November 30, 2009.

<sup>435</sup> Scott Tyson, A., “Afghan Supply Chain a Weak Point,” *Washington Post*, March 6, 2009; Mc Gregor, A., “Taliban Target Karachi and Peshawar Links in NATO’s Afghanistan Supply-Chain,” The Jamestown Foundation, *Terrorism Focus*, January 21, 2009; Norton-Taylor, J. Borger, S. Goldenberg, “Convoy attacks trigger race to open new Afghan supply lines,” *The Guardian*, December 9, 2008.

<sup>436</sup> Clarke, R. K. Iqbal, “NATO Supply Lines in Afghanistan: The Search for Alternative Routes,” S. Rajaratnam School of International Studies (RSIS) Commentary No. 57, June 2009.

<sup>437</sup> Recent agreements with Russia and Central Asian countries have envisaged and in part implemented the use of Russia rail networks, in particular from the port of Novorossiysk (Black Sea) to Saratov, and then to Atyrau (Kazakhstan), Urgenk (Uzbekistan), Ashgabat or Turkmenabad (Turkmenistan), Termez (Uzbekistan), and finally to Heyratan terminal and the nearby Kaldar airport in Afghanistan at the crossroad with Uzbekistan and Tajikistan.

<sup>438</sup> “Rail road project to link north Afghanistan to Uzbekistan,” *Afghan Arzu TV*, June 18, 2009 (*BBC Monitoring International Reports*, June 19, 2009); Scott Tyson, A. (*Washington Post*, March 6, 2009).

and AN-12, DC-8 freighters among others. A review of flights<sup>439</sup> that departed in the last few years from West European, Baltic, Belorussian, Balkan, Ukrainian and Turkish airports to various Afghan airports reveals a consistent air re-supply chain of military and non-military cargoes.

For example, from January 2007 and May 2008, aviation records show 271 flights to Afghanistan by giant AN-124 cargo aircraft belonging to Volga-Dnepr (50 flights), Polet (23), Antonov Design Bureau (12) and Aviant-Kiev Aviation Plant (3), of which:

- 32 flights directed to Bagram AFB (OAIX) from Burgas (LBBG, 28 flights) and Leipzig/Halle (EDDP, 4 flights).
- 90 flights directed to Kabul (OAKB), 35 from Burgas and 21 from Ankara/Esenboga (LTAC)
- 150 flights directed to Kandahar (OAKN), of which 95 from Burgas, 17 from Brize Norton RAF base (EGVN) and the remaining 38 from Basrah (Iraq); Frankfurt, Hamburg and Leipzig/Halle (Germany); Glasgow Prestwick (UK), Istanbul/Sabiha (Turkey), Shannon (Ireland) and Siauliai AFB (Lithuania).

Not limited by the substantial runway length required to land an AN-124 (ca 3,100 m), Il-76 aircraft made 635 flights to Afghanistan from January 2007 to June 2009. They were directed to Bagram AFB, Camp Bastion (OAZI, RAF), Heart (OHR), Kabul, Kandahar ((OAKN) and Mazar-i-Sharif (OAMS), from 39 airports located in the above-mentioned regional areas. More than 50% of the flights departed from Belarus:

- 138 from Gomel (UMGG), 125 from Minsk 2 (UMMS), 35 from Mogilev (UMOO)
- 21 from Brest (UMBB), 19 from Grodno (UMMG)
- for a total of 338 flights.

The remaining 297 flights departed from a variety of other airports, such as the Bulgarian airports of Burgas (35 flights), Plovdiv (LBPD, 6 flights) and Costanta (LRCK, 14 flights). Several flights departed from airports used as connecting or refueling points for flights originating in airports too distant for a direct leg to Afghanistan, such as the Turkish airports of Istanbul/Sabiha (74 flights), Trazbon (LTCG, 45 flights), Ankara (LTAC, 22 flights) and Adana (LTAF, 4 flights).

A large majority of the flights were made by aircraft belonging to Transavia Export (TXC, 142 flights), Gomel Airlines (GOM, 122 flights), Asia Continental (CID, 100 flights), Volga-Dnepr (VDA, 78 flights) and Aviacon Zitotrans (52). The remainder were made by many other air cargo carriers (using Il-76s owned or leased), including a Laos-registered company.<sup>440</sup>

**Table 13. EU Countries military arms deliveries to Afghanistan in 2008, in Euros**

Country	Total amount	Categories
Bulgaria	7,358,614	ML1, ML2, ML3, ML4, ML5, ML11
Lithuania	4,578,587	ML10
France	4,476,747	n.a.
Romania	2,835,965	ML1, ML2, ML3, ML4
Czech Republic	520,378	ML22
Slovakia	322,444	ML4
Austria	223,800	ML1
Netherlands	46,983	ML13
Greece	36,999	ML1, ML3
<b>Total deliveries</b>	<b>20,316,535</b>	

**Table 14. EU Countries military arms multi-year agreements signed in 2008, for which delivery is not specified, Euros**

Country	Total amount	Categories
Germany	33,506,961	ML1, ML3, ML5, ML6, ML13, ML17
United Kingdom	9,584,905	ML1, ML3, ML4, ML6, ML10, ML11, ML13, ML21, ML22
Poland	2,984,911	ML1, ML5, ML10
Belgium	393,717	ML6
<b>Total</b>	<b>46,470,494</b>	

Source: European Union, Eleventh Annual Report.. Exports of Military Technology and Equipment, November 2009, C 265/01. ML categories are from the EU Common List categories (see below)

<sup>439</sup> Source withheld.

<sup>440</sup> Lao Capricorn Air (LKA), 11 flights, mostly to Camp Bastion.

Companies such as Aviacon Zitotrans, Volga Dnepr, Volare Aviation Enterprise and Trans Avia Export have often served the military communities (as well as the British Ministry of Defence),<sup>441</sup> the United Nations and relief and humanitarian operations. Some of the carriers flying to Afghanistan have also been banned for various periods from European airspace for safety reasons,<sup>442</sup> such as Asia Continental (CID), East Wing (EWZ), Volare Aviation Enterprise (VRE), Ukraine Cargo Airways (UKS) and Ukraine Mediterranean Airlines (UKM) being among them.

AN-124 and IL-76 aircraft were not the only cargo aircraft to fly to Afghanistan, however. For example, cargo planes like the CASA 212 and 235, the L-100-30 (civilian version of the C-130 Hercules) and DC-8 freighters, belonging to US-registered companies such as Aviation Worldwide Services, EP Aviation, National Air Cargo, Presidential Airways, Race Aviation and Southern Air all flew to Bagram AFB in October 2009 (as well as São Tomé-registered Transafrik, recently banned from European airspace).



Multipurpose All Terrain Vehicles are offloaded from an Atlas Air 747 cargo aircraft at Bagram Airfield (Afghanistan) November 9, 2009. (Credit: U.S. Air Force photo/Senior Airman Felicia Juenke )

<sup>441</sup> UK Civil Aviation Authority, Exemptions Issued Under Regulation 25(3)A of the Aeroplane Noise Regulations 1999, from 1 January 2003 to March 2009-12-10.

<sup>442</sup> European Union, "List of air carriers which are subject to an operating ban within the Community," Commission Regulation, various issues 2006-2009, last No 1144/2009, November 26, 2009.

## 7.2 The case of AEY Inc.

On January 26, 2006, a US company AEY Inc.<sup>443</sup> received a two-year “firm-fixed-price requirements contract” worth potentially USD298 million for the delivery of various types of ammunition for the Afghan National Army and Afghan National Police. Supplies to be furnished under the contract had to be ordered by the issuance of delivery orders or “task orders” by individuals from the Combined Security Transition Command – Afghanistan / National Security Forces Afghanistan. Three to four task orders per year were earmarked in accordance with the required ammunition needed at that particular time.<sup>444</sup> The contract states that the supplier company, AEY Inc, had to certify and warrant that the ammunition would meet all operability and safety requirements. The supply of surplus ammunition was allowed if the ammunition was “serviceable and issuable to all units without qualification.”<sup>445</sup> In total 5 task orders were issued. (See Table 15.)

**Table 15. Task Orders issued to AEY Inc.**

Task Order	Value (USD)	Date of issue
Task Order 1	48,717,653	March 2007
Task Order 2	14,012,013	June 2007
Task Order 3 and Task Order 4	138,614,538	August 2007
Task Order 5	22,560,384	December 2007

Source: Memorandum, US Army Legal Services Agency, 21 March 2008

AEY procured the ammunition for the second task order or delivery order (see table 16) through a Swiss arms broker<sup>446</sup> from the following countries: Albania, Bulgaria and Hungary. The Swiss arms broker was Heinrich Thomet, operating through the Cyprus-based company Evdin Limited.<sup>447</sup> Heinrich Thomet was on the US State Department’s Watch List of potential illegal arms traffickers. And so were AEY Inc. and its owner Mr. Diveroli.<sup>448</sup> What’s more, in 2007 the president of Albania had offered its surplus ammunition for free to the US Commander in Iraq, who declined the offer, and now the DoD was heedlessly paying for it through AEY.<sup>449</sup> The contract also included a clause which prohibited acquisition, directly or indirectly, of United States Munitions List Items from Communist Chinese Military Companies (DFARS 252.225-7007).<sup>450</sup>

On March 27, 2008 the *New York Times* exposed AEY as having “provided ammunition that is more than 40 years old and in decomposing packaging... Moreover, tens of millions of the rifle and machine-gun cartridges were manufactured in China, making their procurement a possible violation of American law”<sup>451</sup>. The contract allowed for the issuance of a Certificate of Conformance (CoC) by the contractor on delivery of the ammunition.<sup>452</sup> A CoC is allowed based on “the contractor’s reputation or past performance, (because) it is likely that the supplies or services furnished will be acceptable and any defective work would be replaced”<sup>453</sup>. Inspection at the source is not necessary, but the US Government reserves the right to inspect. With the CoC the contractor certifies that he has complied with all necessary contractual requirements. Furthermore, the contractor certifies that “the supplies or services are of the quality specified and conform in all respects with the contract requirements, including... packaging, packing, marking requirements and are in the quantity shown”<sup>454</sup>. Inspection of the AEY-provided goods was performed on delivery by an ordnance officer who counter-signed the CoC.

<sup>443</sup> Florida Corporations Registry show that AEY was incorporated November 11, 1999, with Efraim Diveroli as President (file n. P99000103738).

<sup>444</sup> Contract W52P1J-07-D-0004.

<sup>445</sup> Contract W52P1J-07-D-0004.

<sup>446</sup> “Supplier under scrutiny on Aging Arms for Afghans”, *New York Times*, 27 March 2008.

<sup>447</sup> “The AEY Investigation”, U.S. House of Representatives, Committee on Oversight and Government Reform, 24 June 2008: p. 11.

<sup>448</sup> “Preliminary Hearing Transcript”, Hearing on Examination of AEY Contracts with the U.S. Government, 24 June 2008.

<sup>449</sup> *Ibidem*.

<sup>450</sup> Page 10-11 contract W52P1J-07-D-0004.

<sup>451</sup> “Supplier under scrutiny on Aging Arms for Afghans”, *New York Times*, 27 March 2008.

<sup>452</sup> Section E, W52P1J-07-D-0004.

<sup>453</sup> Clause 46.504 Certificate of conformance, Federal Acquisition Regulation.

<sup>454</sup> Clause 52.246-15 Certificate of Conformance, Federal Acquisition Regulation.

**Table 16. Procurement under Task Order 2**

Item	Quantity	Supplier	Country	Export Licence	Total in USD
7.62x39mm Ball	16,000,000	MFS 2000	Hungary	3KE0700613 (13/04/2007)	90,500,000
7.62x39mm Ball	74,500,000	MEICO	Albania	2467 (20/04/2007)	
7.62x39mm Tracer	500,000	MFS 2000	Hungary	3KE0700613 (13/04/2007)	12,000,000
7.62x39mm Tracer	11,500,000	MEICO	Albania	2467 (20/04/2007)	
7.62x54mm Ball	16,200,000	MEICO	Albania	2467 (20/04/2007)	16,200,000
7.62x54mm Tracer	750,000	MFS 2000	Hungary	3KE0700613 (13/04/2007)	2,051,925
7.62x54mm Tracer	1,301,925	MEICO	Albania	2467 (20/04/2007)	
GP 30 HE Impact	550,000	Arcus	Bulgaria	006285 (15/03/2007)	550,000
				006369 (23/04/2007)	
GP 30 HE Bouncing	550,000	Arcus	Bulgaria	006369 (23/04/2007)	550,000

Source: Export Licences (Albania, Bulgaria, Hungary); US Army End Use Certificates

**Table 17. Certificates of Conformance (CoC), AEY**

DATE	Task Order	Airline	Flight number	Type/Quantity
CoC AFG-0001-03				
29/02/2007	1	Silkway Airlines	AZQ4532	821,000 7.62x54mm Ball
CoC AFG-002-63				
29/02/2007	2	Silkway Airlines	AZQ4532	127,700 7.62x54mm Tracer
CoC AFG-0004-15				
13/03/2007	4	Silkway Airlines	AZQ4522	1,858,560 7.62x54mm Ball
CoC AFG-0004-17				
25/03/2007	4	Silkway Airlines	AZQ4522	1,858,560 7.62x54mm Ball
CoC AFG-0002-24				
01/08/2007	2	Silkway Airlines	B/L 46300856144	2,482,920 7.62x39mm Ball
CoC AFG-0002-32				
18/08/2007	2	Silkway Airlines	B/L 46300856194	2,482,920 7.62x39mm Ball
CoC AFG-0002-33				
23/08/2007	2	Silkway Airlines	B/L 46300856196	2,482,920 7.62x39mm Ball
CoC AFG-0002-35				
24/08/2007	2	Silkway Airlines	B/L 46300856101	2,482,920 7.62x39mm Ball
CoC AFG-0002-37				
28/08/2007	2	Silkway Airlines	B/L 46300856192	2,482,920 7.62x39mm Ball
CoC AFG-0002-58				
18/11/2007	2	Click Airways	B/L 51600028664	2,535,060 7.62x39mm Ball
CoC AFG-0002-59				
				850,740 7.62x39mm Ball
25/11/2007	2	Click Airways	B/L 51600028664	499,260 7.62x39mm Tracer
				584,960 7.62x54mm Tracer

Source: AEY trial, Court documents

The inspections by the ordnance officers revealed the ammunition to be in very bad condition, boxes to be mislabeled, packaging to be faulty, etc.<sup>455</sup> An investigation by the Army Criminal Investigation Command (CID) was launched in January 2008. It found that in late 2007 AEY had executed Certificate of Conformance (CoC) AFG-0002-59 in which AEY identified the Hungarian company MFS 2000 as the manufacturer of the ammunition contained in lot number A-001-039B.<sup>456</sup> Inspection by the CID on January 5, 2008 revealed that the majority of the ammunition from this lot number was of Chinese origin.<sup>457</sup> The ammunition procured from Albania was also found to have been manufactured in China. On

<sup>455</sup> CoC AFG-0001-03, AFG-002-63, AFG-0004-15, AFG-0004-17, etc. See forthcoming Amnesty International publication on transport of SALW by air.

<sup>456</sup> Certificate of Conformance AFG-0002-59; Memorandum, US Army Legal Services Agency, 21 March 2008.

<sup>457</sup> Memorandum, US Army Legal Services Agency, 21 March 2008.

June 19, 2008, AEY Inc., its owner and employees were charged with conspiracy to defraud the US by making false representations to the government and by conspiring to commit procurement fraud.<sup>458</sup>

Turkmenistan Airlines was hired to transport some of the Albanian ammunition. An overflight and landing permission request for Albania from Turkmenistan Airlines listed 10 Ilyushin-76 flights, between May 8 and June 8, 2007, from Tirana to Kabul (Afghanistan) via Ashgabat. Each flight should have carried 45 metric tons of small arms ammunition.<sup>459</sup> The airway bill of May 21, 2007 lists the transport of 45 metric tons of photocopy paper.<sup>460</sup> There are no records for either previous or subsequent flights by Turkmenistan Airlines from Tirana. (See Tables 19 and 20.)

Several of the ammunition flights were made by Click Airways and Silkway Airlines. (See Table 17.)

On arrival in Afghanistan the Certificate of Conformance issued by AEY were countersigned by a US ordnance officer after inspection of the freight.<sup>461</sup> The annotations to CoC AFG-0001-03 and AFG-002-63 read as follows: "*Ammunition was send in mislabeled ammunition boxes... Because a majority of the boxes are mislabeled, we have no confidence for what is in each box. Every box has to be opened, identified and counted. Several boxes are just a pile of loose rounds. Also, documentation is missing. There were no packing slips, hazardous declaration, nor invoice attached to the pallets of ammunition. Initial inspection showed that significant corrosion, rust and an oily material was evident on the ammunition; CSTC-A ammunition representatives reporting ammo is unserviceable. Munitions from this shipment are judged to be barely within limits of safe storage or transportation. Improper packing materials can cause hazards to personnel, equipment and facilities that can result in death or serious injury to personnel, loss of equipment and damage to facilities. Proper packing materials/labeling and documentation must be used in all future shipments for ammunition to be safely stored and transported.*"

Annex 18 of the Chicago Convention<sup>462</sup> ("Safe Transport of Dangerous Goods by Air") requires that dangerous goods be carried in accordance with the "Technical Instructions for the Safe Transport of Dangerous Goods by Air." The Chicago Convention also requires that the standards set forth in Annex 18 be introduced into the national legislation of the Member States. In addition, Member States must have inspection and enforcement procedures to ensure that dangerous goods are being carried in compliance with those standards. Therefore the transportation of dangerous goods without proper documentation (in this case, no hazardous declaration) was a serious violation of Annex 18 and the national Dangerous Goods Regulations. Especially considering the ammunition was "*barely within safe limits of storage and transportation*".

In late April 2007 AEY sent out a tender to charter Ilyushin-76 (IL-76) aircraft for the transportation of 2,450 metric tons of small arms ammunition from Albania, and 440 metric tons of rocket grenades from

**Document 23. Airway Bill Turkmenistan Airlines, 21 May 2007.**



Source: IPIS vzw/TransArms, Belgium/USA

<sup>458</sup> USA vs AEY Inc. et al, indictment, 19 June 2008.

<sup>459</sup> "Overflight and Landing Permission", Turkmenistan Airlines, undated.

<sup>460</sup> Airway Bill Turkmenistan Airlines, 21 May 2007.

<sup>461</sup> Several of these CoC's are eye-openers, especially when it comes to safety standards.

<sup>462</sup> The Convention on International Civil Aviation was signed on 7 December 1944 by 52 States.

Bulgaria to Kabul, to be carried between April and October 2007.<sup>463</sup> This would have amounted to 63 IL-76 flights from Albania, and 12 from Bulgaria. (See Table 18.)

**Table 18. April 2007 tender by AEY for IL-76**

From	Net weight ammunition (Metric tons)	Gross weight (Metric tons)	Number of IL-76 flights
Albania	2451	2828	63
Bulgaria	440	530	12

Source: AEY Inc. email.

**Table 19. Flights from Tirana (ICAO: LATI) in 2007**

Number of flights	Depart	Arrival	Flight N°	Date	Aircraft	Operator
36	LATI	UGTB - Tbilisi	UKS751	15-10-07	IL76	Ukrainian Cargo Airways
35	LATI	UGTB - Tbilisi	UKS751	09-10-07	IL76	Ukrainian Cargo Airways
34	LATI	UGTB - Tbilisi	UKS751	29-09-07	IL76	Ukrainian Cargo Airways
33	LATI	UGTB - Tbilisi	UKS751	25-09-07	IL76	Ukrainian Cargo Airways
32	LATI	UGTB - Tbilisi	UKS751	22-09-07	IL76	Ukrainian Cargo Airways
31	LATI	UGTB - Tbilisi	UKS751	17-09-07	IL76	Ukrainian Cargo Airways
30	LATI	UGTB - Tbilisi	UKS751	14-09-07	IL76	Ukrainian Cargo Airways
29	LATI	UGTB - Tbilisi	UKS751	09-09-07	IL76	Ukrainian Cargo Airways
28	LATI	UGTB - Tbilisi	UKS751	05-09-07	IL76	Ukrainian Cargo Airways
27	LATI	UGTB - Tbilisi	UKS751	03-09-07	IL76	Ukrainian Cargo Airways
26	LATI	UGTB - Tbilisi	UKS751	31-08-07	IL76	Ukrainian Cargo Airways
25	LATI	UGTB - Tbilisi	UKS751	27-08-07	IL76	Ukrainian Cargo Airways
24	LATI	UGTB - Tbilisi	UKS751	22-08-07	IL76	Ukrainian Cargo Airways
23	LATI	UGTB - Tbilisi	UKS751	15-08-07	IL76	Ukrainian Cargo Airways
22	LATI	UGTB - Tbilisi	UKS751	13-08-07	IL76	Ukrainian Cargo Airways
21	LATI	UGTB - Tbilisi	UKS751	10-08-07	IL76	Ukrainian Cargo Airways
20	LATI	UGTB - Tbilisi	UKS751	05-08-07	IL76	Ukrainian Cargo Airways
19	LATI	UGTB - Tbilisi	UKS751	01-08-07	IL76	Ukrainian Cargo Airways
18	LATI	UGTB - Tbilisi	UKS751	29-07-07	IL76	Ukrainian Cargo Airways
17	LATI	UGTB - Tbilisi	UKS751	27-07-07	IL76	Ukrainian Cargo Airways
16	LATI	UGTB - Tbilisi	UKS751	20-07-07	IL76	Ukrainian Cargo Airways
15	LATI	UGTB - Tbilisi	UKS751	13-07-07	IL76	Ukrainian Cargo Airways
14	LATI	UGTB - Tbilisi	UKS751	11-07-07	IL76	Ukrainian Cargo Airways
13	LATI	UGTB - Tbilisi	UKS751	09-07-07	IL76	Ukrainian Cargo Airways
12	LATI	UGTB - Tbilisi	UKS751	08-07-07	IL76	Ukrainian Cargo Airways
11	LATI	UGTB - Tbilisi	UKS751	07-07-07	IL76	Ukrainian Cargo Airways
10	LATI	UGTB - Tbilisi	UKS751	02-07-07	IL76	Ukrainian Cargo Airways
9	LATI	UGTB - Tbilisi	UKS751	30-06-07	IL76	Ukrainian Cargo Airways
8	LATI	UGTB - Tbilisi	UKS751	29-06-07	IL76	Ukrainian Cargo Airways
7	LATI	UGTB - Tbilisi	UKS751	27-06-07	IL76	Ukrainian Cargo Airways
6	LATI	UGTB - Tbilisi	UKS767	25-06-07	IL76	Ukrainian Cargo Airways
5	LATI	UGTB - Tbilisi	UKS751	22-06-07	IL76	Ukrainian Cargo Airways
4	LATI	UGTB - Tbilisi	UKS767	20-06-07	IL76	Ukrainian Cargo Airways
3	LATI	UGTB - Tbilisi	UKS751	18-06-07	IL76	Ukrainian Cargo Airways
2	LATI	UGTB - Tbilisi	UKS751	15-06-07	IL76	Ukrainian Cargo Airways
1	LATI	UGTB - Tbilisi	UKS751	13-06-07	IL76	Ukrainian Cargo Airways
1	LATI	UTAA - Ashgabat	TUA3248	21-05-07	IL76	Turkmenistan Airlines
3	LATI	UBBB - Baku	UKS755	30-10-07	IL76	Ukrainian Cargo Airways
2	LATI	UBBB - Baku	UKS755	23-10-07	IL76	Ukrainian Cargo Airways
1	LATI	UBBB - Baku	UKS755	22-10-07	IL76	Ukrainian Cargo Airways

Source: Confidential source.

A fully loaded IL-76 is not able to fly directly from Tirana to Kabul. A stopover is necessary. The aviation records of Tirana International Airport show only 36 flights to Tbilisi and 3 flights to Baku for this period. (See Table 19.) These flights are consistent with a journey to Kabul. While it is not possible to ascertain if all the flights carried ammunition, various sources have acknowledged that Ukrainian Cargo Airways

<sup>463</sup> AEY Inc. email with tender, April 2007.

made some of the ammunition flights to Kabul.<sup>464</sup> Aviation records for Burgas airport also show eleven flights from Bulgaria to Kabul.<sup>465</sup> These flight could be consistent with ammunition procurement in Bulgaria. (See Table 20.)

Various other air cargo tenders for Kabul, distributed early 2008 do not mention AEY specifically but they were likely connected, on the basis of the amount of ammunition and number of Il-76 flights requested. (See Table 21.) In this period AEY was still in business, as it is evident from an air cargo tender for ammunition shipments to Iraq that was distributed in March 2008 by AEY.<sup>466</sup>

**Table 20. Flights Burgas (LBBG) – Kabul (OAKB), 2007**

Number of flights	Depart	Arrival	Flight N°	Date	Aircraft	Operator
11	LBBG	OAKB	UKS711	06-12-07	IL76	Ukrainian Cargo Airways
10	LBBG	OAKB	UKS711	06-11-07	IL76	Ukrainian Cargo Airways
9	LBBG	OAKB	UKS711	31-10-07	IL76	Ukrainian Cargo Airways
8	LBBG	OAKB	UKS711	20-10-07	IL76	Ukrainian Cargo Airways
7	LBBG	OAKB	UKS711	03-10-07	IL76	Ukrainian Cargo Airways
6	LBBG	OAKB	UKS711	07-09-07	IL76	Ukrainian Cargo Airways
5	LBBG	OAKB	UKS711	30-08-07	IL76	Ukrainian Cargo Airways
4	LBBG	OAKB	UKS711	25-08-07	IL76	Ukrainian Cargo Airways
3	LBBG	OAKB	UKS711	08-08-07	IL76	Ukrainian Cargo Airways
2	LBBG	OAKB	UKS711	27-07-07	IL76	Ukrainian Cargo Airways
1	LBBG	OAKB	UKS711	18-07-07	IL76	Ukrainian Cargo Airways

Source: confidential source.

**Table 21. Air Cargo Tenders to Afghanistan**

Date of tender	Route	Cargo	Payload/flight	Number of flights	Aircraft type
January 2008	Sofia - Kabul	Ammunition	45 mt.	20	IL76
February 2008	Islamabad - Kabul	Ammunition	25 mt	10	IL76

Source: Confidential source.

### 7.3 The Mesopotamia Group<sup>467</sup>

On December 13, 2007 NATO awarded a contract to the Mesopotamia Group LLC to provide additional airlift to the ISAF mission in Afghanistan beginning in February 2008. The contract was worth more than 26 million euros. It was intended that the Mesopotamia Group would shift 13,000 kilograms of cargo per day.<sup>468</sup> The company was set up in 2004,<sup>469</sup> and operated from Camp Eggers. According to NATO, the company would not participate in military operations, but would perform routine logistics sustainment.<sup>470</sup>

In 2007 a Mesopotamia Group subsidiary, Jingle Air, gave logistic support to the US led Operation “Enduring Freedom VIII” in eastern Afghanistan. In that period Jingle Air supplied thirty-four Forward Operating Bases with food rations, equipment and ammunition using assets from other aviation companies.<sup>471</sup> Between January 2007 and April 2008 Jingle Air flew 434 missions in support of Task Force Fury (4<sup>th</sup> Brigade Combat Team, 82<sup>nd</sup> Airborne Division), and then performed a full spectrum of operations in eastern Afghanistan under the umbrella of OEF VIII.<sup>472</sup> The only restrictions on Jingle Air were “no personnel, ammo under 81 mm mortar, mail, and sensitive items.”<sup>473</sup> Jingle Air also performed

<sup>464</sup> Sources withheld.

<sup>465</sup> See table 20

<sup>466</sup> AEY Inc. email “Offer to Airfreight US Government Cargo to Iraq,” 9 March 2009. Meanwhile, AEY was also antagonizing many people within the air cargo industry by making preposterous demands. The latter most likely due to their ignorance of the airfreight industry. At a certain point they proposed various companies to sign a contract for minimum 200 Ilyushin-76 flights per year for a three-year period without advance payments. Not many within the industry took them seriously. This accounts to nearly 9,000 metric tons of ammunition per year. (Source withheld.)

<sup>467</sup> Information requests have been sent to NATO and the Mesopotamia Group in regard of the contract and operations. In a telephone interview on 13 July 2009 NATO informed the authors that contracts are not publicly available

<sup>468</sup> “NATO awards airlift contract”, 20 December 2007, Allied Joint Force Command Brunssum.

<sup>469</sup> “US-Afghan Business Matchmaking Conference 2005”, Afghan-American Chamber of Commerce.

<sup>470</sup> “NATO awards airlift contract”, 20 December 2007, Allied Joint Force Command Brunssum.

<sup>471</sup> [http://www.mesogroup.com/News/Jingle\\_Air\\_News.htm](http://www.mesogroup.com/News/Jingle_Air_News.htm)

<sup>472</sup> Col. Michael P. Peterman “Three Dimensional (3D) Distribution”, Strategy Research Project, U.S. Army War College, 11 March 2009.

<sup>473</sup> Col. Michael P. Peterman “Three Dimensional (3D) Distribution”, Strategy Research Project, U.S. Army War College, 11 March 2009.

vital re-supply missions for TF Fury's successor, Task Force Currahee<sup>474</sup> (4<sup>th</sup> Brigade Combat Team, 101<sup>st</sup> Airborne Division).<sup>475</sup> According to Army Major Jon Beale of the 801<sup>st</sup> Brigade Support Battalion (4<sup>th</sup> BCT, TF Currahee): "Jingle Air is a key logistic enabler, which allows 4th Brigade, Currahee Combat Team to conduct counterinsurgency operations in an area roughly the size of West Virginia."



The 508th Parachute Infantry Regiment, helps offload supplies from a Jingle Air helicopter near the village of Barla, Afghanistan, Sept. 8., 2007 (Credit: Staff Sgt. Michael Casteel/DoD)

<sup>474</sup> On 7<sup>th</sup> April 2008 Task Force Currahee took over authority for the southern portion of Regional Command-East from Task Force Fury. ("Currahees assume responsibility in Afghanistan", *The Fort Campbell Courier*, 10 April 2008.) The regional commands coordinate all regional civil-military activities conducted by the military elements of the Provincial Reconstruction Teams (PRTs) in their area of responsibility, under operational control of the International Security Assistance Force (ISAF). Each regional command is assumed by a lead nation and is composed of: a Command and Control Headquarters, and a Forward Support Base (FSB) that are essential logistic installations, created to provide supply, medical and transport hub in each region to assist the PRTs in their mission to extend the Government of Afghanistan's authority ([www.nato.int/isaf/structure/regional\\_command](http://www.nato.int/isaf/structure/regional_command)). The lead nation for RC-East is the United States. Simultaneously the United States are conducting full-spectrum operations in eastern Afghanistan to neutralize insurgent forces (Operation "Enduring Freedom"). Between January 2007 and April 2008 command for RC-East and OEF was in the hands of Combined Joint Task Force-82 (82<sup>nd</sup> Airborne Division), between April 2008 and June 2009 command was in the hands of Combined Joint Task Force-101 (101<sup>st</sup> Airborne Division), and starting from June 2009 command has been handed over to CJTF-82 again. (See various articles on [www.cjtf82.com](http://www.cjtf82.com), [www.cjtf101.com](http://www.cjtf101.com)) Each CJTF consists of three brigade size Task Forces. Since October 2008 CJTF is a subordinate command of United States Forces Afghanistan (USFOR-A). ("Defense Department Activates U.S. Forces-Afghanistan", Department of Defense news release, No. 846-08, 6 October 2008). USFOR-A was created "to unify the U.S. command structure and to improve flexibility of deployment of U.S. forces throughout the battlefield". ("Afghanistan: Post-War Governance, Security, and U.S. Policy", Congressional Report Service, RL30588, 26 November 2008.) Since then the ISAF commander also commands USFOR-A.

<sup>475</sup> "Jingle Air supplies isolated soldiers", *American Forces Press Service*, 23 June 2008.

## 8. Flying Arms to Human Rights Abusers: the Case of Equatorial Guinea

### 8.1 Repression and exploitation of natural resources

At the end of November 2009, the Constitutional Court of Equatorial Guinea announced that Gen. Teodoro Obiang Nguema, in power since 1979,<sup>476</sup> had again won the presidential elections with 95% of the votes cast.<sup>477</sup> In the May 2008 elections for Parliament, Obiang's party and its allies had gained 99 seats out of 100.<sup>478</sup> In theory a multi-party (since 1991), presidential Republic, oil-rich Equatorial Guinea is in fact a repressive regime ruled by Gen. Obiang as a personal possession. Most of the oil-related revenues are siphoned off into his or his family's finances in an overall system of nepotism and corruption.<sup>479</sup>

In tandem with the discoveries of rich deposits of hydrocarbons in the offshore waters of Equatorial Guinea in the 1990s, the Gross National Product has steadily grown in the last few years, reaching USD18.5 billion in 2008, with per capita income of USD14,940 out of a population of 1.3 million in 2008.<sup>480</sup> In fact, the wealth is concentrated in the hands of a few families: in 2008, more than 60% of the population lived in poverty, with a yearly income equivalent to about USD400, while 73% had no access to electricity and 55% with none to safe drinking water.<sup>481</sup> According to UNICEF, infant mortality was 124 per thousand in 2007 (in Africa the average was 45, and in Industrialized Countries 5).

As reported by the UN<sup>482</sup> and Amnesty,<sup>483</sup> rape, prisoner torture, arbitrary arrests and disappearances have continued to characterize Obiang's regime. Political repression (including the kidnapping of dissidents in other countries)<sup>484</sup> and censorship of the media<sup>485</sup> have been routine on the part of the security and police forces under the Obiang regime.

### 8.2 Flying Croatian arms for the Obiang regime

Early on the morning of June 16, 2009, a Ukraine-registered Antonov AN-12 landed in North Nigeria at Mallam Aminu Kano (DNKN),<sup>486</sup> an airport frequently used for refueling. The AN-12 was en route to Malabo Airport (FGSL), near Equatorial Guinea's capital, on Bioko Island. It is alleged that the Nigerian airport authorities did not clear the plane for landing,<sup>487</sup> apparently because they were not aware of the incoming flight or because they hadn't received proper communications. However, according to aviation sources, the aircraft had filed a flight plan from Zagreb (LDZA) non-stop to Kano,<sup>488</sup> and the aircraft's owner declared that the plane had obtained permission to overfly Nigeria and to land at Kano for refueling, contrary to

<sup>476</sup> In 1979, Gen. Obiang led a coup d'Etat against his uncle, Francisco Nguema, first president of Equatorial Guinea after the Independence from Spain (1968). Under the ferocious and corrupt dictatorship of Francisco Nguema 80,000 people were murdered, 100,000 other - especially the skilled work-force - left the country.

<sup>477</sup> "La Cour constitutionnelle de Guinée équatoriale a validé ... les résultats de l'élection présidentielle du 29 novembre," *L'actualité de la Guinée Equatoriale* Agence France Presse, IZF.net, December 6, 2009.

<sup>478</sup> US Department of State, *Equatorial Guinea*, Bureau of African Affairs, November 2009; *L'actualité de la Guinée Equatoriale* Agence France Presse, IZF.net

<sup>479</sup> Vines, A. et al., "Well Oiled. Oil and Human Rights in Equatorial Guinea," Human Rights Watch, July 2009; Alicante, T., L. Misol "Equatorial Guinea: Resource Cursed," August, 28, 2009. See also in the report the references to the 2004 US Senate inquiry on US oil companies involvement in corruption practices that favoured Obiang relatives and clan. President Obiang and his relatives own or control the major companies of the private sector.

<sup>480</sup> The official population was 600,000 in 2008, but the International Monetary Fund estimated that the actual residents reached 1.3 million in 2009. International Monetary Fund, *World Economic Outlook Database*, October 2009; Republic of Equatorial Guinea: *Statistical Appendix*, Country Report No. 09/98, March 2009; *Republic of Equatorial Guinea: Selected Issues*, Report No. 09/99, March 2009.

<sup>481</sup> UNICEF, Equatorial Guinea at a Glance, 2009 [www.unicef.org/infobycountry/equatorialguinea\\_statistics.html](http://www.unicef.org/infobycountry/equatorialguinea_statistics.html).

<sup>482</sup> See: *UN News Service*, "Torture is rife in Equatorial Guinea's prisons, says UN expert," November 19, 2008; Office of the High Commissioner for Human Rights, "Equatorial Guinea," September 18, 2009; Human Rights Council, *Report of the Working Group on Enforced or Involuntary Disappearances*, February 25, 2009, A/HRC/10/9; Nowak, M., Preliminary note of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, "Mission to Equatorial Guinea," January 23, 2009, A/HRC/10/44/Add.1.

<sup>483</sup> "Equatorial Guinea," Amnesty International Report 2009; "Equatorial Guinea: Stop the killings, the rapes and the arbitrary arrests," Amnesty International, July 5, 2004, AFR 24/009/2004.

<sup>484</sup> See the case of the kidnapping of Cipriano Nguema Mba, a political refugee in Cameroon, in October 2008, *L'actualité de la Guinée Equatoriale* Agence France Presse, IZF.net, March 12, 2009.

<sup>485</sup> See, for example: UNHRC, Reporters without Borders, *Despotic regime's absurd methods decried after four journalists fired for "lack of enthusiasm"*, January 23, 2009, [www.unhcr.org/refworld/docid/497d8e9fc.html](http://www.unhcr.org/refworld/docid/497d8e9fc.html).

<sup>486</sup> BBC, "Nigeria holds Ukraine arms plane," June 18, 2009; Shuaibu, I., "Aircraft with Weapons Impounded in Kano," *This Day*, June 18, 2009.

<sup>487</sup> Madu-West, A., "Nigeria: Impounded Plane Bill of Lading Falsified -DMI," *Daily Independent*, June 20, 2009

<sup>488</sup> Source withheld.

media reports alleging that the aircraft made an emergency landing at Kano.<sup>489</sup> Kano Airport and Customs authorities were not satisfied, however, with the documents presented by the pilot. The Nigerian secret services (SSS) inspected the plane and found 18 crates of ammunition (60mm and 80mm mortar shells), as well as automatic guns and rocket launchers. (See *infra*.)

The aircraft was impounded. The seven Ukrainian crew members were requested to remain at the disposition of the authorities and were later transferred, along with a Nigerian clearing agent, to the Defence Information Office in Nigeria's capital, Abuja.<sup>490</sup> Nigerian authorities were looking into possible connections between the cargo and the Nigerian rebel movement known as MEND, Movement for the Emancipation of Niger Delta,<sup>491</sup> but after a few days of diplomatic contacts and the intervention of the Ukrainian embassy in Nigeria,<sup>492</sup> Equatorial Guinean authorities declared that the cargo belonged to Guinea's Ministry of Defence and that its source was Croatia's Ministry of Defence.<sup>493</sup> Croatian media alleged that the seizure was due to the machinations of competitors.<sup>494</sup>

In October 2010 the Croatia Ministry of Economy, Labour

### Box 13. Equatorial Guinea: A Wealth of Natural Resources for Few

Mostly located offshore from the Bioko Island (the Alba, Zafiro fields) and from the mainland coast (the Okume and Ceiba fields),<sup>1</sup> Equatorial Guinea's important reserves of oil and natural gas (estimated as 1.1 billion barrels and 36.8 billion cm, respectively, in 2009),<sup>2</sup> have attracted scores of major oil companies in the last years.<sup>3</sup>

Production and export has steadily grown in the last few years, reaching 360,000 barrels per day (364,000 b/d exported) for oil, and 7.4 billion cm (of which 4.7 billion cm exported) per year for natural gas.<sup>4</sup>

Two State-owned companies, EGPetrol and Sonagas, control concessions and participate (for a minimum of 35%, according to a 2005 law) in exploitation programs, basically functioning as a strongbox for the Obiang clan.

In 2007, revenues from exports of energy products reached \$10.3 billion, of which \$8.6 billion for oil.<sup>5</sup>

Major concessions have been held by Exxon Mobil, Amerada Hess, Marathon Oil (it recently withdrew investments), ChevronTexaco, Devon Energy, CMS Energy, Modec International, Mustang Engineering, Noble Energy, Vanco Energy (all US-based), DNO (Norway), NNOC (Nigeria), Petrobras (Brazil), Shell Oil (Netherlands), Tullow Oil and Lornho Africa (United Kingdom). The following countries have conspicuous investments and/or exploitation agreements with Equatorial Guinea: China (\$2 billion in the last three years), Gazprom (Russia, for natural gas development programs), Mitsui and Marubeni (Japan), GALP Energia (Portugal), Union Fenoso (Spain), E.ON. Ruhrgas (Germany). The Spanish company Repsol has recently replaced ExxonMobil in the exploitation of the major offshore oil field.

Equatorial Guinea is Africa's seventh oil producer and Sub-Saharan Africa's third, and it is among Africa's five major exporters of Liquefied Natural Gas (LNG). The country's mining sector includes under-developed reserves of bauxite, diamonds, gold, iron, manganese, tantalum, titanium and uranium.<sup>6</sup>

<sup>1</sup> Ministry of Mines, Industry and Energy, "2006 Licensing Round, Data Catalogue," January 2007.

<sup>2</sup> US Energy Information Administration (USEIA), *Equatorial Guinea*, October 2009.

<sup>3</sup> For the beginning of Equatorial Guinea and oil companies connection see Silverstein, K. "U.S. Oil Politics in the 'Kuwait of Africa,'" *The Nation*, April 22, 2002.

<sup>4</sup> USEAIA, quoted, October 2009

<sup>5</sup> IMF, Republic of Equatorial Guinea: *Statistical Appendix*, Country Report No. 09/98, March 2009.

<sup>6</sup> US Geological Survey, 2007 Minerals Yearbook, *Equatorial Guinea*, December 2008; CIA World Fact Book, Equatorial Guinea, 2009

<sup>489</sup> Shuaibu, I. (June 18, 2009).

<sup>490</sup> AFP, "Crew of seized Ukrainian plane moved to Abuja," June 22, 2009; *Kvív Post (Reuters)*, "Nigeria won't free arms plane claimed by Equatorial Guinea," June 22, 2009; *NCRU*, "Ukrainian An-12 aircraft with seven crewmembers, Ukrainian citizens, on board remains in Nigeria," Ukrainian Foreign Ministry's spokesman Vasyl Kyrylych, June 22, 2009.

<sup>491</sup> Taiwo, J., I. Shuaibu, "Impounded Aircraft Linked to Militants, DMI quizzes crew members," *This Day*, June 19, 2009.

<sup>492</sup> *The Times of Nigeria*, "Ukrainian, Nigerian Diplomats Meet Over Detained Arms Plane," 19 June, 2009; *Interfax-AVN*, "Kyiv trying to settle scandal over seizure of plane carrying weapons in Nigeria," June 19, 2009; Omonobi, K., K. Ehigiator, "Nigeria: Seized Plane - Ukraine Explores Diplomatic Solution," *Vanguard*, June 21, 2009; *Interfax*, "Foreign ministry: Nigeria not explaining arrest of Ukrainian An-12 aircraft," June 30, 2009.

<sup>493</sup> Taiwo, J., "Equatorial Guinea Claims Impounded Aircraft," June 25, 2009; *Kvív Post (Interfax)*, "Ukrainian An-12 aircraft arrested in Nigeria could soon leave country," June 26, 2009.

<sup>494</sup> *Nacional (Croatia)*, "Croatian arms seized because of the competition between rivals," June 23, 2009 ((original title: Hrvatsko oružje zaplijenjeno zbog konkurentne borbe)

and Entrepreneurship released its *Annual Report on Export and Import of Military Goods and Non-Military Lethal Goods for 2009*. The report includes three export licences for Equatorial Guinea with a value of USD376 million in total: machine guns/pistols (category ML1a), USD21 million, and military ammunition (category ML3a), USD355 million.

The AN12 (registration number UR-CAK, manufactured in 1966<sup>495</sup>) had departed from Zagreb, Croatia on June 15 (as flight MEM4060) and in theory could have flown directly to Malabo. With a cargo of 10/15 tons, however, Kano Airport was just at the limit of its range capability.

In the months before the Zagreb-Kano flight, the aircraft moved frequently between various airports, including Ljubljana (June 14); Cairo (June 13 and 6); Tel Aviv (June 6); Maastricht-Benghazi (June 3); Frankfurt (May 29); Larnaca (May 28); Glasgow-Prestwick (May 25); Luxembourg (May 5); Warsaw (May 5, April 28, 29), Bucharest-Otopeni (April 24); Izmir (April 23); Malta-Luga (April 4, 5, and 6)<sup>496</sup>; and Nice (April 3).<sup>497</sup>

Since June 2007, the plane had belonged to a company called “Meridian Aviation Enterprise of Special Purpose,” based in Poltava, in North-western Ukraine. Meridian was founded in 1999 as Poltava Universal Avia (ICAO: POV), but its name was changed to Meridian in 2007 and was owned by the Ukrainian State Property Fund. According to Ukrainian national radio station NCRU,<sup>498</sup> the company<sup>499</sup> was scheduled to be sold to private interests in May 2009.

On June 18, 2009, the Ukrainian government and Ukrspetsexport, the company in charge of Ukrainian arms exports, denied that Ukraine had any connection with the arms shipment, and that the operation had been managed by a Cyprus-based company called Infora Ltd<sup>500</sup> (domiciled in Nicosia). Velimin Chavdarov, director of Infora, and Nikolay Minyajlo, director of Meridian, both stated that the cargo documentation was in order and properly provided to the Nigerian authorities.

Further research carried out by Amnesty shows that Infora Ltd had been registered in Cyprus by a lawyer specialized in providing incorporation services, whose address is at “Stasinou 1, Mitsi Building 1, 1st floor, Flat/Office 4, Plateia Eleftheria, P.O. Box 21294, P.C. 1505, Nicosia,” where many other companies are “domiciled.” However, Infora (a broker dealing in military equipment and supplies) has another address at “24 Turovskaya St., Building 4, P.O. Box 112, 04080” in Kyiv, Ukraine. Attempts to reach the owners failed.

**Box 14. European Union, Code of Conduct on Arms Exports, The Council, Brussels, June 5, 1998**

**Criterion Two**

The respect of human rights in the country of final destination

“Having assessed the recipient country’s attitude towards relevant principles established by international human rights instruments, Member States will:

a) not issue an export licence if there is a clear risk that the proposed export might be used for internal repression.

b) exercise special caution and vigilance in issuing licences, on a case-by-case basis and taking account of the nature of the equipment, to countries where serious violations of human rights have been established by the competent bodies of the UN, the Council of Europe or by the EU [...and] where there is reason to believe that the equipment will be diverted from its stated end-use or end-user and used for internal repression [...]. Internal repression includes, inter alia, torture and other cruel, inhuman and degrading treatment or punishment, summary or arbitrary executions, disappearances, arbitrary detentions and other major violations of human rights [...].

<sup>495</sup> According to Soviet Transports online database ([www.scramble.nl/sovdb.htm](http://www.scramble.nl/sovdb.htm)), the manufacturing number of the aircraft, 6343707, is not certain. The database reports that the AN-12 was initially owned (1966) by the Ukraine Air Force and later passed through various owners and operators, being registered as UR-PWH (Ukraine), ER-ACI (Moldova), and eventually UR-CAK. According to Aero Transport DB ([www.aertransport.org](http://www.aertransport.org)), the aircraft was operated by the now defunct Icar Airlines (Ukraine, 2002), Moldova-based companies Aerocom (2004), Jet Line International (2004), and Aeronord-Group (2006-2007), as well as by the Compagnie Mauritienne de Transports, leased from Aerocom. See also: CAA Moldova Aircraft Registry, July 2008, ER-ACI became UR-CAK June 22, 2007.

<sup>496</sup> *The Malta Independent*, “Plane caught ferrying arms to Nigeria also seen in Malta,” September 20, 2009.

<sup>497</sup> Aviation records (confidential) and Airliners.net; JetPhotos.net; PlanesPicture.net.

<sup>498</sup> NRCU Ukraine Radio, “Aviation enterprise put on sale,” January 28, 2009

<sup>499</sup> Between 2007 and 2009, the company operated a cargo fleet of 6 AN-12s and 6 AN-26s (Aero Transport DB).

<sup>500</sup> UKRINFORM, “Military cargo detained in Nigeria belongs to Cyprian company,” June 18, 2009; *Kommersant*, June 19, 2009.

The lawyer in Cyprus who oversaw the contracts acknowledged in a telephone conversation<sup>501</sup> to have incorporated Infora, as well as about 2,500 other companies, but stated that Infora business was managed in a foreign country. He also refused to give the names of the owners and directors of Infora, only acknowledging that the cargo was military equipment and part of an agreement for four deliveries. According to the lawyer, the contracts (in Russian and Spanish) were signed in Equatorial Guinea between Equatorial Guinea and Croatian authorities, after six months of bargaining. Infora instructed the lawyer to send the contracts to a local bank in order to obtain a Letter of Credit and to pay the consignor. The aircraft was eventually released on August 5, 2009 and flew to Malabo, delivering its cargo to the Equatorial Guinea military.<sup>502</sup> The aircraft was later spotted in Luxembourg June 22.

Cyprus is a member and Croatia a candidate member<sup>503</sup> of the European Union and both were obliged to take the provisions of the EU Code of Conduct on Arms Exports into consideration.

### 8.3 Croatia not the only country to sell arms to Obiang

Although Equatorial Guinea's army has only 2,500 soldiers and its police force only 300 (the US security firm MPRI has been training both since 2005),<sup>504</sup> between 2004 and 2008 the country imported a substantial amount of military equipment, including infantry weapons, ammunition of various caliber, rockets, armored vehicles, military aircraft, civilian firearms and spare parts. They came from a variety of countries, including Bulgaria, the Czech Republic, France, Israel, Kazakhstan, Portugal, Serbia, Ukraine, the United Kingdom and the United States (with minor deliveries from Ghana and Spain).

Light aircraft, civilian helicopters and aircraft spare parts and components were imported from Canada (2008, USD9.6 million), France (2007, 2008, USD56.4 million), Italy (2007, USD444,000), South Africa (2007, USD101,000) and the United States (2007, 2008, USD7.6 million).

**Table 22. Exports to Equatorial Guinea of military and civilian arms and equipment, 2004-2008, prices of the year**

Country	Year	Type	USD
Bulgaria	2007	Ammunition, Bombs	553,3000
Czech Republic	2007	Ammunition, Vehicles	2,963,558
	2007	Air guns, rifles and pistols	2,323,729
France	2004	Ammunition	237,540
	2005	Aircraft and parts	771,026
	2006	Ammunition	13,809
Israel	2005	Civilian firearms	45,000
	2008	Military revolvers	221,000
Kazakhstan	2005	Ammunition	126,897
Portugal	2008	Military cartridges	120,842
	2008	Aircraft and parts	248,000
Serbia	2006	Military cartridges	955,200
	2008	Military cartridges	212,203
Ukraine*	2004	Military aircraft	11,690,000
	2007	Military aircraft	46,410,000
	2008	Military aircraft	32,320,000
UK	2004	Military vehicles, agreement	1,728,000
United States	2008	Civilian firearms	178,038

Sources: UN Comtrade; EU Annual Reports 2005-2009; US Dept. of State and Department of Defence; \* SIPRI database, values are SIPRI trends, based on arms market prices at 1990 values, recalculated in values of the year (real transaction values could be different).

Light aircraft, civilian helicopters and aircraft spare parts and components were imported from Canada (2008, USD9.6 million), France (2007, 2008, USD56.4 million), Italy (2007, USD444,000), South Africa (2007, USD101,000) and the United States (2007, 2008, USD7.6 million).

<sup>501</sup> Phone conversation with the lawyer, August 10, 2009.

<sup>502</sup> *Ukrainian News*, "Nigeria releases Ukraine's An-12 plane," August 05, 2009; Auwalu Umar, "Weapons-laden plane released," *Daily Trust*, 05 August 2009.

<sup>503</sup> <http://www.eu-pregovori.hr/default.asp?jezik=2>

<sup>504</sup> "National Security Enhancement Plan," MRPI, [www.mpri.com/main/internationalgroup.html](http://www.mpri.com/main/internationalgroup.html); US Department of State, *Equatorial Guinea*, Bureau of African Affairs, November 2009.

## 9. From deceit to discovery: The strange flight of 4L-AWA

### 9.1 A Georgia-registered IL-76 impounded in Bangkok

On Saturday December 12, 2009, Thai authorities - acting on information received from US intelligence and in concert with Ukrainian Security Service (SBU)<sup>505</sup> - seized an aircraft at Bangkok's Don Mueang Airport.<sup>506</sup> The Ilyushin-76 (registered in Georgia as 4L-AWA)<sup>507</sup> had stopped on December 11 in Bangkok apparently to refuel while en-route from Pyongyang Sunan (North Korea)<sup>508</sup> to Gostomel (Ukraine).<sup>509</sup> According to its flight plan, the aircraft was due to fly onwards to Tehran's Mehrabad Airport (Iran).<sup>510</sup>

The plane, Thai authorities discovered, was carrying neither "spare parts for oil drilling equipment" (as stated in shipping documents prepared before the departure of the aircraft from Ukraine), nor "mechanical parts" (as stated in the airway bill prepared in North Korea for the return flight), but 35 tons of arms and ammunition, viz:-

- 49 rockets of 240 mm;
- 24 rocket tubes of 240 mm;
- 3 crates with fuses;
- 1 launcher of 240 mm;
- 1 crate with 5 RPG-7;
- 83 crates of TBG-7 (for 497 pieces);
- 5 crates of "manpad" SAM (2 per crate);
- 1 crate containing 5 pieces of firing units.<sup>511</sup>

The weapons were not of the type covered by a UN arms embargo against Iran,<sup>512</sup> but the shipment from Pyongyang was in itself in breach of the UN arms embargo against North Korea.<sup>513</sup>

News of the seizure of the arms cargo in Bangkok and the arrest (on December 12) of the IL-76 crew members was widely reported,<sup>514</sup> along with evidence<sup>515</sup> relating to the aircraft, and its strange route. A complex set of companies (based in Hong Kong and New Zealand and, supposedly, in

Document 24. The two packing lists prepared by UTM

The image shows two packing lists from a document. The top list is titled 'Packing List' and the bottom one is 'Second packing list'. Both lists have columns for 'Item No.', 'Item Name (Spec Part)', 'Net Weight (kg)', 'Gross Weight (kg)', and 'Quantity'. The items listed include various types of rockets, rocket tubes, fuses, launchers, RPG-7s, TBG-7s, and SAMs. The lists are prepared by UTM (Ukrainian Trade Mission) for the aircraft 4L-AWA.

Source: IPIS vzw/TransArms, Belgium/USA

<sup>505</sup> UNIAN News Agency, Kyiv, December 17, 2009, "Ukrainian security chief tells of preparations for arms plane seizure", *BBC Monitoring*, December 18, 2009.

<sup>506</sup> The International Civil Aviation Organization (ICAO)'s airport code for Mueang is VTBD. The aircraft flight plan and the airway bill that was prepared in Pyongyang actually indicated Bangkok's Suvarnabhumi International (ICAO: VTBS) as the refuelling stopover in Thailand. The change was apparently requested en-route at the last minute by the captain of the IL-76.

<sup>507</sup> See Annex II for the details on this aircraft and its history.

<sup>508</sup> ICAO code: ZKPY.

<sup>509</sup> ICAO code: UKKM (also spelled Hostomel).

<sup>510</sup> ICAO code: OIII.

<sup>511</sup> The 240 mm rockets are known for being used by various armed groups in the Middle East and have a range of about 10 km. The TBG-7 are thermobaric rounds fired by RPG-7 shoulder-fired rockets-launchers, while the SAMs are man-portable surface-to-air missiles.

<sup>512</sup> Security Council Resolution 1737 (2006), December 23, 2006; SC Resolution 1747 (2007); Resolution 1803 (2008), March 3, 2008. See for the list of materials: United Nations S/2006/815 and 814, October 13, 2006.

<sup>513</sup> Security Council Resolution 1718 (2006) and 1874 (2009), June 12, 2009.

<sup>514</sup> "Tons of weapons seized from plane at Thai airport", *AP*, December 12, 2009; "Thai authorities impound airplane carrying weapons", *Deutsche Presse-Agentur*, December 12, 2009; "Plane with arms cache detained in Thailand was bound for Ukraine", *RIA Novosti*, December 13, 2009; "Thailand detains plane carrying N. Korean weapons", *South Korea States News Service*, December 13, 2009; Weerawong, A., "5 charged after NKorean weapons seized in Thailand", *AP*, December 13, 2009; "Huge N Korea arms cache seized", *Bangkok Post*, December 13, 2009; Fuller, T., N. Pojanamesbaanstit, "Murky saga unfolds as Thais seize arms plane; Crew denies knowledge of arsenal after itinerary included North Korea", *IHT*, December 14, 2009; Shevchenko, L., "Thailand Play, IL-76: truth about the voyage, FLOT2017", December 15, 2009; Barta, P., E. Ramstad, D. Michaels, "Thailand Traces Path of North Korea Arms", *WSJ*, December 15, 2009; "Seized North Korean weapons likely destined for Iran", *Kvív Post (Reuters)*, December 16, 2009; Michaels, D., M. Coker, "Arms Seized by Thailand Were Iran-Bound", *WSJ*, December 21, 2009; Frangos, A., D. Michales, J. Cheng, "Weapons Probe Hits Aircraft's Lease Firm", *WSJ*, December 22, 2009; Ngamkham, W., "Police fail to link Butt to seized arms. Inquiry continues into 5 plane crew suspects", *Bangkok Post*, December 22, 2009.

<sup>515</sup> See: Finardi, S., P. Danssaert, and B. Johnson-Thomas, *From Deceit to Discovery*, International Peace Information Service (IPIS) [www.ipisresearch.be](http://www.ipisresearch.be), December 21, 2009 and February 10, 2010.

Iran, North Korea, and Ukraine) was also exposed, as mentioned in the shipping documents.

Ukraine and Iran denied any involvement in the arms shipment.<sup>516</sup>

This arms flight was apparently the latest in a long series of breaches<sup>517</sup> of the U.N. embargo on arms exports by the North Korean government and its state-owned companies. The North Korean state has often used, in its military trade, multi-layer front companies<sup>518</sup> that were in fact conduits to the coffers of government bureaucrats and North Korea's ruling party officials.

## 9.2 The web of companies

According to data obtained<sup>519</sup> for this report, the registration certificate (as 4L-AWA) of the IL-76 aircraft shows that the owner was Overseas Cargo FZE,<sup>520</sup> a company based in Sharjah, United Arab Emirates. The operator of the aircraft was the Georgia-based Air West Ltd.<sup>521</sup> Air West wet-leased<sup>522</sup> the aircraft to a New Zealand company called SP Trading. The latter firm in New Zealand in turn chartered the plane to another company registered in Hong Kong (Union Top Management).



Source: IPIS vzw/TransArms, Belgium/USA

Table 23. Timeline - Sequence of registrations, incorporations and agreements: Air West, SPT, UTM, and 4L-AWA
June 6, 2009: Air West Operator Certificate
July 22, 2009: SP Trading Certificate of Incorporation
September 1, 2009: Union Top Management Memorandum of Association
September 24, 2009: 4L-AWA Certificate of Registration
November 2, 2009: Union Top Management Certificate of Incorporation
November 5, 2009: Agreement between Air West and SP Trading
November 10, 2009: Union Top Management, Returns of Allotments (Cabrerros Garmendia)
December 4, 2009: Agreement between SP Trading and Union Top Management

Two different sets of shipping documents apparently used in the operation indicated:

- a) two different entities as the consignor of the cargo in North Korea: a “Korean General Trading Corporation” (in a first airway bill and in cargo-related documents ) and a “Korea Mechanical Industry Co. Ltd” (in a second airway bill prepared in North Korea for the return flight from Pyongyang).
- b) two different entities as the consignee in Iran: a “National Iranian Oil Industry” (in a first airway bill and in cargo-related documents) and a “Top Energy Institute” (in a second airway bill prepared in North Korea for the return flight from Pyongyang).

<sup>516</sup> “Iran denies involvement in arms-laden plane incident”, *RIA Novosti*, December 22, 2009; “Ukraine denies links to N. Korean arms plane”, *RIA Novosti*, December 25, 2009.  
<sup>517</sup> See: Park, J.S., *North Korea, Inc., Gaining Insights into North Korean Regime Stability from Recent Commercial Activities*, U.S. Institute of Peace, April 22, 2009.  
<sup>518</sup> See for the most recent: “Firm tied to past Myanmar exports/N. Korea-affiliated Toko Boeki may have illegally shipped missile devices”, *The Yomiuri Shimbun*, July 2, 2009; Charbonneau, L., “UAE seized ship with North Korea arms for Iran”, *Reuters*, August 29, 2009.  
<sup>519</sup> By TransArms and the International Peace Information Service vzw (IPIS vzw).  
<sup>520</sup> Overseas Cargo FZE (Free Zone Establishment), Aircraft Registration Certificate Number 299, issued by Georgian Civil Aviation Authority.  
<sup>521</sup> Air West obtained its Operator Certificate in Georgia June 6, 2009 (ICAO: AWG) and it is based at the Kopitnari International airport (ICAO: UGKO, near Kutaisi). The company was however already in business in mid-2008 when it received an AN-12, r/n 4L-BKN (m/n 5343203) and an AN-26, r/n 4L-BKL, m/n 67303709, both presently active with the company. AeroTransport DB.  
<sup>522</sup> Lease Agreement Aircraft between Air West and SP Trading number 05-11-2009/01. Wet-leasing means providing crew, insurance and maintenance services to the lessee.

c) one intermediary consignee in Ukraine: AeroTrack Ltd (in a first airway bill and in cargo-related documents)...

Document 26. Airway bill prepared by Air Koryo (second airway bill)- December 11, 2009

The following summary of company-related information shows the intricate web of entities (existent and non-existent) that were - as different titles - named in the documents related to the 4L-AWA flight:

**SP Trading**<sup>523</sup> Incorporation documents for SP Trading Ltd show that the company was registered (n. 2289331) in Auckland, New Zealand, on July 22, 2009. The documents show that a certain Mr. Michael Taylor, with a postal address at "NZCI Ltd, P.O. Box 5033, Auckland", compiled the incorporation request.

The same documents show a certain Ms. Lu Zhang as director of SP Trading. According to the New Zealand corporate register, she held the position of director in at least 50 other companies. In her capacity as director of SP Trading, Lu Zhang signed the 4L-AWA lease agreement between SP Trading and Air West.

SPTrading's sole shareholder was a company called VicAm (Auckland) Ltd (1184865)", represented in the documents by a certain "J. Manceau". VicAm Ltd, incorporated in Vanuatu, which was in fact "owned" by the above-mentioned Michael Taylor. VicAm was domiciled c/o a company called "GT Group", with an address at Level 5, 369 Queen Street, Auckland.<sup>524</sup> SP Trading and its director Ms. Lu Zhang were also domiciled c/o the GT Group.



Source: IPIS vzw/TransArms, Belgium/USA

**GT Group and VicAm.** The GT Group, according to media reports,<sup>525</sup> was founded and owned by a British national living in New Zealand and Vanuatu, whose name is given as Geoffrey Taylor. His sons, Ian and the above-mentioned Michael, were reportedly also named as shareholders in the GT Group. Geoffrey Taylor<sup>526</sup> was in turn a 91% shareholder of VicAm Ltd and therefore he nominally "controlled" SP Trading. GT Group provided incorporation services<sup>527</sup> for hundreds of other companies, exploiting the lax New Zealand and Vanuatu corporate regulations as described in a report on the case of the 4L-AWA<sup>528</sup> recently published by Oxfam ("*Brokers Without Borders*"). It was in fact the GT Group that promoted the incorporation of SP Trading under instruction of a still unknown British company.<sup>529</sup>

According to a May 2010 report by the "Financial Transactions and Reports Analysis Centre of Canada" (FINTRAC), VicAm also incorporated at its address and "owned" four companies (Keronol Ltd., Melide Ltd.,

<sup>523</sup> Courtesy of Mike Lewis, Amnesty International, December 16, 2009. The address given for communication with SP Trading was PO Box 5033, Auckland 1141.

<sup>524</sup> See: "Consent of shareholder of proposed company," n. 30021505465: "1184865 VicAm (Auckland) Ltd.

<sup>525</sup> See: Field, M., "US to indict NZ firm over arms trading", *Dominion Post* (Wellington, New Zealand), January 8, 2010; Williamson, K., "The many titles and jobs that make up Geoffrey Taylor", *Dominion Post*, January 9, 2009; Field, M., "Time to tighten company rules", *Dominion Post*, January 12, 2009.

<sup>526</sup> Geoffrey Taylor is also president of the so-called Southern Pacific University, which provides "on-line education" and sells internet degrees, whose main addresses are in St Kitts & Nevis and Federation of Belize, with a recruiting centre in the US at Wilmington, Delaware, all fiscal paradises, and various other countries, including Malaysia. See <http://www.spuni.edu>

<sup>527</sup> See <http://www.gtgroup.com.vu/index.html>; and <http://www.offshorego.com/>. Quoted in: Homayun, J. (author) and (contributing researcher) S. Cousins, *Brokering Without Borders*, Oxfam, October 2010

<sup>528</sup> Quoted in Homayun J. (October 2010).

<sup>529</sup> Woods, M., "The exposed Nominee", in *Anti-Money Laundering Magazine*, March 2010.

Tormex Ltd., and Dorio Ltd.) that allegedly “have laundered Mexican drug money...”. “VicAm is a sole shareholder of 1089 New Zealand companies”.<sup>530</sup>

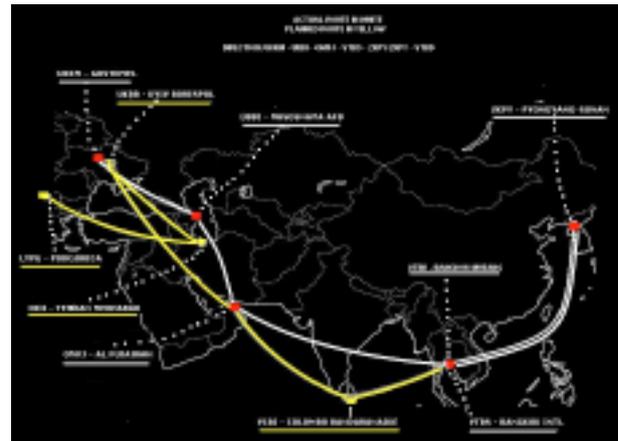
The UK compliance officer Martin Woods - who discovered irregular transactions at the UK branch of the Wachovia Bank in 2006, in which the four firms were implicated - stated in his article on the 4L-AWA case that “...the statement released by the GT Group indicates that [GT Group/VicAm] were in fact instructed by a UK company to establish SP Trading and hold out that it is for the UK company to know the identity of their own instructing client”.<sup>531</sup> It is not known whether the UK company GT Group referred to in its statement was a company called Global King Ventures, incorporated in Tortola (British Virgin Islands) and apparently at the starting point of the chain of companies related to SP Trading (see below).

**Sumato Energy Group.** Geoffrey Taylor was also the main shareholder of the Auckland-based Sumato Energy Group Ltd, for which his son, Ian Taylor, was a director. In October 2008, Sumato bought 1 million barrels of oil from the State Oil Company of Azerbaijan.<sup>532</sup> It so happens that the Il-76 registered as 4L-AWA made it’s first stopover for refuelling at Nasosnaya, a military airport<sup>533</sup> near Azerbaijan’s capital Baku (see further below on this stopover).

**Union Top Management.** The company that asked SP Trading to organize the shipment of “oil industry spare parts” from Pyongyang to Tehran<sup>534</sup> was called “Union Top Management Ltd” (UTM). Union Top Management’s Memorandum of Association (Hong Kong company registry) was dated September 1, 2009, but the firm was actually incorporated in Hong Kong on November 2, 2009 (HK company number n. 1386743).

The Hong Kong incorporation documents show as director of the UTM someone called Dario Cabreros Garrmendia, the same name used by a person who signed the aircraft charter agreement with SP Trading on December 4, 2009. The documents in Hong Kong show that on November 10, 2009 a Mr. Garmendia was allotted 99% of the UTM shares.<sup>535</sup> Garmendia was reported in the documents as a resident of Barcelona (Spain). However, law enforcement authorities in Spain told the authors that a person with this name does not exist.<sup>536</sup> An inquiry carried out by the Wall Street Journal<sup>537</sup> also revealed that someone called Garmendia was unknown at the Barcelona’ address given in the UTM incorporation documents.

Map 7. The route 4L-AWA actually flew (white) and the one the aircraft had to fly in the return flight after Bangkok (yellow)



Source: IPIS vzw/TransArms, Belgium/USA

<sup>530</sup> Financial Transactions and Reports Analysis Centre of Canada, “Wachovia settlement over Mexican exchange houses linked to New Zealand shell companies”, in Money Laundering and Terrorist Activity Financing Watch: January-March 2010. “On March 17, Wachovia bank settled money laundering charges in the United States, by paying a USD160 million fine. The penalty addresses the bank’s insufficient inspection of more than USD420 billion in transactions from Mexican money exchange houses, or *casas de cambio*. The settlement is the highest monetary penalty imposed under the **Bank Secrecy Act** and includes a USD110 million forfeiture and a USD50 million fine. The penalty is the result of a Drug Enforcement Administration (DEA) investigation which began in 2005, that uncovered a USD13 million transfer from Mexican exchange houses to the Wachovia branch in Miami for the purchase of airplanes to be used for cocaine shipments. The New Zealand-based firms, the report stated, “are alleged to have laundered Mexican drug proceeds from the Sinaloa cartel using Latvian bank accounts and Wachovia’s [Bank] London branch. The four firms, which all had bank accounts in Latvia, transferred approximately USD40 million from their respective accounts to Wachovia in London.”

<sup>531</sup> Woods, M., “The exposed Nominee”, in *Anti-Money Laundering Magazine*, March 2010.

<sup>532</sup> “NZ company buys Azerbaijan oil”, *National Business Review NZ*, October 24, 2008; Williamson, K., “The many titles and jobs that make up Geoffrey Taylor”, *Dominion Post*, January 9, 2009.

<sup>533</sup> See further below in this paragraph for details.

<sup>534</sup> Charter agreement between SP Trading and Union Top Management Ltd, dated 4 December 2009, number 38/167-76.

<sup>535</sup> Return of Allotments, UTM, Hong Kong Companies Registry.

<sup>536</sup> Email, confidential source, May 17, 2010.

<sup>537</sup> Email, confidential source, December 19, 2009.

Allegedly,<sup>538</sup> two individuals, “Oleg” and “Igor” (the latter described as UTM’s executive based in Switzerland) represented UTM during two visits to SP Trading office in Ukraine in early December 2009.<sup>539</sup> The UTM managers, whose cell phone number was Ukrainian, requested SP Trading to plan five flights. They indicated that a “Natalia Sabantseva” (with phone and fax numbers in Hong Kong) would be the UTM contact person, who soon after was said to call SP Trading. Initially the woman on the phone asked SP Trading to prepare a flight plan for a flight from Dnepropetrovsk in Ukraine (one of the former USSR’s “closed” cities and a base of nuclear and conventional arms factories) to Bangkok with a cargo of “telecommunication equipment”. She also asked for a flight plan for a flight from Bangkok to Pyongyang and Tehran, with a cargo of “oil drilling equipment”). After further telephone communication with SP Trading, she and the other UTM managers allegedly vanished the same day the plane was impounded in Bangkok.

**Easy Time Development Ltd., Team Victoria, and Global King Ventures.** The UTM incorporation documents show that UTM’s founding member was a company called Easy Time Development Ltd., incorporated in Hong Kong (n. 1189887) November 29, 2007.<sup>540</sup> The same documents also show that UTM’s secretary company was a firm called Victoria Team, incorporated in Hong Kong on April 12, 2000 (n. 712532).<sup>541</sup>

Both Easy Time Development and Victoria Team’s only shareholder was a company called Global King Ventures Ltd. (see Box 13 and 14), domiciled at P.O. Box 3152, Road Town, Tortola, British Virgin Islands, where the trail of shell companies ends.<sup>542</sup>

It should be noted that UTM changed its address on November 10, 2009, a week after it was incorporated. Also, on November 10, 2009, both Easy Time Development and Team Victoria resigned as Director and Secretary, respectively, of UTM.<sup>543</sup>

**“Aerotrack Ltd”.** This company was named in the packing list “787” sent to SP Trading by UTM as a consignee in Kyiv, Ukraine, of the “*spare parts for oil drilling equipment*” to supposedly be transported from Pyongyang. Aero-Track was also named in the packing list “789” as a shipper of the same equipment and other spare parts from Kyiv to Tehran. The packing list indicated that someone called “Victoria Doneckaya” was a representative of AeroTrack. The authors of this report as well as journalists attempted to contact Aerotrack and Ms. Doneckaya at the indicated phone number and address (19/21 Frunze St., Kyiv) but to no avail.

In January 2010, the Associated Press reported<sup>544</sup> that “*security guards and secretaries there [at the Aerotrack stated address] said there had never been a company with that name at that address.*” However, the security guards’ statement seems to be contradicted by an on-line business directory for CIS countries, which listed - from December 2007 to May 2008 - an air carriage company, **Aerotrack Aviation**, as located at 19/21 Frunze St., with a phone number that was different from the one indicated in UTM’s packing lists.<sup>545</sup> At the 19/21 Frunze Street’s building were also domiciled the “**State Service for Export Control of Ukraine**”, the “**Scientific and Technical Center for the Export and Import of Special Technologies, Hardware and Materials**”, the “**Center for Army Conversion and Disarmament Studies**”, the “**Security and Nonproliferation Journal**” and various important Ukrainian firms such as “**CJSC Ukrainian Helicopters**”.<sup>546</sup>

**“National Iranian Oil Industry”.** The packing list “789” prepared by UTM (see *infra*) gives a non-existent entity, “**National Iranian Oil Industry**”, as a consignee of the “*spare parts for oil drilling equipment*” in Iran and lists its address as “Hafez Crossing, Ghani Avenue” in Tehran. This address is similar to the one where the State-owned company “**National Iranian Oil Company (NIOC)**” headquarters are located: “Hafez

<sup>538</sup> Email, confidential source, February 2010.

<sup>539</sup> Email, confidential source, December 18, 2009.

<sup>540</sup> Hong Kong Companies’ Registry.

<sup>541</sup> Hong Kong Companies’ Registry.

<sup>542</sup> See: British Virgin Islands, Offshore Financial Services Information Center, <http://www.bviibc.com/>

<sup>543</sup> Hong Kong Companies’ Registry.

<sup>544</sup> Shuster, S., “Shadowy arms deal traced to Kazakhstan”, *AP*, January 20, 2010.

<sup>545</sup> [http://partnersroad.com/en/AEROTRACK\\_AVIATION/22231/Firm\\_details.aspx](http://partnersroad.com/en/AEROTRACK_AVIATION/22231/Firm_details.aspx). Retrieved with Wayback Machine.

<sup>546</sup> See: [www.ntc.kiev.ua/download/en/1\\_eng.doc](http://www.ntc.kiev.ua/download/en/1_eng.doc); <http://www.gmdu.net/join-43-join-18-p1.html>; <http://www.mfa.gov.ua/usa/en/publication/content/42243.htm>.

Crossing, Taleghani Avenue". Did UTM make a mistake or was the deformation of the NIOC name and address made on purpose?

**"Top Energy Institute"**. This company was named in the airway bill compiled by Air Koryo, along with the name of a contact person, "Mr. Dashti". The company is unknown.

**"Korean General Trading Corporation"**. The packing list "787" and the airway bill compiled by SP Trading name this company as the shipper of the *"oil industry spare parts"*. Attempts to contact the company at the reported phone numbers went unanswered.

**"Korea Mechanical Industry Co. Ltd."** The airway bill compiled by Air Koryo names this company as the shipper of the *"mechanical parts"*. The airway bill did not provide contact details for this company.

### 9.3 Incongruities in cargo and shipping documents

The shipping documents prepared for the 4L-AWA flight in early December also show considerable inconsistencies.

**Packing lists.** On December 1, 2009 (dated December 3) UTM prepared and sent to SP Trading two packing lists, numbered 787 and 789.

The first packing list (787) refers to a Korean company (Korean General Trading Corporation) as the consignor of the cargo that was supposed to be shipped from Pyongyang to Kyiv and consigned to Aerotrack Ltd. The total indicated weight of the cargo was given as 33,678 kg.

The second packing list (789) refers to Aerotrack Ltd as the shipper of the cargo from Kyiv to Tehran, to be consigned to the "National Iranian Oil Industry" (see above under "National Iranian Oil Company"), with additional spare parts included. The total indicated weight of the cargo was given as 33,972 kg. It included 294 kg of "oil drillers" that had evidently to be loaded in Ukraine.

**Airway bills.** The first packing list was reproduced in the handwritten airway bill, where the departure airport was given as Pyongyang Sunan airport (North Korea).<sup>547</sup> The arrival airport was given as Gostomel (Ukraine). The total indicated weight was the same as in the first packing list.

There was, however, a second airway bill, for the return flight from Pyongyang to Iran.

This second airway bill, prepared by Koryo, accompanied the aircraft in the flight from Pyongyang to Bangkok and was seized by the Thai authorities. The company that prepared this airway bill was Air Koryo, North Korea's national carrier, and was dated December 11, 2009, the day of the departure of 4L-AWA from Pyongyang. In the Koryo airway bill (n. 120-0010-8532) the departure airport was given as Pyongyang and the arrival was Bangkok Suvarnabhumi International (the aircraft actually landed at the other Bangkok airport, Don Mueang).

In theory, the UTM's packing list "787" (indicating the cargo for the flight from Pyongyang to Gostomel) and the cargo indicated by the airway bill prepared by Air Koryo should have been the same. In fact, in the Air Koryo airway bill the number of boxes was different (145 boxes instead of 147) and the weight was about 2.2 ton more (35,881 kg) than in the packing list 787.

In this second airway bill, the consignor was a North Korean company, "Korea Mechanical Industry Co. Ltd", that was never mentioned in previous documents. The consignee in Tehran was also different, and given as "Top Energy Institute", represented by a certain Mr. Dashti. Also, the cargo was no longer listed as *"spare parts for oil drilling equipment"* but as *"mechanical parts"*.

**The destination airport in the Air Koryo airway bill.** It should also be noted that in the Air Koryo airway bill the given destination for the flight was Bangkok and not Gostomel, as it should have been according to the flight plans prepared by SP Trading for the 4L-AWA cargo plane which indicated that Bangkok would just be one of the technical stops on the return flight.

**Were the spare parts included in the UTM's first packing lists really for "oil drilling equipment"?** An analysis of the packing list "787" reveals that 87 boxes were listed as containing "Geothermal rigs

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<sup>547</sup> The airway bill mentions the departing airport as "FNJ" that is International Air Transport Association's code for the airport (ICAO code is ZKPY, as mentioned in previous notes)

MTec 6" ("one of the smallest rigs available", according to oil industry sources). These items were actually spare parts for a machine recently produced by the British firm Dando Drilling International<sup>548</sup> - based in Littlehampton - and usually intended for "drilling boreholes for water wells, geothermal drilling, and geotechnical works." In addition, 40 boxes (most of the cargo weight) were indicated as containing spare parts for the "Rotary drilling rig Watertec6,"<sup>549</sup> a machine intended for conventional "open hole drilling using water, mud, air, waterflushing techniques," produced by the same Dando firm, and "ideal for accessing remote locations ... for well drilling." Also on the list was the Buffalo 3000 drilling rig, offered by Dando as a "cost effective percussion drilling rig favoured by NGOs and funding agencies for installing hand-pumped waterwells."<sup>550</sup> Dando also manufactured the Mintec 12.8 (for which the supposed cargo included 1 box of valves), "designed for exploration on open cast mine prospects,"<sup>551</sup> for example, coal mines.

"Oil drilling equipment" was a cover term used in the past for illegal arms shipments and in particular for missiles. Documents and inquiries related to the Reagan Administration's secret deals with Iran (mid 1980s, Iran-Contras affair) revealed that "oil drilling equipment" was the label given in transport documents for 18 Hawk missiles secretly destined to the Iran regime. They were shipped on the order of Col. Oliver North (Assistant Deputy Director for Political-Military Affairs in the US National Security Council) on November 22, 1985 from the US to Ostend, and from Ostend to Tehran, via Tel Aviv and Larnaka (Cyprus). The missiles were delivered to Iran using a Boeing 707 belonging to St. Lucia Airways, a company that served CIA covert operations. The aircraft bore the registration number J6-SLF (St. Lucia Island).<sup>552</sup> According to a de-classified CIA document, even the crew that flew the missiles to Iran in 1985 was unaware of the real nature of the cargo.<sup>553</sup>

## 9.4. Incongruities in the 4L-AWA flight plans

On December 4, 2009, SP Trading and UTM agreed on a first flight plan (part of the aircraft charter agreement N. 38/167-76, whose starting point was listed as Gostomel airport in Ukraine and final destination was listed as Baku airport in Azerbaijan).

Table 24. 4L-AWA First Flight Plan

Flight N.	Aiport of departure	Airport of destination	N/M	Ddate
AGW 731	UKKM – GOSTOMEL	UBBB – BAKU ALIEV	1,013	12-7
AGW 731	UBBB – BAKU ALIEV	VCBI – COLOMBO	2,557	12-8
AGW 731	VCBI – COLOMBO	VTBS – BANGKOK	1,291	12-9
AGW 731	VTBS – BANGKOK	ZKPY – PYONGYANG	*2,021	12-10
AGW 732	ZKPY – PYONGYANG	VTBS – BANGKOK	*2,021	12-10
AGW 732	VTBS – BANGKOK	VCBI – COLOMBO	1,291	12-11
AGW 732	VCBI – COLOMBO	OMFJ – AL FUJAIRAH	1,726	12-11
AGW 732	OMFJ – AL FUJAIRAH	UKKM – GOSTOMEL	1,940	12-12
AGW 731	UKKM – GOSTOMEL	OIII – TEHRAN MEHRABAD	1,270	12-12
AGW 732	OIII – TEHRAN MEHRABAD	UBBB – UBBB – BAKU ALIEV	293	12-12
<b>TOTAL</b>			<b>15,423</b>	

The initial flight plan was soon changed and a second flight plan still indicated Gostomel as the departing point but Nasosnaya, Azerbaijan, as destination point and with the following sequence: Gostomel to

<sup>548</sup> See: <http://www.dando.co.uk/uploads/mtec6.pdf>. See also GeoDrilling International, Issue 137, November 2007.

<sup>549</sup> See: <http://www.dando.co.uk/watertec-6>

<sup>550</sup> <http://www.dando.co.uk/news/dando-news-december-2009>.

<sup>551</sup> See: <http://www.dando.co.uk/mintec-12>

<sup>552</sup> The same aircraft was used for gun-running to Sierra Leone in February 1998 (see Wood B., J. Peleman, *The Fixers - Controlling Brokers and Shipping Agents*. Chapter 7. A joint Report by BASIC and PRIO. Oslo, PRIO, 1999) and (registered as EL-ALI and under the call signs of various companies), performed 16 "military" flights from Entebbe to Kisangani between March and August 2000 during the Second Congo War, as well as delivering military material from Bratislava to Kabul in June 1996 when registered as EL-JNS, owned by the Liberia-registered British firm Skyair Cargo, 1994-2000 (see See: Human Right Watch, "The case for further reform NATO and the EU: Leverage for Change", February 2004).

<sup>553</sup> Document dated November 20, 1986, unsigned, CIA Chronology Insert: "CIA Airline Involvement," see also "Duane Claridge, Cable for the European CIA Station, NSC Request," dated November 23 1985, originals reproduced in Kornbluh, P., M. Byrne (eds), *The Iran-Contra Scandal: the declassified history*, National Security Archive, The New Press, New York, 1993; see also 100th Congress, 1st Session, U.S. Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition "Report of the Congressional Committees Investigating the Iran-contra Affair," U.S. House of Representatives, Select Committee to investigate Covert Arms Transactions with Iran, Washington 1988, testimony by CIA Air Branch Chief, vol. 4. pp 791-932; and testimony by "Proprietary Manager" (Saint Lucia Airways' director Dietrich Reinhardt), vol. 21, p. 413 and 600; and testimony by "CIA Air Branch Subordinate," vol 4. p. 1101.

Nasosnaya, Colombo, Bangkok, Pyongyang (loading point) and Pyongyang to Bangkok, Colombo, Fujairah, Gostomel (loading), Tehran, Nasosnaya for the return flight.

The second flight plan was again modified and a third flight plan still indicated as a departure airport Nasosnaya but Podgorica (Montenegro) as the last destination after Tehran. The sequence was as follows: Nasosnaya to Fujairah, Bangkok, and Pyongyang (loading point); Pyongyang to Bangkok, Colombo, Fujairah, Kyiv Borispol (loading point for other spare parts), Tehran (offloading), and eventually Podgorica for the return flight.

**Table 25. 4L-AWA Second Flight Plan**

Flight N.	Aiport of departure	Airport of destination	N/M	Ddate
AGW 731	UKKM – GOSTOMEL – FERRY	UBBI – NASOSNAYA – TECH STOP	1,011	12-7
AGW 731	UBBI – NASOSNAYA	VCBI – COLOMBO – TECH STOP	2,557	12-8
AGW 731	VCBI – COLOMBO	VTBS – BANGKOK – TECH STOP	1,291	12-9
AGW 731	VTBS – BANGKOK	ZKPY – PYONGYANG – <b>ON LOAD</b>	2,021	12-9
AGW 732	ZKPY – PYONGYANG	VTBS – BANGKOK – TECH STOP	2,021	12-10
AGW 732	VTBS – BANGKOK	VCBI – COLOMBO – TECH STOP	1,291	12-11
AGW 732	VCBI – COLOMBO	OMFJ – AL FUJAIRAH – TECH STOP	1,726	12-11
AGW 732	OMFJ – AL FUJAIRAH	UKKM – GOSTOMEL – <b>ON LOAD</b>	1,940	12-12
AGW 731	UKKM – GOSTOMEL	OIII – TEHRAN MEHRABAD	1,270	12-12
AGW 732	OIII – TEHRAN MEHRABAD	UBBI – NASOSNAYA – TECH STOP	291	12-12
<b>TOTAL</b>			<b>15,419</b>	

**Table 26. 4L-AWA Third Flight Plan**

Flight N.	Aiport of departure	Airport of destination	N/M	Ddate
AGW 731	UBBI – NASOSNAYA	OMFJ – AL FUJAIRAH – TECH STOP	975	12-9
AGW 731	OMFJ – AL FUJAIRAH	VTBS – BANGKOK – TECH STOP	2,594	12-10
AGW 731	VTBS – BANGKOK	ZKPY – PYONGYANG – <b>ON LOAD</b>	2,021	12-10
AGW 732	ZKPY – PYONGYANG	VTBS – BANGKOK – TECH STOP	2,021	12-11
	Impounded			
AGW 732	VTBS – BANGKOK	VCBI – COLOMBO – TECH STOP	1,291	12-11
AGW 732	VCBI – COLOMBO	OMFJ – AL FUJAIRAH – TECH STOP	1,726	12-12
AGW 732	OMFJ – AL FUJAIRAH	UKBB – KYIV BORISPOL – <b>ON LOAD</b>	1,916	12-12
AGW 731	UKBB – KYIV BORISPOL	OIII – TEHRAN MEHRABAD – <b>OFF LOAD</b>	1,247	12-13
AGW 732	OIII – TEHRAN MEHRABAD	LYPG – PODGORICA – TECH STOP	1,537	12-13
<b>TOTAL</b>			<b>15,328</b>	

In the third and final flight plan prepared by SP Trading, the sequence of flight hours is consistent with the normal cruise speed of an IL-76T (about 410 knots to 430 knots, depending on whether it is empty or carrying 35/45 tons of cargo), including take off and landing times. The actual flight hours seem consistent with the maximum prudent range of an IL-76T (between 2,500 and 3,000 nautical miles [n/m]).<sup>554</sup> However, the UTM-approved flight plan presented various incongruities.

The IL-76 plane actually departed from Gostomel on December 8 at 5:03 pm<sup>555</sup> and reached Nasosnaya soon after. The purpose of the stopover at Nasosnaya (UBBI) - as IPIS and TransArms have learned - was almost certainly to buy cheap fuel, not the sort of business a military airport usually engages in without special agreements (the plane could have easily flown directly from Gostomel to Fujairah, for a distance of 1,986 nautical miles).

The Nasosnaya airport is located few miles North of Baku, where the operational Azerbaijan Air Force Base is located. For many years, only US and Russian sources used the code UBBI to indicate the airport.<sup>556</sup> ICAO has designated the airport with the code UB0C (where 0 is a number)<sup>557</sup> and other sources (World Aero Data for example) with the code UB12.

<sup>554</sup> One nautical mile is equal to 1,852 m and 1,508 statute miles. The knot is the speed indicating how many nautical miles per hour are performed.

<sup>555</sup> Confidential source, e-mail December 2009

<sup>556</sup> <http://www51.honeywell.com/aero>; <http://avia.transas.com/products/navigation/navitaws/txt/Eurasia.txt>; <http://a9.nm.ru/>

<sup>557</sup> ICAO Airport Codes Search Engine.

According to later communications among the companies involved, which the authors of this report have seen, some problems developed in Nasosnaya and the aircraft refuelled instead at Fujairah.. The Russian text from the air crew reads: "*Change in route due to absence of sufficient quantity of fuel/lubricants in UBBI.*" The plane arrived in Fujairah two hours later than scheduled, then departed from Fujairah at 11:25 pm.<sup>558</sup>

**Alternative routes rejected.** The UTM representative allegedly rejected the idea of the plane taking a direct route from Pyongyang to Tehran for "commercial reasons"<sup>559</sup> Representatives of UTM allegedly told SP Trading that "*the equipment was produced in the USA (and) it should be brought to Ukraine first for handling.*"<sup>560</sup> In the light of the analysis of the packing lists in the paragraph 3, UTM's justification for choosing a far longer route than the obvious one seems, at least, strange.

For example, a far shorter route would have been the one that took the plane over China, with a stopover in Almaty (Kazakhstan, a distance of 2,175 n/m) to refuel, and from Almaty (passing North of Kyrgyzstan and overflying Uzbekistan and Turkmenistan) directly to Tehran (for a distance of 1,270 nm): this alternative route would have been a total 3,445 n/m instead of the 8,201 n/m of the planned return route from North Korea as in the submitted third and final flight plan..

Even if the stopover in Ukraine could not be avoided, there was another far shorter route: from Pyongyang to Almaty (2,175 n/m), from Almaty to Kyiv Borispol (for a distance of 1,907 n/m) and from Kyiv to Tehran Mehrabad (1,247 n/m), a total 5,329 n/m.

Part of the above-mentioned routes could have also been used for the outbound route from Kyiv (or Gostomel) to Pyongyang. The supposed gains from buying fuel in Azerbaijan and Al Fujairah would not have justified a planned route that was about 15,000 n/m-long instead of the 9,411 n/m needed to connect Kyiv-Almaty, Almaty-Pyongyang, Pyongyang-Almaty, Almaty-Kyiv, and Kyiv-Tehran. Moreover, the eventual chosen route seems instead to have been a recipe for disaster if UTM wanted to conceal a cargo of weapons.

Moreover, in communications with SP Trading, UTM's manager "Natalia Sabantseva" initially stated<sup>561</sup> that the first of the five flights planned by UTM and SP Trading had to depart from Dnepropetrovsk (see section 3 under UTM) with 35 tons of telecommunication equipment destined to Bangkok.

Later on, the same manager reportedly stated that the telecommunication equipment was not ready and requested SP Trading to provide a flight from whatever Ukrainian airport was convenient, but in time for arriving on December 11 or 12 at Pyongyang, where the "oil industry spare parts" had to be loaded.

Another UTM manager, "Igor", who met SP Trading concerning the flights, allegedly stated to SP Trading that December 12 was the latest date for not losing the contract. SP Trading says it received 75,000 euros and 50,000 US dollars from UTM as an initial payment for covering airports fees and buying fuel. The same UTM manager asked SP Trading to provide an invoice for the next planned flight on December 21.

## 9.5. The IL-76 history of registrations and operators

Considerable media attention has focused on the history of who owned the aircraft and various speculations have been made about past owners being responsible for the present operations of the plane registered as 4L-AWA. Media reports repeated ad nauseam that the aircraft was in the past owned by the alleged arms trafficker Viktor Butt, implying that he may be linked to the arms flight. Butt was - at the time of 4L-AWA arms flight in question - imprisoned in Bangkok, pending an appeal hearing in the battle to extradite him to the USA after a DEA sting operation.<sup>562</sup>

<sup>558</sup> Confidential source, e-mail December 2009.

<sup>559</sup> Confidential source, e-mail December 2009

<sup>560</sup> Confidential source, e-mail December 18, 2009. Handling was performed by a Ukrainian company, Aerotrack Limited. See Airway Bill for further details. The researchers have repeatedly tried to contact Aerotrack but to no avail.

<sup>561</sup> Confidential source, February 2010.

<sup>562</sup> The case is still pending, following two opposite rulings by Thai courts. See: "Extradition of Viktor Butt can't be speeded up", Bangkok Post, August 26, 2010.

What is really known about the aircraft? According to documents received from the Georgian Civil Aviation Authority, the 4L-AWA aircraft has the manufacturing number 0003426765<sup>563</sup> and it was made originally as an IL-76M type cargo plane (the military version of the civilian IL-76, which has some 5 metric tons of body armor, thus drastically reducing its payload).

The aircraft started its registration life in the Soviet Air Force registered as CCCP-86846, became RA-86846 in the Russian Air Force, and was later converted to a civilian IL-76T (presumably by the removal of armor plating). In 1992-97, it was operated by Veteran Airlines, Russia, (a subsidiary of Veteran Airlines, Ukraine). It was then reportedly exported to Malaysia.

The aircraft supposedly resurfaced (if it really is the same plane) in 1997-98 in the fleet of Air Pass (registered in Swaziland). At that time, the plane was controlled by Victor Butt's Air Cess that had a 90% share in the Air Pass, and it was registered as 3D-RTA. It was briefly employed in August 1998 for flights from Entebbe to Goma, DRC, and to Kanombe-Kigali, Rwanda.

In 1999, the aircraft registration was changed once more (to TL-ACY), when it was moved to Centrafrican Airlines, allegedly a company controlled by Victor Butt and Ronald de Smet. In 2003-06, the TL-ACY registration was changed again to UN-76007 under the fleet of GST Aero, registered in Kazakhstan. This move seems to have involved a change in the engines as well. During 2003-04, the aircraft was used in service with the United Nations and in 2004-05 with Buraq Air (ICAO: BRQ), based at Tripoli-Mitiga.

In 2007, the UN-76007 registration was amended to UN-76011, in the fleet of the Kazakhstan-based East Wing (ICAO: EWZ), the company that eventually passed the aircraft on to Air West in Georgia. The UN-76011 registration changed briefly again to UP-I7622 (July 2008-May 2009) and then (apparently) to UP-I7635 (May-August 2009), having been leased for a short time to another Kazakh company, Beybars (ICAO: BBS, or Beibars) in May-September 2009.<sup>564</sup> The reasons for the two UP- changes are not clear, and it is uncertain whether the registrations were official. Photographic evidence shows the two different UP registrations in this period. On September 24, 2009, the aircraft was finally registered as 4L-AWA.

In February 2010, a Thai court freed all the arrested crew members from the 4L-AWA plane without any criminal charges. On February 12, all the crew members of 4L-AWA departed from Bangkok at 5:40 pm aboard Astana Airlines's flight KC932565 and arrived the same day in Almaty (Kazakhstan).

## 9.6. Concluding remarks

As the details in this report have highlighted, the case of the aircraft registered as 4L-AWA, impounded in Bangkok with a cargo of weapons loaded in Pyongyang, is strange. The case raises a number of questions that the currently available documents and information cannot answer, especially and first of all, the real identities of the UTM managers who apparently requested SP Trading to organize the flights:

- who instructed Air Koryo to change the name of the consignee in Iran from "National Iranian Oil Industry" to "Top Energy Institute", an apparently non-existent company ?
- why did the first airway bill name a "Korean General Corporation" as the consignor of the items in Pyongyang and the second airway bill name as consignor a "Korea Mechanical Industry Co. Ltd"?
- why did the airway bill prepared in Pyongyang by Air Koryo mention Bangkok as the destination of the flight? Under which other airway bill were the "mechanical parts" supposed to fly from Bangkok to Gostomel, its stated destination in the first airway bill?
- why did Union Top Management (UTM), the Hong Kong-based company that requested the New Zealand-based SP Trading (SPT) to organize the flight, choose a route that did not make sense in commercial terms?

<sup>563</sup> Aircraft Registration Certificate Number 299. See also AeroTransport Databank; Soviet Transports on-line DB.

<sup>564</sup> AeroTransport DB provided the sequences of registrations for this report.

<sup>565</sup> "All Five Crewmen to Return Home Today without Charges", Thai Press Reports, February 12, 2010; Wechsler, M., "Dogs of war or players in a political game?", Bangkok Post, January 31, 2010

- why did UTM tell SP Trading that the "*oil industry spare parts*" destined to Iran were of US origin and needed to be consigned to AeroTrack in Kyiv before reaching Tehran?
- who the UTM managers ("Oleg" and "Igor") really were?
- Why did the IL-76 pilot request, at the last minute, permission to land at an alternative Bangkok airport which was not the scheduled airport?

The arms flight of 4L-AWA from Pyongyang to Bangkok and the operation that it serviced hardly fits the frame of a typical arms illegal trafficking case especially because experienced traffickers would have known the large weapons cargo would more than likely have been discovered by Thai customs, and also from a commercial point of view it made no sense to use that route. Too many other incongruities and apparent mistakes have accompanied the preparation and the execution of the flight, something that experienced arms traffickers are unlikely to have ever allowed to happen.

Dealing with North Korea arms industry and government officials is a far more complex business than just sourcing arms in countries with lax arms export regulations. It is hard to believe that UTM's Korean counterparts would have engaged in such a sensitive shipment without having previous knowledge of who was dealing with them in the name of UTM and who was going to pay the considerable sums (some 30/40 million dollars) that the arms were allegedly worth..

## Part II - Example of Fraudulent Aircraft Registration

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9Q-CGQ parked at Goma airport, 18 September 2008 (Credit: Peter Danssaert/IPIS vzw)

## 10. Ghost Planes: New Findings on GLBC's An-12 9Q-CGQ

### 10.1 Introduction

After the collapse of the Soviet Union and its economy, the precarious financial situation of the Air Force, the disruption of the Aeroflot, and of the activities of civil aviation agencies, had created a chaotic - but lucrative - market for the cargo aircraft that the Air Force had decommissioned and forced to sell and for the portion of the Aeroflot cargo fleet that the partition of the airlines among the CSI States could not absorb.

In few years, hundred of cargo planes were made available on the aircraft markets and were traded by aviation brokers, aircraft leasing companies, and individuals with investment capacity. Those aircraft formed the bulk of the fleets of an array of newly founded and privately-owned airlines that resulted from the abolition of the state near-monopoly on civil aviation.

Several cargo planes put on sale came from the Soviet Air Force transport command and were neither certified for civilian service by the manufacturers, nor provided with ICAO-mandatory documentation. The process to certify a former military aircraft for civilian service implied several steps, some of them often impossible in the situation created by the collapse of the Soviet institutions. Ministries, state agencies, and military units in charge of maintaining and providing documentation on aircraft no longer existed, their archives often neglected for years or dispersed among newly formed institutions in CSI countries. Key Soviet aircraft manufacturers, as well as retro-fit and repair companies were near to collapse,<sup>566</sup> making re-certification very difficult, not to mention adapting the aircraft engines to the increasingly strict environmental and noise legislation in the lucrative

#### Box 15. Aircraft Registration and Manufacturing numbers

The registration number (r/n) or tail number of an aircraft identifies it as registered in a certain country.<sup>1</sup> If the aircraft is sold or changes country of registration its registration number changes as well. A unique prefix identifies the country according to an ICAO-established list of codes. A prefix identifies the country of registration according to an ICAO-established list of codes. An aircraft registered in Sudan, for example, bears the prefix "ST-" followed by letters or letters and numbers that identify that particular aircraft, such as "ST-AAA." Each country's civil aviation authority maintains and regularly updates the list of the aircraft registered in the country, along with the documentation on the aircraft airworthiness status and ownership.

When an airlines requests the civil aviation authority (CAA) of a country to register an aircraft, a set of documents must accompany the request. Among the information that the airlines must provide in order to obtain the registration and the release of a time-defined airworthiness certificate there is the manufacturing number (m/n), which reproduces the number stamped by the manufacturer in a plate inside the aircraft.

Naturally, the manufacturing number does not change with the change of registration. The manufacturing number identifies the place (factory) and the year of manufacturing, as well as the production batch of which the aircraft was part.

The manufacturers maintain their production lists for various reasons, not least of which being that they are supposed to alert the ICAO that a certain aircraft has reached the end of its life-cycle. The CAA must ground the aircraft or - if an extension of its life is possible - compel the airlines to sent it back to the manufacturer, or its authorized maintenance facilities, for an overhaul or for any structural tests and modifications it may need.

Aircraft in civil service must also be insured and a proper certificate of insurance must accompany the aircraft in its operating life, along with other more specific documents that must be kept by the captain of the aircraft during operations.

<sup>1</sup> "Location of Nationality, Common and Registration Marks", in: Annex 7 -- Aircraft Nationality and Registration Marks, ICAO Convention.

<sup>566</sup> See, for example, the chapter "The State of Russia's Aviation Industry" in Mills G, S. Pienaar "Nazdorovya? Russian-South African Defence and Technology Ties", *African Security Review*, Vol 9, No 4, 2000, Institute for Security Studies, Pretoria.

European and Northamerican markets. For many newly formed cargo airlines the only markets they can have access to were in Africa and part of the Middle East and other Asian regions. In these regions, countries with lax aviation legislation and safety oversight allowed the registration of the aircraft even if they lacked proper documentation or had falsified records in term of service hours and manufacturing numbers.

In effect, *Soviet Transports*<sup>567</sup>, reports that 265 registration numbers painted on Soviet-built planes - spotted in a precise date from 2000 to present - did not have an identifiable connection with a manufacturing number.<sup>568</sup> The total of the 265 registrations do not include all Soviet-built planes, but just those types of aircraft most used in military operations, as detailed in Table 27. Despite this limitation, the 265 registrations are indicative of a severe problem, in particular because several of those aircraft operated in Africa's war zones. However, the Soviet-built planes were not the only ones flying with problematic identities.<sup>569</sup>

**Table 27. Types and number of aircraft whose manufacturing number is unknown - Period 2000-2010**

Type (all models for each type)	Number
Antonov 12	63
Antonov 26	77
Antonov 28	12
Antonov 72	17
Ilushin 18	6
Iliushin 76	34
Let-410	38
Yak-40 and 42	18
<b>Total for types above</b>	<b>265</b>

Source: Elaboration on Soviet Transports 2004 and updates.

## 10.2 The case of two An-12s with the same manufacturing number

The case of the Sierra-Leone-registered 9L-LCR and DRC-registered 9Q-CGQ was investigated from different angles by the UN Group of Experts on DRC in 2005 and 2008.<sup>570</sup> The 2005 report in the context of tracking the origin of the fleet of the air company Great Lakes Business Company (GLBC), owner of the 9Q-CGQ and associated with Compagnie Aérienne des Grands Lacs (CAGL). The 2008 report investigated the possible fraud on the part of GLBC in registering the 9Q-CGQ with the manufacturing number of the 9L-LCR.

On May 27, 2003, the 9L-LCR, while operated by Showa Air<sup>571</sup>, overran the Goma runway (shortened after the January 17, 2002 volcano eruption) and ended up in a lava field at its end.

It was damaged beyond repair, partially dismantled afterwards and eventually transported to and abandoned in a field near Goma.

Photo 7. The crash of 9L-LCR.



Credit: Robert Briend - Aviation-Safety.net/Nimbostratus - Spotters.net.ua

<sup>567</sup> Hillma, P., S. Jessup, A. Morgan, T. Morris, G. Ottenhof, M. Roch, *More than Half a Century of Soviet Transports*, Dutch Aviation Society and TAHS, The Netherlands and UK, 2004 and updates (see also the on-line DB [www.scramble.nl/sovdb.htm](http://www.scramble.nl/sovdb.htm)).

<sup>568</sup> The registration number painted on an aircraft spotted in an airport on a certain date could refer to a similar aircraft spotted on a different date in another airport and the evaluation depends also on the actual number of observations.

<sup>569</sup> See, for example, the cases of ZS-LST and ZS-NPO in chapter 4.

<sup>570</sup> UN Security Council Group of Experts, S/2005/30, January 25, 2005; and S/2008/773, December 12, 2008.

<sup>571</sup> See on this company paragraph 4.4

## 10.3 The sale and registration of 9Q-CGQ in DRC

According to documents obtained by the Group of Experts on DRC in 2004,<sup>572</sup> some weeks after the crash of the 9L-LCR a Cyprus-based company reached an agreement (June 23, 2003) with GLBC for the sale of the An-12 that was later registered as 9Q-CGQ. The Purchase Agreement was signed August 2, 2003.<sup>573</sup> The Bill of Sale, dated the same day (August 2), did not mention the aircraft's last registration number.<sup>574</sup> Instead, it mentioned the manufacturing number: 4341801.

The Bills of Sale stated that *"for and in consideration of the sum of USD – one – only and other valuable considerations"* the ownership of the aircraft passed definitively to GLBC. Clause 3.1 of the Purchase Agreement (referred to by the Bill of Sale) specified the condition and real value of the aircraft, but the document is not available. The one shown below is a partial facsimile of what a Purchase Agreement usually includes.

In the Bill of Sale the *"consideration"* is stated as equal to USD1, a conventional way of establishing a legal contract and of passing the ownership of the airframe and all its appliances, parts, etc. on to GLBC. *"Other valuable considerations"* is another conventional expression used in aircraft bills of sale, which may indicate a variety of things the buyer may have conveyed to the seller, for example payment of the cost of the aircraft's delivery, or may simply represent the use of some type of standard form, which always includes that expression. The real conditions of the sale can only be inferred from the Purchase Agreement. As will be shown further on in this report, the meaning of *"other valuable considerations"* played an important role in those sections of the 2005 UN report dedicated to GLBC and CAGL, which led to the conclusion that GLBC/CAGL links with Victor Butt's "network" – a conclusion that is not supported by the documents quoted by the UN report (see Box 17 - GLBC/CAGL)

An undated Delivery Note for the 9Q-CGQ also mentions the manufacturing number as 4341801 and mentions an agreement dated June 23, 2003, on the basis of which the aircraft was later delivered to the buyer.

The aircraft was eventually registered in DRC on August 30, 2004<sup>575</sup> and GLBC obtained the aircraft Airworthiness Certificate on September 1, 2004, about

Document 27. Sample of a Purchase Agreement to which the Bill of Sale refers

Air company: \_\_\_\_\_  
Airlines: in the person of: Manager Director  
acting on the basis of Regulation hereinafter referred as  
«Seller» and \_\_\_\_\_ acting on the basis of Regulation  
hereinafter referred as «Buyer» have agreed the Agreement as follows below:

**1. SUBJECT OF AGREEMENT**  
Seller shall provide to the Buyer aircraft AN-12 Reg. \_\_\_\_\_ at the price of  
USD150000.00 (say: one hundred fifty thousand only) on condition and equipped at  
mention below:

**2. GENERAL**  
2.1. The registration of aircraft according legal documents and certificate of country of  
origin is: \_\_\_\_\_  
2.2. Number of manufacture is N: \_\_\_\_\_  
2.3. Date of manufacture is 15.03.85  
2.4. Left engine: \_\_\_\_\_  
2.5. Right engine: \_\_\_\_\_  
2.6. Turbine engine: \_\_\_\_\_  
2.7. Basic arrangement of tools and spare parts: \_\_\_\_\_

**3. TERMS OF PAYMENT**  
3.1. The cost of aircraft USD150000.00 (say: one hundred fifty thousand only) including  
spare engine.  
3.2. Buyer shall be made the payment by cash up front after signing present agreement.  
3.3. The payments shall be made to the cash of cashier by USD.  
3.4. In case if buyer will going to make payment by two instalments:  
USD140000.00 and USD10000.00 spare engine must be realize to Buyer only after  
receiving second payment at amount USD10000.00 by Seller.

**4. VALIDITY PERIOD OF THE CONTRACT.  
THE ORDER OF ITS CHANGES AND EARLY TERMINATION**  
4.1. The Contract comes into force from the moment of payment made by Buyer to Seller.

Names and aircraft data erased for confidentiality

Document 28. Bill of Sale of An-12 m/n 4341801

**AGREED WORDING OF THE BILL OF SALE**  
The Parties have agreed upon the following wording of the Bill of Sale that is to be signed by the  
Parties only upon receipt by the Seller the full amount of purchase price of the Airframe of the  
Aircraft according to the Clause 3.1. of the Agreement.  
The wording is agreed upon by Seller: Spectronic Limited, Limassol, Cyprus  
The wording is agreed upon by Buyer: Great Late Business Company, Goma, D.R.C

**BILL OF SALE**  
**KNOW ALL MEN BY THESE PRESENTS**  
1) Company "Spectronic Limited, Limassol, Cyprus", "Seller" is company established and existing  
under the Laws of Cyprus, is the owner of the full, legal and beneficial title to Airframe of AN-12  
Aircraft, manufacturer's serial No. 4341801 together with all appliances, parts, instruments,  
apparatuses, accessories, furnishings, or other equipment or property installed on the Aircraft  
and as described in the Purchase Agreement dated on \_\_\_\_\_ of \_\_\_\_\_, 2003.  
That for and in consideration of the sum of USD \_\_\_\_\_ only and other valuable  
considerations Seller does this day as mentioned herein grant, convey, transfer, assign, and sell,  
deliver, and set over at Goma Airport pursuant and subject to the Agreement all of the Seller's  
rights, title and interest in and to the Airframe of the Aircraft together with all appliances, parts,  
instruments, apparatuses, accessories, furnishings or other equipment installed thereon unto  
"Great Late Business Company" (BUYER).  
THAT SELLER hereby warrants to BUYER, its successors and assigns, that there is hereby  
conveyed to Buyer on the date hereof, good title to the Airframe of the Aircraft, together with all  
appliances, parts, instruments, apparatuses, accessories, furnishings or other equipment  
installed thereon as per Agreement free and clear of all liens, encumbrances and rights of others.  
THAT all amounts payable on account of the purchase price of the above described Airframe of  
the Aircraft together with all appliances, parts, instruments, apparatuses, furnishings or other  
equipment installed thereon pursuant to the above described aircraft sale Agreement, have been  
paid and received by the Seller.  
Date of signing: 2 August 2003  
For and on behalf of:  
Spectronic Limited  
Limassol, Cyprus

Source: UN Security Council Group of Experts on DRC, S/2008/773, Annexes

<sup>572</sup> The documents were referred to in the Group of Experts on DRC's report dated January 25, 2005 (S/2005/30) and later published as Annexes in the report of the Group of Experts dated December 12, 2008 (S/2008/773).

<sup>573</sup> See in S/2008/773: Delivery Note and Bill of Sale.

<sup>574</sup> UN SC S/2008/773, December 12, 2008, Annexes.

<sup>575</sup> See: DRC Aircraft Registry in S/2008/773, Annexes.

Document 29. Airworthiness Certificate of 9Q-CGQ



Source: UN Security Council Group of Experts on DRC, s/2008/773, Annexes

a year after the date of the Purchase Agreement. The Airworthiness Certificate stated that the 9Q-CGQ's manufacturing number was 4341801, as shown below.

### 10.4 A ghost plane becomes 9Q-CGQ: owners and financiers

The documents relating to the insurance of the 9Q-CGQ show how a ghost plane became a legitimately registered aircraft, through the use of companies that may or may not have been aware of the fraud that GLBC was perpetrating.

In its 2005 report, the Group of Experts on DRC<sup>576</sup> stated that the plane "had been insured jointly, on 11 November 2004, in the name of Great Lakes Business Company, with the address listed as P.O. Box 315, Goma, and Ilex Ventures Ltd, with the address listed as Cassandra Centre, Offices 201 & 202, 2nd floor, 29 Theklas Lyssioti Street, P.O. Box 58184, 371 Limassol, Cyprus. The Group contacted the company in Cyprus by phone and was told that it could not release information to the Group until it had checked with representatives in Moscow. The Group subsequently received a fax from the Cyprus director, Petros Livanios, who stated that Ilex Ventures did not have any joint projects with GLBC and did not operate any aircraft jointly with GLBC in the region or elsewhere. Instead, Mr. Livanios noted that Ilex Ventures contacts with GLBC were 'limited to several supplies of aircraft spare parts and units and [sic] single deal in resale of aircraft' ".

Ilex Ventures was in fact the company that, together with GLBC, requested the insurance certificate. The insurance agreement was not signed on November 11, 2004 but actually a year later, November 11, 2005. It is not known whether another insurance policy was bought between the time the aircraft was registered as 9Q-CGQ in DRC (August 30, 2004) and obtained its Airworthiness Certificate (September 1, 2004)

Document 30. Delivery Note of An-12 m/n 4341801



Source: UN Security Council Group of Experts on DRC, s/2008/773, Annexes

Document 31. Ilex Ventures incorporation



Source: Registrar of Companies

<sup>576</sup> UN Security Council Group of Experts, S/2005/30, S71, January 25, 2005.

and the time of the above-mentioned insurance contract (November 11, 2005).

The sole shareholder of Ilex Ventures was Standguard Ltd, a company incorporated in Cyprus June 18, 1996 (n.79647).<sup>577</sup> Standguard was domiciled at 29 Theklas Lisioti Street, Cassandra Centre, Offices 201 & 202, 2<sup>nd</sup> floor, Limassol, Cyprus (it is presently located at 115 Griva Digeni Avenue, Trident Centre, Mesa Yitonia, Limassol 4002, Cyprus, the same address for Mr. Livanios' Trident Trust Company, formerly called Savserv Management).

October 8, 1996 (about three months after the incorporation of Ilex Ventures), Mr. Livanios transferred his share in Ilex to a company called Guardstand Ltd (n. 79646), that had been incorporated in Cyprus June 18, 1996 (the same day in which Standguard was incorporated), and was domiciled in Vironos Avenue, Lordos Center, Block B, 1<sup>st</sup> floor, Limassol, Cyprus.<sup>578</sup>

The An-12 was not, however, sold to GLBC by Ilex Ventures but by another Cyprus-based company, Spectronic Ltd., an entity that, according to further research carried out for this report, shows as having been incorporated in Cyprus on February 20, 2001 (n. 118342)<sup>579</sup> and as being still active. That company signed both the Delivery Note and the Bill of Sale (August 2, 2003) reported in the previous paragraph. Ilex Ventures Ltd was incorporated in Cyprus on September 9, 2000 (n. 114848), some months before Spectronic, and is still active as Ilex Ventures/Silex Ventures Ltd.<sup>580</sup>

The company that insured the aircraft in 2005<sup>581</sup> was the Moscow-based Spasskiye Vorota, at that time one of the main insurance companies in Moscow,<sup>582</sup> and still active. The insurance policy (n. 0700335) was valid until November 11, 2006. One of the clauses in it reads: *"excluding countries subjected to U.N. Sanctions and war areas,"* basically meaning that the aircraft was not insured if operated in DRC. The insurance document recorded the registration number of the insured aircraft as 9Q-CGQ, but did not mention the manufacturing number, leaving in doubt whether or not the insurance company had seen the aircraft's Airworthiness Certificate, where the manufacturing number was entered.

The insurance agreement included a proviso that went unnoticed in the 2005 UN report, a "Loss Payee" clause in the name of a company called in the documents "Technocomplectinvest," domiciled in Presov (Slovakia), Budovateľská 14. The correct name of the company was actually Technocomplektinvest s.r.o, registered in the District Court of Presov December 23, 2004, and domiciled in Prešov at Višňová street n.4 and at Budovateľská street n.14, and still active.<sup>583</sup>

A "Loss Payee Clause" indicates that in case of a payment related to the insured risk, the payment will be made to the Payee and not to the insured company or companies (in this case, GLBC and Ilex). The clause therefore indicated that the aircraft was subject to some form of mortgage or a security interest involving Technocomplektinvest and that the company played some role in the financing of the aircraft. The company had evidently requested the insertion of a "Loss Payee" clause in its name in order to secure its loan or financial participation.

The problem is that Ilex Ltd had apparently no role in the sale of the An-12 sold by Spectronic to GLBC, a sale that happened two and a half years before (August 3, 2003) the date of the insurance agreement

#### Document 32. Anton Klimko as director of companies



Source: IPIS vzw/TransArms, Belgium/USA

<sup>577</sup> Cyprus' Department of Registrar of Companies and Official Receiver.

<sup>578</sup> Cyprus' Department of Registrar of Companies and Official Receiver.

<sup>579</sup> Cyprus' Department of Registrar of Companies and Official Receiver.

<sup>580</sup> Cyprus' Department of Registrar of Companies and Official Receiver.

<sup>581</sup> See: Insurance certificate in S/2008/773, Annexes.

<sup>582</sup> Complete name: Spasskiye Vorota Insurance Group. In 2010, the company has instead been named among the Russian insurers with large debts and failures to make claim payments (see: the news by Ingosstrakh OJSC at [www.ingos.ru/en/news/releases/index.php?id4=4778](http://www.ingos.ru/en/news/releases/index.php?id4=4778))

<sup>583</sup> See: Ministry of Justice of the Slovak Republic, Extract of the Business Register of the District Court Prešov n. 15752/P.

### Box 16. History of Stanguard Ltd<sup>1</sup>

**Registration Number:** C79647; **Date of Registration:** 18/6/1996; **Registered Address:** 29 Theklas Lisioti Street, Cassandra Centre, Offices 201 & 202, 2<sup>nd</sup> floor, Limassol, Cyprus; **Registration Lawyer:** Ms. Dolores Savvidou, Limassol, Cyprus; **Address for Correspondence:** c/o Trident Trust Company (Cyprus) Ltd, Address: 115 Griva Digeni Avenue, Trident Centre, Mesa Yitonia, Limassol 4002, Cyprus, Tel: +357-25820650; **Nominal Share Capital:** £1,000 divided into 1,000 shares of £1 each; **Issued Share Capital:** £2 divided into 2 shares of £1 each; **Shareholders:** Savser Management Ltd

**Registration Number:** C34265, Address: Vironos Avenue, Lordos Center, Block B, 1<sup>st</sup> floor, Limassol, Cyprus, **1 share** Mr. Petros T. Livanios, **Nationality:** Cypriot; **Occupation:** Manager, **ID Number:** 526538; **Date of Birth:** 23/5/1955, Address: 82 Kapodistria Street, Limassol 3032, 1 share, Cyprus; **Director:** Mr. Petros Livanios, Address: 82 Kapodistria Street, Limassol 3032, Cyprus; **Secretary:** Savser Management Ltd, **Registration Number:** C34265, Address: Vironos Avenue, Lordos Center, Block B, 1<sup>st</sup> floor, 3110 Limassol, Cyprus.

**Accounts:** Never submitted publicly

**Accountants:** Not disclosed

**Last Annual Report Submitted:** 2003

- **08/10/1996:** Mr. Petros Livanios transferred his 1 share to Guardstand Ltd., **Registration Number:** C79646, Address: Vironos Avenue, Lordos Center, Block B, 1<sup>st</sup> floor, Limassol, Cyprus
- **05/06/1997:** Mr. Alexandros Alexandrou was appointed as an alternate director of Mr. Petros Livanios.
- Mr. Alexandros Alexandrou, **Nationality:** Cypriot; **Occupation:** Director, Address: 53 Vavilonas Street, Panthea, Limassol
- **15/06/1999:** Savser Management Ltd changed its registered address. The new address is the following: 29 Theklas Lisioti Street, Cassandra Centre, Offices 201 & 202, 3030 Limassol, Cyprus
- **15/06/1999:** New company registered address; 29 Theklas Lisioti Street, Cassandra Centre, Offices 201 & 202, 3030 Limassol, Cyprus
- **01/02/2000:** Ms. Ria Christofidou was appointed as an alternate director of Mr. Petros Livanios. **Nationality:** Cypriot; **Occupation:** Manager, **ID Number:** 537363; **Date of Birth:** 7/10/1955, Address: 17B Costa Partasidi Street, 3030 Limassol, Cyprus
- **01/02/2000:** Mr. Alexandros Alexandrou resigned as an alternate director of Mr. Petros Livanios.
- **01/10/2000:** Ms. Emily Yioliti was appointed as the new director of the company. **Nationality:** Cypriot; **Occupation:** Director, Address: 5 Nikodimou Milona Street, Flat 302, 3095 Limassol, Cyprus
- **01/05/2001:** Ms. Emily Yioliti resigned as a director of the company.
- **11/7/2003:** By a Special Resolution it was decided to alter Article 1 of the Company's Memorandum and Articles of Association.
- **01/01/2004:** Mr. Michael Davies was appointed as an alternate director of Mr. Petros Livanios. **Nationality:** UK; **Occupation:** Manager, **Passport Number:** 014139515; **Date of Birth:** 19/5/1965, Address: 20 Kleovoulou Street, Kapsalos, Limassol 3083, Cyprus
- **12/7/2004:** The company shareholder and company secretary, Savser Management Ltd changed its registered name to 'Trident Trust Company (Cyprus) Ltd, Trident Trust Company (Cyprus) Ltd, **Registration Number:** C34265, Address: 29 Theklas Lisioti Street, Cassandra Centre, 2<sup>nd</sup> floor, Limassol 3030, Cyprus
- **5/7/2006:** Guardstand Ltd transferred their 1 share to Trident Trust Company (Cyprus) Ltd, **Registration Number:** C34265, Address: 29 Theklas Lisioti Street, Cassandra Centre, 2<sup>nd</sup> floor, Limassol 3030, Cyprus

<sup>1</sup> Source withheld. IPIS/TransArms document

(Box 16)

- **1/12/2006:** Mr. Sotiris Strakotta Flourentzos was appointed as an alternate director of Mr. Petros Livanios. **Nationality:** Cyprus; **Occupation:** Lawyer, **ID Number:** 780876; **Date of Birth:** 8/8/1978, Address: 35 Riga Fereou Street, Kanika Fereos House, Flat 104, Limassol 3095, Cyprus
- **1/12/2006:** Mr. Michael Davies resigned as an alternate director of Mr. Petros Livanios.
- **1/1/2008:** By a Special Resolution it was decided to convert the nominal and issued share capital from Cyprus Pounds to the Euro. The nominal share capital is now converted to Euro 1,170 divided into 1,000 shares of Euro 1.71 each share and the issued share is 2 shares of Euro 1.71 each share.
- **25/8/2008:** Mr. Alexis Alexandrou was appointed as an alternate director of Mr. Petros Livanios. **Nationality:** Cyprus; **Occupation:** manager, **ID Number:** 789448; **Date of Birth:** 7/11/1968, Address: 5A lolaou Street, Limassol 30971, Cyprus.
- **25/8/2008:** Mr. Sotiris Strakotta Flourentzos resigned as an alternate director of Mr. Petros Livanios.
- **5/3/2009:** New registered address for company director Mr. Petros Livanios. Address: 7 Amfitrionas Ydraiou Street, Limassol 3022, Cyprus
- **9/3/2009:** Mr. Alexis Alexandrou resigned as an alternate director of Mr. Petros Livanios.
- **9/3/2009:** Mr. Alexis Alexandrou was appointed as a company director. Address: 5A lolaou Street, Limassol 30971, Cyprus
- **26/3/2009:** New company registered address: 115 Griva Digeni Avenue, Trident Centre, Mesa Yitonia, Limassol 4002, Cyprus
- **26/3/2009:** New registered address for company secretary Trident Trust Company (Cyprus) Ltd: 115 Griva Digeni Avenue, Trident Centre, Mesa Yitonia, Limassol 4002, Cyprus
- **26/3/2009:** New registered address for company shareholder Trident Trust Company (Cyprus) Ltd: 115 Griva Digeni Avenue, Trident Centre, Mesa Yitonia, Limassol 4002, Cyprus.

(November 11, 2005) and a year and a half before the date of the incorporation of Technocomplektinvest in Prešov (December 23, 2004). The insertion of Ilex in the insurance certificate can only be explained by way of some link or agreement between Ilex and Spectronic Ltd and between Ilex and Technocomplektinvest.

Technocomplektinvest was and still is headed by a certain Ing. Anton Klimko, named as both partner and managing director, as research for this report has shown. At the act of incorporation (December 23, 2004), the company's capital was 200,000 SK, at that time equal to 50,000 euros. Mr. Anton Klimko was and is the partner or managing director of five other companies incorporated in the Slovak Republic, all with similar corporate capital.<sup>584</sup>

Technocomplektinvest's "business" was given in the incorporation document as extending from "waste disposal to rodent control, disinfection, production of paper and plastic products, production of recycled wood, services, customs broker, providing customs bond, interpretation and translation services, financial leasing, factoring and forfeiting," etc., basically indicating an unlikely sort of company to be financing or mortgaging aircraft.

Mr. Petros Livanios, the named director of Ilex Ventures, held and still holds many other positions in the financial, brokering, metal and precious metal sectors. Some of the positions he has held might be related to something along the lines of an incorporating agent, but others imply a genuine managing role. He is currently or was in the past holder of the following positions (among others): Managing Director of *Trident Trust Company (Cyprus) Ltd*<sup>585</sup> (member of the Cyprus-Russian Business Association)<sup>586</sup> and *Trident Trust Company (Middle East)*;<sup>587</sup> Financial Controller of *Trident Fiduciaries (Middle East) Ltd*<sup>588</sup> (whose business includes providing "aircraft owners with one-stop access to registration in a number

<sup>584</sup> Ministry of Justice of the Slovak Republic, Name Search, accessed March and April 2010.

<sup>585</sup> Incorporated in Cyprus, Registration Number: 34265, dated January 14, 1989.

<sup>586</sup> See: <http://www.cyruba.org/members.html>

<sup>587</sup> Incorporated in Cyprus, Registration Number: 838, dated August 5, 1996.

<sup>588</sup> Located (present address) at PO Box 57398, 115 Griva Digeni Ave. 5th Floor, 3315 Limassol, Cyprus. See: US Security and Exchange Commission, Open Joint Stock company "Vimpel-Communications," [a Russian company, ndr] August, 23, 2004.

### Box 17. GLBC/CAGL, Douglas Mpamo, and the case of EL-WVA

November 12, 2001, GLBC requested DRC authorities for the national identification number for starting commercial air operations in the DRC (enrolled at the "Nouveau Registre de Commerce" with the number 2.316/Goma).<sup>1</sup> October 21, 2003 the North-Kivu authorities granted GLBC a provisional permission (valid for six months) to allow GLBC to carry out commercial operations. The 2006 UN Group of Experts report (S/2006/53) stated that in 2005 GLBC was prohibited from operating in DRC, along with other airlines that "did not comply with the regulations in force."<sup>2</sup> Notwithstanding this, the Group reported in 2006 (S/2006/53 and S/2006/525), GLBC aircraft, including the An-12 9Q-CGQ, were flying from Goma during 2005. GLBC obtained a license for commercial operations in DRC February 15, 2006.<sup>3</sup> GLBC manager Douglas Mpamo, a Congolese national,<sup>4</sup> had already been named (November 11, 2005) in the "Security Council Committee List of Individuals and Entities Subject to Measures Imposed by Resolution 1596 (2005)." The license granted by DRC authorities in 2006 and also one of the insurance agreements for GLBC aircraft, were therefore in breach of the UN Sanctions. It was not until March 29, 2007 that GLBC (and CAGL) were named in the same List.

In an effort to demonstrate that Victor Bout was in fact in control of GLBC/CAGL, the 2005 UN report stated - in the case of an An-8 with m/n OG-3440 and r/n EL-WVA (in 2000)<sup>5</sup> bought by CAGL - that the plane "was sold by Mr. Bout's company Transavia Travel Agency [...] to Compagnie Aérienne des Grands Lacs for 'USD 1.00 and other valuable considerations' on 30 November 2000, according to the bill of sale that Ms. Severin [formal owner of CAGL, ndr] provided to the Group. The bill of sale entitled the seller to ongoing interests in the activities of the plane."<sup>6</sup> As stated in a previous paragraph of this report, the Bill of Sale is associated with the definitive passage of property and no "ongoing interests" by Transavia Travel Agency<sup>7</sup> could be proven on the basis of the Bill of Sale, which actually stated: "...Seller does this 30th day of November 2000, convey, transfer, bargain, sell, and deliver the above-mentioned aircraft to the Buyer and set over at Kigali airport, Rwanda, all the Seller's rights in and to the aircraft, title, and interest, together with all appliances, parts, instruments [...] unto CAGL (Buyer)." This was confirmed by Transavia's letter to CAGL, dated December 14, 2000, in which it was stated: "starting from this date Compagnie Aérienne des Grand Lacs is responsible for any incidents aroused from operation of the above aircraft," signed by Eugene Filin, Deputy General Manager.<sup>8</sup> Victor Bout's Transavia had therefore relinquished its rights to and interests in the plane.

<sup>1</sup> DRC, Province du Nord-Kivu, Division de l'Economie Nationale, n. 28/DIVIEP/M.S/NK2003.

<sup>2</sup> S/2006/53, 27 January 2006, §131.

<sup>3</sup> *Arrete ministeriel* n.409/CAB/MIN/TC/0048/2006 (EU Commission Regulation, March 22, 2006).

<sup>4</sup> Reported by the UN above-mentioned List as born in either Bashali (Masisi Territoire) or Goma 12/28-29 1965. According to UNSC Resolution 1596 (2005), as a DRC national, Mpamo was not forbidden to enter or stay in DRC, but it was Rwanda that should have prohibited entrance of Mpamo in its territory (S13). Mpamo lived in Gysenyi (Rwanda), opposite to Goma (DRC).

<sup>5</sup> The aircraft transported arms and military equipment in violation of the DRC arms embargo (S/2005/30).

<sup>6</sup> See S/2005/30, January 25, 2005, §73.

<sup>7</sup> See S/2001/Based in Sharjah, UAE, PO Box 3962. For Transavia Travel Agency's (TTA) see UN Group of Experts on Liberia, S/2001/1015 (October 26, 2001) §250 and §251 (Leasing Agreement, June 2000, for a Tu-154M between TTA (represented by Mr. Victor Bout) and MoldTransavia (represented by Mr. Pavel Popov). See for the arms trafficking activities of Moldtransavia the same report. The Tupolev, registered in Moldova as ER-TAG by MoldTransavia (MLT, 1998-2001), was previously registered as 3D-RTP (in the fleet of Victor Bout's Air Pass, Swaziland, 1997-1998), then as TL-ACF (Centrafrique Airlines). It was sold to Sanjivan Ruprah's San Air General Trading FZE May 21, 2001, then registered in Bulgaria as LZ-LTV, passed (January 2004-2005) to the Rwanda-based Regional International Air Services (as 9XR-DU), and eventually in Russia as RA-85479 (with the Moscow-based Airlines 400 (ICAO: VAZ) and still active with the Moscow-based Soyuz-Atlantic (ICAO: AVZ) as RA-85740.

<sup>8</sup> Transavia Travel Agency, EL-WVA Bill of Sale and Transavia Travel Agency's letter to CAGL, dated December 14, 2000

of jurisdictions, crewing and personnel services, accounting support and ongoing administration of the ownership structures of individual vessels and aircraft"),<sup>589</sup> Director of Caracter Investments, located at the same address as Ilex's;<sup>590</sup> Director of Grand Financial Holding S.A.;<sup>591</sup> Affiliate Member of Polymetal;<sup>592</sup> Non-

<sup>589</sup> See Trident Trust website, [www.tridenttrust.com](http://www.tridenttrust.com) (visited April 2010)

<sup>590</sup> Caracter Investments and Ilex Ventures are listed ([www.polpred.com/?cnt=758cat=2](http://www.polpred.com/?cnt=758cat=2)) in the Directory of Foreign Firms in Russia (visited March and April 2010).

<sup>591</sup> "A British Virgin Islands company with its principal business address at Mitteldorf 1, P.O. Box 838, FL-9490 Vaduz, Principality of Liechtenstein and in Boulevard Royal 11, Luxembourg L-2449." See: US Security and Exchange Commission, Open Joint Stock company "Vimpel-Communications," [Russia, ndr] August, 23, 2004.

<sup>592</sup> "List of Affiliate Persons," [in Russian], September 9, 2007, "the leading precious metal mining Group in Russia and CIS" see: <http://www.polymetal.ru>.



Photo 8. The 9Q-CGQ at Goma airport - July 2009



Source: Courtesy DRC CAA, July 29, 2009

**Document 34. Aircraft Radio Station License for the An-12 9L-LCR**

Aviation Authority of the Government of Sierra Leone requesting the registration documents of the 9L-LCR-registered aircraft have not yet been answered.”<sup>599</sup>

Further research carried out for this report shows that - contrary to what was stated by Sierra Leone CAA authorities in a meeting with an Amnesty representative<sup>600</sup> - the aircraft was in fact registered in Sierra Leone on September 12, 2002 (Certificate n.11066) by a company called Senic Ltd, with address at PO Box 556, Chartes [sic] Town, Nevis [Saint Kitts & Nevis, Leeward Islands, West Indies, ndr] and domiciled c/o Paramount Airlines (PRR), Mammy Yoko Helipad (IATA: JMY), Aberdeen Village, Freetown, a still active company.<sup>601</sup>

An aircraft radio station license for the 9L-LCR (dated the same day, September 12, 2002, and valid until September 11, 2003), granted by the Civil Aviation Department of Sierra Leone’s Ministry of Transport (CAD/SRLI/004), confirms the ownership and registration of the aircraft.

An insurance certificate for the 9L-LCR dated April 1, 2003 - two months before the crash of the An-12 in Goma - stated that the aircraft was covered until April 31, 2004. The insurer was the Military Insurance Company (BCK), still active in St. Petersburg, Russian Federation. The insured was Senic Ltd. The coverage for damage or loss was equal to USD150,000 and the Third Party legal liability was set at USD1,000,000.<sup>602</sup>

The reasons why GLBC registered its 9Q-CGQ with a manufacturing number belonging to the crashed 9L-LCR are unknown.



Source: IPIS vzw/TransArms, Belgium/USA

**Document 35. Aircraft Insurance for 9L-LCR, April 1, 2003**



Source: IPIS vzw/TransArms, Belgium/USA

<sup>599</sup> S/2008/773, §151-155, dated December 12, 2008.

<sup>600</sup> Visit to CAA, April 24, 2009.

<sup>601</sup> See: JP Airline-fleets International 2008/2009, Paramount Airlines, Mammy Yoko Helipad, Aberdeen, Freetown. See also Sierra Leone National Tourist Board, <http://www.welcometosierraleone.org/transfers.asp>, visited April 2010.

<sup>602</sup> Another document dated May 8, 2002 and issued by Russian Federation’s ministry of Transport certifies the noise level for the AN-12BP with manufacturing number 4341801 (valid until May 8, 2005).

**Table 28. Summary of Events**

2000	September 9	Ilex Ventures Ltd incorporated in Cyprus
2001	February 20	Spectronic Ltd incorporated in Cyprus
	November 12	GLBC requests the DRC authorities for a national identification number, in order to begin commercial air operations
2002	September 12	An Antonov 12 with m/n 4341801 is registered in Sierra Leone with the r/n 9L-LCR by Senic Ltd. The same day it obtains an aircraft radio station license
2003	April 1	Insurance certificate for 9L-LRC. Insurer: Military Insurance Company, BCK (Russia). Insured: Senic Ltd
	May 27	The Antonov 12 with r/n 9L-LCR and m/n 4341801 crashes in Goma
	June 15	Purchase Agreements between Ilex Ventures Ltd and GLBC for the Antonov 32s later registered in DRC as 9Q-CMG and 9Q-CAC
	June 23	Spectronic Ltd (Cyprus) reaches an agreement with GLBC for the sale of the Antonov 12 later registered as 9Q-CGQ
	August 2	Purchase Agreement and Bill of Sale between Spectronic Ltd and GLBC for the Antonov 12 with the purported m/n 4341801, later registered as 9Q-CGQ
	October 21	The North-Kivu authorities grant GLBC a provisional permission (valid for six months) for air commercial operations
2004	August 30	The Antonov 12 with purported m/n 4341801 registered in DRC as 9Q-CGQ
	September 1	The Antonov 12 with r/n 9Q-CGQ obtain the Airworthiness Certificate from DRC authorities
	October 9	Registration and Airworthiness certificate for GLBC's Antonov 32 with r/n 9Q-CMG
	December 23	Technocomplektinvest s.r.o incorporated in Slovak Republic
2005		The UN Group of Experts on DRC (S/2005/30) reports that GLBC is prohibited from operating in DRC, along with other airlines that " <i>did not comply with the regulations in force.</i> " The Group of Experts finds the bills of sale, delivery notes, registration and insurance certificates for GLBC and CAGL aircraft
		The UN Group of Experts on DRC (S/2006/53 and S/2006/525) finds that GLBC aircraft, including the An-12 9Q-CGQ, are continuing to fly from Goma
	March 8	Registration and airworthiness certificate for GLBC's Antonov 32 with r/n 9Q-CAC
	November 11	Insurance Certificates for the Antonov 12 with r/n 9Q-CGQ and the Antonov 32 with r/n 9Q-CAC. Insurer: Spasskiye Vorota (Russia). Insured: GLBC and Ilex Ventures (valid until November 11, 2006). A "Loss Payee" clause is included in the name of Technocomplektinvest s.r.o
	November 11	The "Security Council Committee List of Individuals and Entities Subject to Measures Imposed by Resolution 1596 (2005)" includes Douglas Mpamo
2006	February 15	GLBC obtains from DRC authorities a license for air commercial operations
	March 17	Insurance Certificate for the Antonov 32, with r/n 9Q-CMG. Insurer: Spasskiye Vorota. Insured: GLBC. No "Loss Payee" clause is included
2007	March 29	The "Security Council Committee List of Individuals and Entities Subject to Measures Imposed by Resolution 1596 (2005)" includes GLBC and CAGL
2008	September/ October	The Group of Experts on DRC (S/2008/733) inspect the 9Q-CGQ and the wreckage of the 9L-LRC

## Part III - Airlines and Aviation Laws

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Kalitta Air cargo aircraft refueling at Bagram Airfield, Afghanistan, Dec. 21, 2010. Kalitta Air is included in the DoD CRAF International Airlift Services. On May 25, 2008, a Kalitta Air Boeing 747-200, registration N704CK, overran runway 20 after a rejected takeoff at Brussels International Airport, Brussels, Belgium. On July 7, 2008, a Boeing 747-200 freighter, N714CK, operated by Kalitta Airlines as a wet lease to Centurion Air, impacted terrain and was substantially damaged during a presumed forced landing about 8 kilometers north of the El Dorado International Airport in Bogota, Columbia. On August 26, 2008, a Boeing 747-209B, N715CK, operated by Kalitta Air as Centurion Air Cargo flight 164, experienced a loss of power from the number 3 engine shortly after takeoff. Under the US Department of Transport Special Permit DOT-SP 9551 (valid until February 2011) Kalitta Air had received authorization to transport "in commerce of certain Division 1.1, 1.2, 1.3 and 1.4 explosives which are forbidden or exceed quantities authorized for transportation by cargo aircraft only". (Credit: DoD photo by U.S. Air Force Senior Airman Sheila deVera.)

## 11. Weapons by Air: International and National Regulations

Transport of weapons by air is regulated by various national and international agreements and laws, to which air carriers must abide in their activities and are mostly related with the safety of air transport and air space. In the last years, under the pressure of international campaigns for the control of the arms trade, States and international organizations, as well air transport-related associations have proposed set of measures that could in the future become the basis for new legislations.

### 11.1 The Chicago Convention (ICAO)

Article 35 of the ICAO Convention states that “no munitions of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State”<sup>603</sup>. It states furthermore that “each State shall determine by regulations what constitutes munitions of war or implements of war for the purposes of this Article”<sup>604</sup>. Some States define “munitions of war” very strict, usually as weapons, ammunitions or article containing an explosive or any noxious liquid or gas. According to this definition “munitions of war” are “dangerous goods”<sup>605</sup> and are therefore regulated by the Dangerous Goods Regulations. Annex 18 of the Chicago Convention – “The Safe Transport of Dangerous Goods by Air” – puts forward broad principles governing the international transport of hazardous materials by air. Annex 18 is augmented by ICAO’s “Technical Instructions on the Safe Transport of Dangerous Goods by Air”. Other States will define “munitions of war” more broadly and will include any weapon made for war, therefore also including inert objects which do not pose a direct threat to aviation safety (e.g. small arms, machine guns). For obvious reasons inert weapons do not fall under the dangerous goods regulations.

Photo 9. The Chicago Convention, the birth of ICAO. Chicago Conference, Final Plenary Session, December 7, 1944



Source: ICAO, the postal history of ICAO

### 11.2 The European Union

Regulation (EC) N° 3922/1991<sup>606</sup> provides for common aviation safety standards (EU-OPS) with respect to the design, manufacture, operation and maintenance of civil aircraft. EU-OPS came into effect on July 16, 2008. These common technical requirements and administrative procedures applicable to civil air transportation are based on a set of harmonized rules adopted by the Joint Aviation Authorities (JAA)<sup>607</sup> and called Joint Aviation Requirements for Commercial Air Transportation (Aeroplanes) (JAR-OPS1)<sup>608</sup>. The JAA was an associated body of the intergovernmental European Civil Aviation Conference (ECAC)<sup>609</sup>, and represented “the civil aviation regulatory authorities of a number of European States who have agreed

<sup>603</sup> Article 35, Convention on International Civil Aviation, Doc 7300/8.

<sup>604</sup> Ibidem.

<sup>605</sup> Articles or substances which are capable of posing a risk to health, safety, property or the environment.

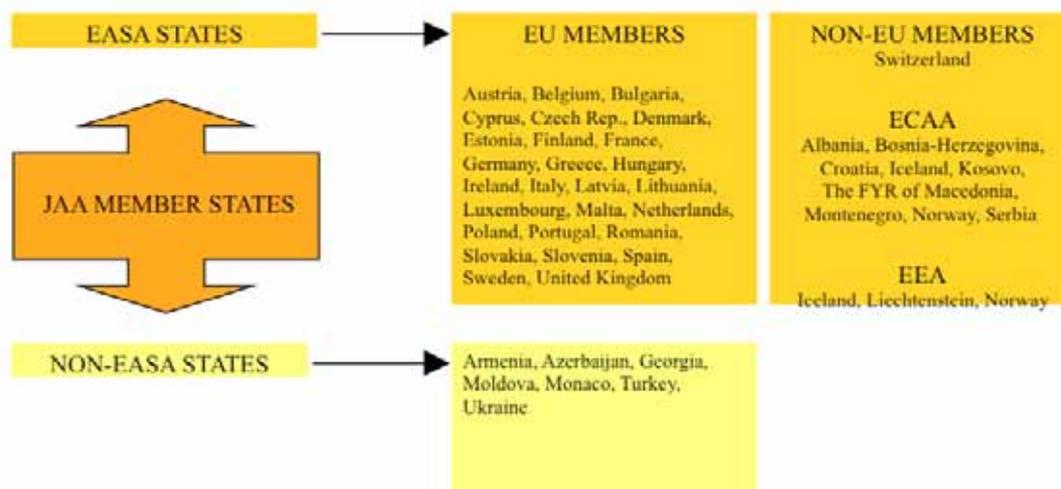
<sup>606</sup> “Council Regulation (EEC) N° 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation.” Amended by Regulation (EC) N° 1899/2006 of 12 December 2006, Regulation (EC) 1900/2006 of 20 December 2006, Regulation (EC) N° 8/2008 of 11 December 2007, Regulation (EC) N° 859 of 20 August 2008.

<sup>607</sup> Thirty-five full Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom. 7 candidate Member States: Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, The former Yugoslav Republic of Macedonia, and Ukraine ([www.jaa.nl](http://www.jaa.nl)).

<sup>608</sup> Regulation (EC) N° 8/2008: S2.

<sup>609</sup> Founded in 1955. The forty-two Member States are: Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Monaco, Netherlands,

**Figure 1. JAA Member States<sup>1</sup>**



<sup>1</sup> ECAA = European Common Aviation Area. ECAA is an expansion of the Single European Sky and based on free market access, freedom of establishment, equal conditions of competition, and common rules including in the areas of safety, security, air traffic management, social and environment. (Multilateral Agreement between the European Community and its Member States, the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, Romania, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo on the establishment of a European Common Aviation Area, 9 June 2006.); EEA = European Economic Area. The EEA is an area of free trade and free movement of peoples comprising the member states of the European Union, in addition to: Norway, Iceland and Liechtenstein. (Agreement on the European Economic Area, May 1992.); Abkommen zwischen der Schweizerischen Eidgenossenschaft und der Europäischen Gemeinschaft über den Luftverkehr, 21 Juni 1999.

to co-operate in developing and implementing common safety regulatory standards and procedures<sup>610</sup>. Since March 19, 2008 the European Commission and the European Aviation Safety Agency (EASA) have taken over all the responsibilities previously held by JAA.<sup>611</sup>

Article 66 of Regulation (EC) N° 8/2008 allows for the participation of European third countries in EASA, in order to maintain common European aviation safety regulatory standards and procedures. To participate, the non-EASA JAA Member States will have to enter into negotiations with:

- the European Commission to conclude an association agreement, or
- the European Commission and each associated state to conclude Bilateral Air
- Safety Agreements (BASA).<sup>612</sup>

The basic difference between the aviation safety standards adopted by JAA and EASA is that the rules issued by EASA are directly applicable throughout the Community.

EU-OPS prescribe the following procedures with regard to the transport of arms and ammunition<sup>613</sup>:

**OPS 1.065 Carriage of weapons of war and munitions of war**

- An operator shall not transport weapons of war and ammunitions of war by air unless an approval to do so has been granted by all States concerned<sup>614</sup>;
- An operator shall ensure that weapons of war and munitions of war are: (1) stowed in the airplane in a place which is inaccessible to passengers during flight; and (2) in the case of firearms, unloaded, unless, before the commencement of the flight, approval has been granted by all States concerned

Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom. ([www.ecac-ceac.org](http://www.ecac-ceac.org))

<sup>610</sup> [www.jaa.nl/introduction/introduction.html](http://www.jaa.nl/introduction/introduction.html)

<sup>611</sup> "Regulation (EC) No 216/2008 of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC".

<sup>612</sup> Final Report of the FUJA II Working Group, p. 15.

<sup>613</sup> "Regulation (EC) N° 1899/2006 of 12 December 2006 amending Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation."

<sup>614</sup> The State of origin, transit, over-flight and destination.

that such weapons of war and munitions of war may be carried in circumstances that differ in part or in total from those indicated in this subparagraph;

- An operator shall ensure that the commander is notified before a flight begins of the details and location on board the aeroplane of any weapons of war and munitions of war intended to be carried.

#### **OPS 1.070 Carriage of sporting weapons and ammunition**

- An operator shall take all reasonable measures to ensure that any sporting weapons intended to be carried by air are reported to him;
- An operator accepting the carriage of sporting weapons shall ensure that they are:
- stowed in the airplane in a place which is inaccessible to passengers during flight unless the Authority has determined that compliance is impracticable and has accepted that other procedures might apply; and
- in the case of firearms or other weapons that can contain ammunition, unloaded.
- Ammunition for sporting weapons may be carried in passengers' checked baggage, subject to certain limitations, in accordance with the Technical Instructions (see OPS 1.1160(b)(5)) as defined in OPS 1.1150(a)(15).

EU-OPS has been in force since July 16, 2008 in the European Member States and the EASA Member States.<sup>615</sup> These rules were adopted by JAA in 1995 through the issuance of JAR-OPS1.<sup>616</sup> It is not known which JAA system Member States implemented JAR-OPS1. And so it is also unknown which air operators were obliged to comply. It should be kept in mind that only operators registered in a JAA system Member State that had adopted JAR-OPS1 were affected or otherwise specified by the law.

The biggest flaws in this system, therefore, had to do with the existence of (a) operators from non-member states of the JAA system and (b) JAA system member states that did not adopt JAR-OPS1. For example, when an operator Z from a non-JAR-OPS1 country X arrived in a country Y that had adopted JAR-OPS, rules 1.065 and 1.070 did not apply to foreign operator Z.<sup>617</sup> EU-OPS, being European Community legislation, will address point (b). EASA Member States will have to specify in their regulations whether any of these rules also apply to operators registered abroad.

### **11.3 Wassenaar Arrangement**

In 2007 the Participating States of the Wassenaar Arrangement adopted "Best Practices to Prevent Destabilising Transfers of Small Arms and Light Weapons (SALW) through Air Transport." Excluded from these Best Practices was the air transport of SALW by government, military or government-chartered aircraft. Therefore, "Best Practices" only cover the non-governmental air transport of SALW. The "Best Practices" propose the following measures:

- *"2.1. When issuing an export licence for SALW, each Participating State may require additional information on air transport to be provided by the exporter to the relevant authorities prior to the actual export taking place.*
  - Air carrier and freight forwarding agent
  - Aircraft registration and flag
  - Flight route to be used and planned stopovers
  - Records of previous similar transfers by air
  - Compliance with existing national legislation or international agreements relating to air transport of weapons.
- *"2.2. When a Participating State knows about an exporter, air carrier or agent that **failed to comply** with the requirements mentioned in 2.1 when requested to do so, or about an **identified destabilising attempt** to export SALW by air, and if the planned export of SALW is assessed by it to contribute to a destabilising accumulation or to be a potential threat to security and stability in the region of destination, the related **relevant information** shall be **shared** with other Participating States as appropriate.*

<sup>615</sup> Council Regulation (EC) N° 8/2008.

<sup>616</sup> Email Joint Aviation Authority, 12 June 2008.

<sup>617</sup> Telephone conversation Belgian Civil Aviation Authority, 20 June 2008.

- “2.3. Each Participating State’s relevant authorities may require the exporter to submit **a copy of the certificate of unloading** or of any other relevant document confirming the delivery of SALW, if they have been exported from or landed on or departed from an airport/airfield on their national territory or if they have been transported by their flag aircraft.
- “2.4. Participating States may take appropriate action to prevent circumvention of national controls and scrutiny, including **exchange of information** on a voluntary basis about exporters, air carriers and agents that failed to comply with the requirements of 2.1 and 2.3 above when requested to do so, and about cases of transit or transshipment by air of SALW that may contribute to a destabilising accumulation or be a potential threat to security and stability in the region of destination.
- “2.5. Whenever a Participating State has information indicating that an aircraft’s cargo includes SALW, and that its flight plan includes a destination subject to a UN arms embargo or located in a conflict zone, or that the exporter, the air carrier or agent concerned is suspected of being involved in destabilising transfers of SALW by air or has failed to comply with the requirements in 2.1 or 2.3 when requested to do so, the case should be referred to the **relevant national enforcement authorities**.”<sup>618</sup>

## 11.4 The French Initiative in the OSCE<sup>619</sup>

The French initiative<sup>620</sup> focuses on the illicit transport by air of SALW and their ammunition. The initiative highlights several factors, which, according to the “French non-paper on illicit air transport of SALW and their ammunitions,” makes sanction-busting activities possible:

- The absence of national regulations governing air transport of SALW
- Non-capacity of certain States to control airspace
- Deregulation of the industry
- Liberalization of the industry
- Globalization
- The French initiative offers a three-stage approach:
- “**Stage 1:** Exchange of information between the States on their national legislative and regulatory arrangements, which could lead to the development of co-operation mechanisms, and the definition of a national point of contact;
- “**Stage 2:** Create a climate of confidence in which to establish a public-private partnership based on responsible dialogue between the industries of air cargo transportation or between the competent international or regional organisation to determine the types of measures to promote, in regard with the existing regulations and the economic demands belonging to the air transport of goods;
- “**Stage 3:** Establishment of a best practice guide”<sup>621</sup>

## 11.5 Samples of National regulations<sup>622</sup>

### 11.5.1 Europe

#### 11.5.1.1 Belgium

In Belgium the import, export and transit of military equipment and the illegal trade in military equipment are regulated by the Law of August 5, 1991.<sup>623</sup> This law is complemented by the Royal Decision of March 8, 1993.<sup>624</sup> The 1993 Decision stipulates that:

- On export or transit of military equipment the following information needs to be provided to the services of the *l’Inspection générale économique* of the Ministry of Economic Affairs (art. 9):

<sup>618</sup> Wassenaar Arrangement, “Best Practices to Prevent Destabilising Transfers of SALW through Air Transport”, 2007.

<sup>619</sup> “Organization for Security and Cooperation in Europe. French non-paper on illicit air transport of SALW and their ammunitions”, 22 May 2006, EF.DEL/33/06.

<sup>620</sup> “French non-paper on illicit air transport of SALW and their ammunitions”, 22 May 2006, EF.DEL/33/06.

<sup>621</sup> Ibid.

<sup>622</sup> For all European Union member countries EU-OPS1 has become mandatory. The import, export or transshipment of arms and ammunition is regulated by separate regulations. All these countries discussed demand an import, export or transshipment licence. In this section, only transport regulations are discussed

<sup>623</sup> “Loi relative à l’importation, à l’exportation, au transit et à la lutte contre le trafic d’armes, de munitions et de matériel devant servir spécialement à un usage militaire ou de maintien de l’ordre et de la technologie y afférente, 5 août 1991.” Amended by the Law of 25 March 2003 and the Law of 26 March 2003.

<sup>624</sup> Arrêté royal réglementant l’importation, l’exportation et le transit d’armes, de munitions et de matériel devant servir spécialement à un usage militaire ou de maintien de l’ordre et de la technologie y afférente, 8 mars 1993. Amended by the Royal Decision of 2 April 2003.

- Mode of transport;
  - Customs clearance office;
  - Day, hour and place of departure from the territory; and,
- (b) All aircraft that transport weapons, ammunition or military equipment must, before departure, provide the customs authorities with a cargo manifest that includes (art. 10 §2):
- Aircraft nationality marks;
  - Aircraft registration marks;
  - Places of embarkation and debarkation;
  - All ports of call.<sup>625</sup>

Moreover permission must be obtained to transport weapons on board an aircraft.<sup>626</sup>

#### 11.5.1.2 Ireland

The Air Navigation (Carriage of Munitions of War, Weapons and Dangerous Goods) Order, 1973<sup>627</sup> (and as amended in 1989)<sup>628</sup> prohibits the carriage of munitions of war by aircraft overflying or registered in Ireland (art. 5 and 6). The Order defines “munitions of war” as “*weapons and ammunition designed for use in warfare and includes parts of or for such weapons and ammunition*” (art. 6). Under article 5 of the Order the Minister for Transport is empowered to exempt specified aircraft from this prohibition and allow them to carry munitions of war.

#### 11.5.1.3 Netherlands

In the Netherlands the air transport of SALW and ammunition is regulated by arms control legislation<sup>629</sup> (Law Arms & Ammunition - LAA). The transport<sup>630</sup> of SALW of categories II<sup>631</sup> and III<sup>632</sup> and their ammunition is prohibited without a permit issued by the Royal Marechaussee at Schiphol (art. 22, LAA). Moreover, to handle SALW and ammunition, an entity needs a certificate (“*erkenning*”) (art. 9, LAA). The police chief where the entity has its office issues this certificate (art. 9 §4). Therefore only certified transporters can transport SALW and their ammunition. The certificate is valid for a maximum of five years. In addition, a “consent” is needed from Customs<sup>633</sup> for their import, export and transshipment (Art. 14, LAA). The “consent” is valid for only one single import, export or transshipment.<sup>634</sup>

#### 11.5.1.4 Russian Federation

The transport by air of small arms in the Russian Federation is regulated by the “Federal Aviation Rules - The Safe Transportation of Dangerous Goods and Weapons by Air (FAP-OG).”<sup>635</sup> These rules also apply to weapons and ammunition that do not pose a danger to flight safety.<sup>636</sup> Commercial air operators involved in the transport of dangerous goods and weapons need to have a certificate of compliance and a license awarded according to the procedures of the Russian Federation.<sup>637</sup>

On acceptance of dangerous goods and weapons the air operator needs to receive a “Shipper’s Declaration for Dangerous Goods and Weapons,” and must physically inspect the cargo.<sup>638</sup> The goods

<sup>625</sup> “Aucun aéronef, de quelque nationalité que ce soit, qui transporte des armes, des munitions ou du matériel visés à l’article 2, ne peut décoller, avant qu’ait été présenté aux autorités douanières un manifeste de marchandises qui, en plus de marques de nationalité et d’immatriculation et des lieux de chargement et de déchargement, mentionne, toutes les escales.”

<sup>626</sup> 27 Juin 1937. - Loi portant révision de la loi du 16 novembre 1919 relative à la réglementation de la navigation aérienne: article 29.

<sup>627</sup> S.I. No. 224/1973.

<sup>628</sup> S.I. No. 130/1989.

<sup>629</sup> The arms control legislation in the Netherlands consists of the Law of 5 July 1997 “*Wet houdende regels inzake het vervaardigen, verhandelen, vervoeren, voorhanden hebben, dragen enz. van wapens en munitie*” (hereafter, Law Arms & Ammunition), the “*Regeling Wapens en Munitie*” of 4 July 1997, and the “*Circulaire Wapens en Munitie 2005*” of 15 July 2005.

<sup>630</sup> “Transport of a weapon: the carriage of a weapon in a public space that is packaged as such that it cannot be immediately used.”

<sup>631</sup> Automatic weapons, pepper spray, anti-tank guns, etc. All weapons which are restricted to the Army and law enforcement.

<sup>632</sup> Hunting and sporting weapons.

<sup>633</sup> More specifically the ‘Centrale Dienst voor In- en Uitvoer’ (CDIU) of the Ministry of Finance.

<sup>634</sup> Telephone conversation Koninklijke Marechaussee, 20 June 2008; Telephone conversation Ministry of Justice, 20 June 2008.

<sup>635</sup> “ФЕДЕРАЛЬНЫЕ АВИАЦИОННЫЕ ПРАВИЛА - Безопасная перевозка опасных грузов и оружия по воздуху (ФАП - ОГ)” [translation: FEDERAL AVIATION REGULATIONS - Safe transport of dangerous goods and weapons in the air (FAP - OG)]

<sup>636</sup> *Ibidem*: art. 1.1.

<sup>637</sup> *Ibidem*: art. 8.1.1.

<sup>638</sup> *Ibidem*: art. 8.2.1.

must be packed, marked and labeled accordingly.<sup>639</sup> If packaging is mislabeled, damaged or tampered with, the goods cannot be accepted for shipment.<sup>640</sup>

Air operators need to keep an acceptance checklist. One copy of the checklist accompanies the dangerous goods and weapons, the other copy is kept by the air operator.<sup>641</sup> Prior approval needs to be obtained from all States involved.<sup>642</sup> For international flights the air operator needs to:

- submit to customs
  - The nature of the cargo: description, UN numbers, quantity...
  - Flight details: dates, route...
- submit data to civil aviation on clearance permits by the competent bodies of the various States involved if the cargo falls into one of the following categories:
  - Transport forbidden;
  - Explosives;
  - Weapons, incl. arms and ammunition;
  - Narcotics;
  - Other substances whose transport is restricted.<sup>643</sup>

#### 11.5.1.5 United Kingdom

In the United Kingdom, Air Navigation Order 2005 (CAP 393) regulates the transport of SALW.<sup>644</sup> Its regulations are applicable to all aircraft registered in the UK and all foreign-registered aircraft operating within UK airspace. According to article 69 of Air Navigation Order 2005:

- “(1) an aircraft shall not carry any munition of war unless:
  - such munition of war is carried with the written permission of the CAA; and
  - the commander of the aircraft is informed in writing by the operator before the flight commences of the type, weight or quantity and location of any such munition of war on board or suspended beneath the aircraft and any conditions of the permission of the CAA.” The commander of an aircraft “flying under and in accordance with the terms of a police air operator’s certificate” needs to be informed of (1) (a) but “he need not be informed in writing”.<sup>645</sup>

The United Kingdom defines munition of war as:

- “(i) any weapon or ammunition;
- “(ii) any article containing an explosive, noxious liquid or gas; or
- “(iii) any other thing which is designed or made use in warfare or against persons, including parts, whether components or accessories, for such weapon, ammunition or article.”<sup>646</sup>

JAR-OPS 1.065 was also applicable (approval had to be obtained from all States involved) until July 16, 2008, when EU-OPS came into force.<sup>647</sup> Approval is obtained from the Dangerous Goods Office by submitting the following forms:

- DGO 24a “Application to Carry Munitions of War and/or Class 1 Dangerous Goods”
- DGO 48 “Application for Approval/Permission to Transport Munitions of War by Air” (Operators of UK registered aircraft) or
- DGO 49 “Application for Long Term Permission to Transport Munitions of War by Air” (Operators of Aircraft not registered in the UK).

<sup>639</sup> Ibidem: art. 8.4.2

<sup>640</sup> Ibidem: art. 8.4.3.

<sup>641</sup> Ibidem: art. 8.3.

<sup>642</sup> <http://www.unicom-cargo.ru/info/6.htm>.

<sup>643</sup> <http://www.unicom-cargo.ru/info/6.htm>.

<sup>644</sup> “CAP 393 Air Navigation: The Order and the Regulations”, United Kingdom, 31 January 2008.

<sup>645</sup> CAP 393: art. 69 §1-2.

<sup>646</sup> Article 69, *Op. Cit.*

<sup>647</sup> Email conversation Dangerous Goods Office, Civil Aviation Authority, UK, 09 June 2008 – 20 June 2008; “CAP 668 Transport by Air of Dangerous Goods, Munitions of War, Sporting Weapons and Animals”, September 2004.

If the munitions of war are also dangerous goods, the Air Navigation (Dangerous Goods) Regulations 2002 also apply. Forms DGO 48 and 49 are used “for operators that wish to apply for longer-term approvals to carry munitions of war rather than for a specific consignment.”<sup>648</sup>

## 11.5.2 Americas

### 11.5.2.1 North America: United States of America

Under Title 18 §922 of the U.S. Code of Federal Regulations only licensed importers, licensed manufacturers or licensed dealers are allowed to engage in the business of importing, manufacturing or dealing in firearms and ammunition; or, in the course of such business, to ship, transport, or receive any firearm in interstate or foreign commerce.<sup>649</sup> Licensed importers, licensed manufacturers, licensed dealers or licensed collectors are only allowed to ship or transport firearms in interstate or foreign commerce to licensed importers, licensed manufacturers, licensed dealers or licensed collectors.<sup>650</sup>

In addition, no person may knowingly deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped [Title 27 U.S.C. §478.31 subsection (a)] [Title 18 U.S.C. §922 subsection (e)]. The container which contains a firearm needs to be unmarked. [Title 27 U.S.C. §478.31 subsection (b)]. Furthermore it is unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm [Title 27 U.S.C. §478.31 subsection (d)] [Title 18 U.S.C. §922 subsection (f)(2)].

The Department of Defense (DoD) also has some specific policies with regard to the movement of SALW. The transportation and movement of military materiel on aircraft owned and controlled by the DoD is governed by Defense Transportation Regulation (DTR) 4500.9-R, Part II, Cargo Movement. Under DoD policy the majority of conventional portable weapons are deemed sensitive,<sup>651</sup> and specific guidelines apply: Chapter 205 of the DTR.<sup>652</sup> Movement of government-owned *individual carry-on* weapons aboard commercial aircraft in scheduled and chartered services by the DoD is handled by Appendix S<sup>653</sup> of the DTR. The latter will not be discussed.

Chapter 205. The DoD groups conventional Arms, Ammunition and Explosives (AA&E) into five shipment categories:

- **Category I** (highest security risk) includes man-portable rockets and missiles in a ready-to-fire configuration (carrier or launcher tube with explosive rounds jointly stored together): e.g. AT-4, 66mm LAW Rockets, Stingers and Javelins;
- **Category II** includes missiles and rockets that are crew-served or require platform mounted launchers or other equipment to function, light automatic weapons, machine guns, fragmentation grenades, anti-tank or anti-personnel mines, plastic explosives, TNT or military dynamite;
- **Category III** includes launch tubes and gripstocks for Stingers, mortar tubes up to and including 81mm, incendiary grenades, and blasting caps.
- **Category IV** includes shoulder-fired weapons if they are not fully automatic. It also includes handguns, ammunition with non-explosive projectiles, illumination grenades, tear gas grenades and smoke grenades.

<sup>648</sup> Email Dangerous Goods Office, Civil Aviation Authority, UK, 24 June 2008.

<sup>649</sup> Title 18 U.S.C. §922 (a) (1).

<sup>650</sup> Title 18 U.S.C. §922 (a) (2).

<sup>651</sup> DTR 4500.9-R, Part II, Cargo Movement: p. II-lxiv

<sup>652</sup> “Movement of Conventional Arms, Ammunition and Explosives, Classified (Secret and Confidential), Sensitive and Controlled Cryptographic Items”, Chapter 205, DTR 4500.9-R, Part II; “Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives”, DOD 5100.76-M; see also Appendix E (DTR 4500.9-R) “Security Assistance Program Shipments: Foreign Military Sales and Grant Aid”.

<sup>653</sup> “Procedures for Transporting Government-Owned Ammunition, and Hazardous Materials aboard Commercial Aircraft in Scheduled and Charter Service”, Appendix S, DTR 4500.9-R, Part II.

- **Category U** (lowest security risk) includes all other Controlled Item Inventory Codes not otherwise identified to Categories I through IV.<sup>654</sup>

Arms, Ammunition and Explosives (AA&E), classified (secret and confidential) and sensitive, require Transportation Protective Service (TPS) shipping. The TPS guidelines in Chapter 205 of the DTR are the minimum requirements.<sup>655</sup> Brokers and freight forwarders are not to be used in the movement of DoD AA&E cargo.<sup>656</sup> The table below gives the minimum DoD security standards for the shipment of AA&E by air:

**Table 29. Minimum DoD Security Standards for the Shipment of AA&E by Air**

<b>Category I</b>	<b>Category II</b>	<b>Categories III, IV UNCAT Class 1.1 1.3 explosives</b>
1. Protective Security Service while aircraft on ground at commercial airports. For Air Mobility Command (AMC) movements, Constant Surveillance Service (CIS) applies.	1. Constant Surveillance Service (CIS).	1. Constant Surveillance Service (CIS).
2. Shipments by air freight, air taxi.	2. Shipments by air freight, air taxi.	2. Shipments by air freight, air taxi.
3. Shipper escort to carrier and immediate pick-up at destination.	3. Shipper escort to carrier and immediate pick-up at destination.	3. Shipper escort to carrier and immediate pick-up at destination.
4. Banded/locked and sealed, if practicable. However, for commercial air freight, banded/locked and sealed is required.	4. Banded/locked and sealed, if practicable. However, for commercial air freight, banded/locked and sealed is required.	4. Banded/locked and sealed, if practicable. However, for commercial air freight, banded/locked and sealed is required.
5. Seals applied by Shipper.	5. Seals applied by Shipper.	5. Seals applied by Shipper.

Source: Table 205-13, Chapter 205, DTR 4500.9-R.

A. Protective Security Service (PSS)<sup>657</sup>: PSS requires continuous attendance and surveillance of a shipment by two qualified pilots. PSS must be provided by a Defense Security System (DSS) cleared carrier, qualified by Military Surface Deployment and Distribution Command (SDDC). Cleared and qualified carriers furnishing PSS must:

- “a. Ensure at least one pilot remains in the aircraft, or remains within 25 feet of the aircraft, during brief stops, provided the vehicle is within full, constant, and unobstructed view;
- b. Maintain a DD Form 1907 or equivalent carrier-furnished signature and tally record;
- d. For classified shipments, where time or distance does not permit delivery during the same day of pickup, comply with the following procedures:
  - Continuous observation is not required while the aircraft is in flight provided the shipment is in a compartment that is inaccessible to unauthorized persons or is in a secure, sealed, safe-like container.
  - When a shipment is unloaded from a conveyance at a storage site, it must be under the constant attendance and surveillance of a qualified carrier representative or placed in storage in a closed area, vault, or strong room approved by the DSS.”

B. Constant Surveillance Service (CIS)<sup>658</sup>: CIS requires constant surveillance and custody of a shipment by a qualified carrier representative.

<sup>654</sup> DTR 4500.9-R, Part II, Cargo Movement: p. II-ixiv; “Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives”, Appendix 1, DOD 5100.76-M.

<sup>655</sup> Chapter 205, paragraph A.3.

<sup>656</sup> Chapter 205, paragraph B.3.

<sup>657</sup> Chapter 205, paragraph 0.4.

<sup>658</sup> Chapter 205, paragraph 0.1.

- “b. For air shipments, carriers providing CIS must:
  - Maintain a DD Form 1907 or equivalent carrier-furnished signature and tally record;
  - For parked aircraft with TPS material on board, ensure the aircraft is parked within the confines of a commercial airport that has access control under FAA rules and guidelines or on a military installation or DOD contractor location. If the aircraft is parked anywhere else, or if the classified/sensitive cargo is removed from the aircraft or awaiting loading or unloading, the shipment must be under required degree of observation by employees of the airline transporting it as required by the terminal standards for PSS or CIS. As an alternative to observation, the shipment may be placed in a secure holding area in accordance with Paragraph V;
  - Observation of the shipment is not required during the period it is stored in an aircraft in connection with flight. Observation is required during loading and unloading operations and at any intermediate stops along the flight route.”

Small quantities (15 or fewer) of small arms and small arms ammunition Category II through IV can be transported by a commercial carrier providing CIS (as the only required transportation protective service) when placed in a locked and sealed container. An acceptable alternative to CIS for arms is the use of registered mail (return receipt requested) when the size and weight meet USPS requirements.<sup>659</sup>

Small quantities of handguns (15 or fewer) may be sent via USPS Registered Mail, Return Receipt Requested.<sup>660</sup>

### 11.5.2.2 Central America: Barbados, El Salvador, Jamaica, Trinidad and Tobago, Nicaragua

#### 11.5.2.2.1 Barbados.

Under Regulation No. 69 weapons of war or munitions of war<sup>661</sup> can only be carried on an aircraft after prior approval by all States concerned.<sup>662</sup> In Barbados, approval can only be given by the Barbados Civil Aviation Department.<sup>663</sup>

The application should be submitted 10 working days before the intended flight. The air operator needs to submit the applicant’s personal details, the flight details and the details concerning the weapons/munitions of war to be carried.<sup>664</sup>

#### 11.5.2.2.2 El Salvador

The Civil Aviation Regulations with regard to arms and ammunition are contained in RAC-OPS2 “*Regulaciones de Operaciones de Transporte Aéreo Comercial Aviones – Parte II*”.

OPS 2065 prohibits the transport of weapons and munitions of war aboard passenger aircraft. In exceptional cases the transport of weapons and munitions of war aboard cargo aircraft is allowed subject to the limitations on the handling of dangerous goods.

An operator shall ensure that the commander is notified before a flight begins of the details and location on board the airplane of any weapons of war and munitions of war intended to be carried, and approval of all affected States has been obtained.<sup>665</sup>

OPS 2070 which regulates the transport of sporting weapons and ammunition follows JAR-OPS 1.070.<sup>666</sup> (See *supra*: EU-OPS.)

<sup>659</sup> Chapter 205, paragraph G.1.

<sup>660</sup> For practical details see chapter 205, paragraph G.4.

<sup>661</sup> “A weapon of war or munition of war means any device containing an explosive or any noxious gas, liquid or other thing designed or made for use in warfare against persons, including parts whether components or accessories for such weapon, ammunition or articles”; “*Civil Aviation (Air Operator Certification and Administration) Regulations*”, Barbados, 2007: Regulation 71.

<sup>662</sup> “*Civil Aviation (Air Operator Certification and Administration) Regulations*”, Barbados, 2007: Regulation 69.

<sup>663</sup> Civil Aviation Act, 2004, Barbados: art. 7.

<sup>664</sup> “*Transport of Munitions of War by Air*”, Operations Advisory Circular, BCAD Document OAC-009.

<sup>665</sup> “SECCIÓN OPS. 2065 Transporte de armas y municiones: a) Se prohíbe el transporte de armas o municiones en aeronaves que transportan pasajeros. b) Excepcionalmente se podrá permitir el transporte de armas o municiones en aviones que transportan carga y sujeto a las limitaciones sobre el trámite de mercancía peligrosa. El operador garantizará que se notifiquen al piloto al mando, antes del inicio del vuelo, los detalles y ubicación a bordo del avión, de cualquier arma de guerra y munición que se pretenda transportar, y que se hayan conseguido las aprobaciones de los Estados afectados”.

<sup>666</sup> “SECCIÓN OPS. 2070 Transporte de armas y municiones para uso deportivo: a) El operador tomará todas las medidas razonables para garantizar que se le informe de la intención de transportar por aire cualquier arma para uso deportivo. b) El operador que acepte el transporte de armas para uso deportivo garantizará que: 1) Se ubiquen

### 11.5.2.2.3 Jamaica

Air operators are not allowed to transport munitions of war by air unless prior approval has been granted by the Civil Aviation Authority:

*Munitions of war shall not be carried on an aircraft unless the munitions of war are carried with the written permission of the Authority and in accordance with the Eighteenth<sup>667</sup> and Twentieth<sup>668</sup> Schedules and any other conditions imposed by the Authority relating thereto<sup>669</sup>;*

Weapons of war cannot be carried on an aircraft in any compartment to which passengers have access.<sup>670</sup> "Munitions of War" are defined as: "any weapon, ammunition or article containing an explosive or any noxious liquid, gas or other thing which is designed or made for use in warfare or against persons, including parts, whether components or accessories, for such weapon, ammunition or article."<sup>671</sup>

### 11.5.2.2.4 Nicaragua

On 2007 Nicaragua began adopting new technical aeronautical regulations ("Regulaciones Técnicas Aeronáuticas") based upon the ICAO's Standards and Recommended Practices and the European Joint Aviation Requirements (JAR).<sup>672</sup> RTA-OPS1 "Transporte Aéreo Comercial (Aviones)" follows JAR-OPS1, and therefore includes:

- RTA-OPS 1.065 *Transporte de Armas de y Municiones de Guerra*;
- RTA-OPS 1.070 *Transporte de Armas y Municiones para Uso Deportivo*.
- (See *supra*: EU-OPS for explanation.)

### 11.5.2.2.5 Trinidad and Tobago

No air operators, whether domestic or foreign, are allowed to transport weapons of war by air unless prior approval has been granted by the Civil Aviation Authority:

- Domestic air operators: "(1) A national air operator shall not transport weapons or munitions of war by air unless an approval has been granted by all States concerned, (2) shall ensure that during air transportation, weapons and munitions of war approved for transportation under subregulation (1), are stowed in the aircraft in a place which is inaccessible to passengers during flight, (3) shall ensure that firearms approved for carriage are unloaded, unless before the commencement of the flight, approval has been granted by all States concerned that such firearms may be carried in circumstances that differ in part or in total from those indicated in these Regulations, and (5) shall ensure that the pilot in command of an aircraft, is notified, before a flight begins, of the details and location on board the aircraft of any weapons of war and munitions of war intended to be carried"<sup>673</sup>;
- Foreign air operators: "A foreign air operator conducting commercial air transportation operations to Trinidad and Tobago shall (a) not transport weapons of war and munitions of war by air unless an approval to do so has been granted by the [Civil Aviation] Authority; (b) ensure that when approval under paragraph (a) is granted, weapons of war and munitions of war are (i) stowed in the aircraft in a place which is inaccessible to passengers during flight; (ii) in the case of firearms, unloaded, unless, before the commencement of the flight, an approval has been granted by the Authority that such weapons of war and munitions of war may be carried in circumstances that differ in part or in total from those indicated in this subparagraph; (c) ensure that the pilot in command is notified before the flight begins of the details and location on board the aircraft of any weapon of war and munition of war that are intended to be carried"<sup>674</sup>.

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en un lugar del avión al que los pasajeros no puedan acceder durante el vuelo, a menos que el operador cuente con procedimientos alternativos aprobados en su manual de operaciones. 2) Si son armas de fuego, u otras armas que puedan llevar municiones, estén descargadas. c) Las municiones de las armas para uso deportivo se podrán transportar en el equipaje facturado de los pasajeros, sujetas a ciertas limitaciones, de acuerdo con las Instrucciones Técnicas definidas en la Sección OPS.21150 a) 14 de conformidad con el RAC 18). (Véase la SECCIÓN OPS.21160 b) 5)."

<sup>667</sup> "18<sup>th</sup> Schedule, Carriage of Dangerous Goods by Air", Jamaica.

<sup>668</sup> "20<sup>th</sup> Schedule, Aviation Security", Jamaica.

<sup>669</sup> "Civil Aviation Regulations, 2004" (as amended), Jamaica: Regulation 79, §1.

<sup>670</sup> "Civil Aviation Regulations, 2004" (as amended), Jamaica: Regulation 79, §2.

<sup>671</sup> "Civil Aviation Regulations, 2004" (as amended), Jamaica: Regulation 79, §5.

<sup>672</sup> <http://www.inac.gob.ni/notas?idnotaprensa=119>.

<sup>673</sup> "Civil Aviation [(No. 3) Air Operator Certification and Administration] Regulations", Trinidad and Tobago: Regulation 69.

<sup>674</sup> "Civil Aviation [(No. 10) Foreign Operator] Regulations", Trinidad and Tobago: Regulation 20.

### 11.5.3 Asia

#### 11.5.3.1 India

According to rule 8 of the Aircraft Rules, 1937, arms, ammunition, munitions of war, implements of war, explosives etc. shall be carried to, from, within or over India only with the written permission of the Central Government and subject to the terms and conditions of such permission.<sup>675</sup> The power to issue permission is delegated to officers of the Directorate General of Civil Aviation.<sup>676</sup>

Furthermore:

- The nature of the goods shall be clearly and conspicuously marked on the package containing them (clause 2c);
- The consignor of such goods shall give the operator a written notice specifying the nature, weight and quantity of the goods and the name and full address of the consignee; and the operator shall inform the pilot-in-command of the aircraft of all such particulars before the goods are placed on board the aircraft (clause 3).<sup>677</sup>

#### 11.5.3.2 Maldives

Rules with regard to transport by air of weapons of war are to be found in “Maldivian Civil Aviation Regulations MCAR-OPS1 – Commercial Air Transp. (Aeroplanes)”. (For explanation see EU-OPS1 *supra*.)

#### 11.5.3.3 Pakistan

Under the Civil Aviation Rules (1994) it is prohibited to carry weapons or parts thereof, or ammunition or constituents thereof, which are designed for use in warfare, or against a person.<sup>678</sup> Only the Director-General of the Civil Aviation Authority can authorize the carriage of these items.<sup>679</sup>

#### 11.5.3.4 Singapore

Article 41 paragraph 1 of the Air Navigation Order prohibits the carriage of munitions of war on aircraft. Munitions of war are defined as “*such weapons and ammunition designed for use in warfare or against the person, including parts designed for such weapons and ammunition.*”<sup>680</sup> Under article 84 of the Air Navigation Order an exemption may be granted: “*The Minister may exempt from any of the provisions of this Order or any regulations made thereunder any aircraft or persons or classes of aircraft or persons, either absolutely or subject to such conditions as he thinks fit.*”<sup>681</sup> Applications for such an exemption should be submitted to the Director-General & Chief Executive Officer of the Civil Aviation Authority of Singapore at least 7 working days before the intended date of carriage.<sup>682</sup>

Each application for exemption to carry munitions of war to, from and/or through Singapore, should be in the prescribed form and supported by an airway bill, commercial invoice, import/export and/or end-use certificate from the final destination.<sup>683</sup> Only licensed dealers are allowed to engage in the import, export and transshipment of munitions of war in Singapore.<sup>684</sup> Furthermore an import/export license must be obtained from the Arms and Explosives Branch, Commissioner of Singapore Police at least 2

<sup>675</sup> “*The Aircraft Rules - 1937*”, updated 17 September 2009. In 2003 article 8 was deleted by notification G.S.R. 207 of 5<sup>th</sup> March 2003. The Aircraft (Carriage of Dangerous Goods) Rules (2003) was adopted and article 2 clause 5 of said rule included the following sentence: “*and also includes arms, military stores, implements of war and munitions of war.*” [see notification G.S.R. 206 of 5<sup>th</sup> March 2003.] In 2006 article 2 clause 5 was amended by notification G.S.R. 600 (27 September 2006) omitting “*and also includes arms, military stores...*”. Article 8 was reinstated by notification G.S.R. 601 (27 September 2006).

<sup>676</sup> Office of Director General of Civil Aviation – Duties, Functions and Responsibilities, March 2007: Section VII, 6 (ii).

<sup>677</sup> Notification G.S.R. 601: Aircraft (. . . Amendment) Rules, 2006 (27 September 2006); Aircraft Rules, 1937, op. Cit.

<sup>678</sup> “*Civil Aviation Rules*” (1994), Pakistan: Rule 297.

<sup>679</sup> *Ibidem*.

<sup>680</sup> “*Air Navigation Order*”, Singapore: Article 41 §3.

<sup>681</sup> “*Air Navigation Order*”, Singapore: Article 84.

<sup>682</sup> *Aeronautical Information Publication*, Singapore, Gen 1, 1.4 “Entry, Transit and Departure of Cargo”, §4.2.1.

<sup>683</sup> *Aeronautical Information Publication*, Singapore, Gen 1, 1.4 “Entry, Transit and Departure of Cargo”, §4.2.2.

<sup>684</sup> *Ibid.*; See also: “Dealing in Arms and Explosives” ([http://www.spf.gov.sg/licence/frameset\\_AE.html](http://www.spf.gov.sg/licence/frameset_AE.html)).

weeks before the intended date of air carriage.<sup>685</sup> A license is not required for transshipment of arms without offloading in Singapore.<sup>686</sup>

#### **11.5.4 Africa**

##### **11.5.4.1 Mali**

The transport of weapons of war or munitions of war is prohibited by any aircraft above the territory of Mali without written authorization granted by the Ministry in charge of Transport.<sup>687</sup>

##### **11.5.4.2 Morocco**

Weapons of war or munitions of war can only be transported after approval by the Minister responsible for Civil Aviation<sup>688</sup> (or his representative<sup>689</sup>). The application should include details on the air operator, the aircraft, flight and the cargo. The following attachments need to be included<sup>690</sup>:

- copy of the Air Operating Certificate;
- copy of the certificate(s) of registration of the aircraft;
- copy of the airworthiness certificate(s) of the aircraft;
- copy of the insurance certificate(s);
- copy of the wet lease contract (in case of wet lease) and its approval by the Civil Aviation Authority;
- the shipper's declaration(s).

##### **11.5.4.2 Nigeria**

Weapons of war or munitions of war can only be transported after approval has been granted by all States concerned.<sup>691</sup> Sporting weapons need to be reported to the air carrier.<sup>692</sup>

##### **11.5.4.3 Tanzania**

Under the Tanzania Air Navigation Regulations (2002) it is prohibited to carry munitions of war<sup>693</sup> or sporting weapons<sup>694</sup> on board an aircraft. An exemption may be granted by the Minister of Transport.<sup>695</sup>

Munitions of war are defined as (i) any weapon or ammunition, (ii) any article containing an explosive, noxious liquid or gas, or (iii) any other thing, which is designed or made for use in warfare or against persons, including parts, whether components or accessories, for such weapon, ammunition or article.<sup>696</sup>

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<sup>685</sup> *Aeronautical Information Publication*, Singapore, Gen 1, 1.4 "Entry, Transit and Departure of Cargo", §3.1. See also "Guidelines on Application for an Ad-Hoc Licence to Import/Export/Purchase Arms or Import/Export/Purchase Explosives (Including Transshipment) or Import/Export Explosive Precursors ([http://www.spf.gov.sg/licence/frameset\\_AE.html](http://www.spf.gov.sg/licence/frameset_AE.html)).

<sup>686</sup> "Guidelines on Application for an Ad-Hoc Licence to Import/Export/Purchase Arms or Import/Export/Purchase Explosives (Including Transshipment) or Import/Export Explosive Precursors ([www.spf.gov.sg/licence/frameset\\_AE.html](http://www.spf.gov.sg/licence/frameset_AE.html)).

<sup>687</sup> *Aeronautical Information Publication*, ASECNA: Mali, 10 GEN 1-4-01 19 June 2002).

<sup>688</sup> "Décret No 2-61-161 du 10 Juillet 1962 portant réglementation de l'aéronautique civile", Morocco: art. 75.

<sup>689</sup> The Director of Civil Aviation. (See "*Demande de transport de matières dangereuses et/ou d'armes*", Formulaire D, Direction de l'aéronautique civile.)

<sup>690</sup> *Ibid.*

<sup>691</sup> "Civil Aviation Regulations – part 8: Operations", Nigeria: Regulation 165, art. 12.

<sup>692</sup> "Civil Aviation Regulations – part 8: Operations", Nigeria: Regulation 165, art. 13.

<sup>693</sup> "*Tanzania Air Navigation Regulations*" (2002): Regulation 105 article 1.

<sup>694</sup> *Ibidem*: Regulation 105 article 3. See exemptions.

<sup>695</sup> *Ibidem*: Regulation 169 article 2.

<sup>696</sup> *Ibidem*: Regulation 105 article 7.

## 12. Air Safety Regulations

### 12.1 The US and EU initiatives

Aviation safety has always been a primary concern for authorities in charge of national and international civil aviation. The *Convention for the Regulation of Aerial Navigation* was signed in Paris 13 October 1919 and was followed by the establishment of the International Commission for Air Navigation (ICAN, 1922-1946) in the regulatory context of the League of Nations. December 4 1944, in Chicago, 52 States signed the *Convention on International Civil Aviation*. The *Convention* led to the establishment of the International Civil Aviation Organization (ICAO, 4 April 1947, presently with 190 member states) as an agency (October 1947) of the United Nations.

Specific rules and regulations on air safety have since been promulgated by the United Nations, ICAO, IATA,<sup>697</sup> EASA,<sup>698</sup> and individual States, either through their own autonomous initiatives or as part of their obligations as ICAO contracting members. Particularly important in the context of this chapter are regulations on the transport of dangerous goods, on aircraft airworthiness, and on environmental issues.<sup>699</sup> With the increasing importance of international aviation, international organizations and States adopted additional regulations aimed at enhancing air-traffic safety, whether the carriers were domestic or foreign. Among various other initiatives there were the US Federal Aviation Administration's<sup>700</sup> *International Aviation Safety Assessments (IASA) Program* (1992)<sup>701</sup> and the European Union's *Regulation 2111* (2005), intended to establish a "Community list of air carriers subject to an operating ban" within the borders and air space of the Union.<sup>702</sup>

### 12.2 The IASA Program

The IASA program "focuses on a country's ability, not the individual air carrier, to adhere to international standards and recommended practices for aircraft operations and maintenance"<sup>703</sup> established by the ICAO. The IASA program resulted in the classification (category) of countries according to that principle: countries Category 1 was for countries "complying with" and Category 2 for countries "not complying with" ICAO Standards, according to the development of each country situation as routinely assessed by IASA expert teams.

Category 2 rating implies that a country has one or more of the following deficiencies: 1) it "lacks laws or regulations necessary to support the certification and oversight of air carriers in accordance with minimum international standards"; 2) its Civil Aviation Authority (CAA) "lacks the technical expertise, resources, and organization to license or oversee air carrier operation"; 3) its "CAA does not have adequately trained and qualified technical personnel"; 4) its "CAA does not provide adequate inspector guidance to ensure enforcement of, and compliance with, minimum international standards"; 5) its "CAA has insufficient documentation and records of certification and inadequate continuing oversight and surveillance of air carrier operations".

Category 2 list of countries are made up of two groups: a) those "with existing operations to the United States" (for which the continuation of operations, "under heightened FAA surveillance," are permitted but not the "expansion or changes in services to the United States"); b) those which "do not have air carriers with

<sup>697</sup> International Air Transport Association, founded in Havana, Cuba, April 1945. Initially, IATA included 57 airlines from 31 states. It presently includes 230 airlines from 126 states. See <http://www.iata.org/about/Pages/history.aspx>.

<sup>698</sup> European Aviation Safety Agency, founded in 2002 (Regulation 1592/2002) and presently with 31 members. See EASA website at <http://easa.europa.eu/home.php>.

<sup>699</sup> See, for example, United Nations Transport of Dangerous Goods, Model Regulations (*Orange Book*), New York, United Nations, 12th edition, 2001; United Nations Recommendations on the Transport of Dangerous Goods: *Manual of Tests and Criteria*, New York, United Nations, 3th Revised Edition, 2002; ICAO, *Technical Instruction*; IATA, *Dangerous Goods Regulations*; U.S. Department of Defence, Defense Transportation Regulation, Part II "Cargo Movement", Appendix CC-8 (Procedures for Transporting Government-Owned Small Arms, Ammunition, and Hazardous Materials aboard commercial aircraft in Scheduled and Charter Service), Washington DC, DoD 4500.9-R, December 2000; Convention on International Civil Aviation, Annex 16, Volume 1, Ed. 1 (applicable January 1, 1972); Ed. 2 (app. October 1977); Ed. 3 (app. August 1978); further rules: November 1981; November 1988; November 1993; November 1997; November 2005; ICAO, *International Standards and Recommended Practices, Environmental Protection*, Annex 16 to the Convention on International Civil Aviation, Vol. II, Aircraft Emissions (November 1993). See also: Boettcher, J., *Presentation*, EASA, Rulemaking Directorate, Cologne, Germany 17-19 December 2007.

<sup>700</sup> Preceded by two other similar agencies, FAA was founded August 23, 1958.

<sup>701</sup> Register, Vol. 57, No. 164, August 24, 1992. "The purpose of the IASA is to ensure that all foreign air carriers that operate to or from the United States are properly licensed and with safety oversight provided by a competent Civil Aviation Authority (CAA) in accordance with ICAO standards."

<sup>702</sup> Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC; as amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council of 18 June 2009."

<sup>703</sup> All definitions and quotations from *IASA Program* in the FAA website.

existing operations to the United States” (for which commencement of operations to the United States is not permitted while in Category 2). The latter companies may operate in the US by using aircraft “wet-leased”<sup>704</sup> from other duly authorized carriers. Table 30 shows the countries listed in Category 2 by the IASA program.

**Table 30. US IASA Program – List of Category 2 countries**

Country	Country	Country	Country
Bangladesh	Ghana	Kiribati*	Swaziland*
Belize*	Guyana	Nauru	Ukraine
Cote D’Ivoire	Haiti*	Nicaragua*	Uruguay*
Croatia	Honduras*	Paraguay*	Zimbabwe*
D.R. of Congo*	Indonesia	Philippines	
Gambia*	Israel	Serbia/Montenegro	

Source: IASA Program website, last list, December 12, 2008. Note: (\*) Not serving the US at the time of the assessment

## 12.3 EU Regulation 2111

The EU Regulation 2111 and the list of banned carriers are explicitly aimed (Point 1) “as a priority, at ensuring a high level of protection for passengers from safety risks to protect passengers”, and (Point 2) to inform passengers about the safety risks related to certain carriers (“Community list of air carriers that do not meet relevant safety requirements should be brought to the notice of passengers so as to ensure the utmost transparency”). In addition, the list may serve to inform passengers about the risks of flying outside Europe with airlines for which ICAO safety standards cannot be guaranteed by the aviation authorities of the countries in which those airlines are registered. Point 15 of the regulation reiterates: “Air carriers should pursue a policy of transparency vis-à-vis passengers regarding safety-related information. Publishing such information should contribute to passenger awareness of the reliability of air carriers in safety terms.”<sup>705</sup>

The list stems from violations of the “Common Criteria,”<sup>706</sup> which are a slightly more complex version of the IASA Program’s criteria, grouped into three categories:<sup>707</sup>

- A) Verified evidence of serious safety deficiencies on the part of an air carrier
- B) Lack of ability or willingness by an air carrier to address safety deficiencies
- C) Lack of ability or willingness of the civil aviation authority with responsibility of oversight of the air carrier(s) in question to address safety deficiencies.

The information regarding violations of one or more of the Common Criteria comes from three groups of sources:<sup>708</sup>

- Group A: 1) “Reports of ramp inspections on aircraft of air carriers conducted under the EC SAFA programme (Safety Assessment of Foreign Aircraft)”; 2) “Important safety information accessible, in particular, through: pilot reports, maintenance organization reports, incident reports, other organizations independent from the competent authorities of the Member States, complaints”; 3) “Information on action taken subsequent to a ramp inspection, such as: aircraft grounded, corrective action required, contacts with the operator’s competent authority”; 4) “Follow-up information concerning the operator, such as: corrective action implemented, recurrence of discrepancy”; 5) Exchange of safety-related information with Canada, the United States, and other countries with whom the “Community is negotiating safety specific agreements or comprehensive aviation agreements;” 6) Analysis of bans imposed by other non-EU countries; 7) “Substantiated information concerning accidents or serious incidents indicating latent systemic safety deficiencies.”
- Group B: 1) “Lack of transparency or adequate and timely communication on the part of a carrier in response to an enquiry by the civil aviation authority of a Member State regarding the safety aspect of its

<sup>704</sup> A wet-lease agreement means that the aircraft is provided by the lessor to the lessee with crew, maintenance, and insurance (ACMI).

<sup>705</sup> Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005.

<sup>706</sup> See Annex of the Regulation (EC) No 2111/2005.

<sup>707</sup> Commission Staff Working Document, Brussels, January 11, 2010; Report from the Commission to the Council and the European Parliament on the application of Regulation (EC) N° 2111/2005 regarding the establishment of a Community list of air carriers [...], Brussels, January 11, 2010.

<sup>708</sup> Commission Staff Working Document (2010).

operation; 2) *Inappropriate or insufficient corrective action plan presented in response to an identified serious safety deficiency*”.

- Group C: 1) *“Lack of cooperation”*; 2) *“Insufficient ability of the authority”*; 3) *Insufficient ability of the competent authorities of the State of registry of aircraft to oversee those aircraft used by air carriers in accordance with its obligations under the Chicago Convention*”.

The most compelling set of information comes from Group A’s sources and, in particular, from ramp inspections at airports during the time (sometimes a very short one) between aircraft landing and departure. Ramp inspections - a mammoth task stemming from initiatives of ICAO’s *Universal Safety Oversight Audit Programme* (1999)<sup>709</sup> and ECAC’s<sup>710</sup> *Safety Assessment of Foreign Aircraft* (EC SAFA Programme, 1996) - are carried out according to a check list which may entail the completion of several successive inspections. Under the SAFA Programme, thousands of inspections have been performed to date, on both EU and non-EU member States’ companies.<sup>711</sup>

Regulation 2111 includes two types of bans: total (Annex A) and partial (Annex B, which restricts the operation of a carrier to certain aircraft). As opposed to the IASA Program, the EU Regulation was supposed to target individual carriers and the operating ban meant *“the refusal, suspension, revocation or restriction of an air carrier’s operating authorisation or technical permission for safety reasons, or any equivalent safety measures in respect of an air carrier which has no traffic rights in the Community but whose aircraft might otherwise be operated in the Community under a lease agreement.”*

Nowhere in the legislation is there a reference made to air cargo carriers, i.e. carriers which only operate cargo flights. Notwithstanding this, in its first edition (March 2006), the Regulation mentioned and banned (with specific assessments) three cargo-only carriers: GST Aero Air Company (Kazakhstan), Silverback Cargo Freighters (Rwanda) and Reem Air (Kyrgyzstan), as well as Phoenix Aviation (Kyrgyzstan, UAE), a *“predominantly-cargo company,”* which participated with a Gulfstream (operated by its fully-owned subsidiary Ave.Com) in a CIA extraordinary rendition in 2005.<sup>712</sup> The inclusion of cargo-only companies in the first issue of the Regulation apparently signalled that safety concerns overcame the strict interpretation of the Regulation. However, with some exceptions, the inclusion of cargo companies in Annexes A or B has been mostly a by-product of blanket bans.

## 12.4 The European Union list of banned airlines

In the first issue of the ban, the vast majority of the companies (81 out of the 92 carriers named in Annex A)<sup>713</sup> have been listed as a result of blanket bans (through application of Group C common criteria). The blanket bans were issued because of the failure of the Civil Aviation Authorities of certain countries - such as D.R. Congo, Equatorial Guinea, Liberia, Sierra Leone and Swaziland - to demonstrate their ability to ensure proper documentation, safety and maintenance oversight on the carriers enrolled in their Registries. In subsequent bans, as a result of other blanket bans and some specific inspections, several cargo-only carriers were added.

<sup>709</sup> See: <http://www2.icao.int/en/ssa/soa/usoap/Pages/default.aspx>

<sup>710</sup> European Civil Aviation Conference and its associated body JAA (Joint Aviation Authorities).

<sup>711</sup> “As an indication of the scale of the SAFA programme in 2008 alone 10,337 ramp checks of aircraft were conducted on 1,067 carriers from 131 different states; a continuous increase compared to the ramp checks conducted in previous years”, Commission Staff Working Document (2010).

<sup>712</sup> The Pakistan national Khalid Rashid was abducted by South African policemen October 31, 2005, from his house in Estcourt, KwaZulu-Natal and was flown November 8, 2005 out of the South Africa military base of Waterkloof. The aircraft that transported Rashid to an unknown destination, a Gulfstream G-1159 (GII), was registered as A6-PHY (m/n 130) under the fleet of AVE.com (ICAO: PHW, based in Sharjah SAIF zone and founded in 2004), a fully owned subsidiary of Phoenix Aviation (Kyrgyzstan, ICAO: PHG) that obtained its Air Operator Certificate January 12, 2005 from UAE’s General CAA (See: *“Phoenix gets AOC,”* Khaleej Times, January 25, 2005). Phoenix Aviation’s president was Alexy Yanchuck. Phoenix Aviation was also the destination of a payment of USD114,500 from an account owned by arms trafficker Leonid Minin, June 1, 1999 (See: Minin’s trial documents in Monza’s Court, Italy). See for the Rashid case: Strumpf, D., N. Dawes, *Khalid Rashid: Govt’s cover is blown*, Mail & Guardian (M&G), Johannesburg, June 9, 2006; Amnesty International, *Khalid Mehmood Rashid appears after 18 months of secret detention*, Press release, April 17, 2007. See also: Strumpf, D., *Khalid papers falsified – claim*, M&G, Johannesburg, June 2, 2006; ICC asked to probe Rashid case, M&G, June 12, 2006; Zehir Omar, *The minister hides behind ‘state security’*, M&G, June 14, 2006; Tumi Makgetla, *Rashid’s lawyer fights on*, M&G, June 16, 2006; Simao, P., *‘Rendition’ Rashid appears in Pakistan court*, M&G, April 18, 2007.

<sup>713</sup> Eleven companies were banned for specific deficiencies: Air Bangladesh (Bangladesh); Air Koryo (North Korea); Ariana (Afghanistan); BGB Air (Kazakhstan); Buraq Air (Libya); Air Service Comores (Comores); GST Aero (Kazakhstan); Phoenix Aviation (Kyrgyzstan, UAE); Phuket Airlines (Thailand); Reem Air (Kyrgyzstan); Silverback Cargo (Rwanda).

During the period March 2006 and March 2010, the EU issued 14 ban lists<sup>714</sup> that in Annex A named a total of 490 companies - once the list is cleaned of some double entries for companies with the same ICAO code. Table 31 below shows the number of companies appearing on all 14 ban lists and the number of companies listed in the March 2010 Annex A.

**Table 31. Banned companies' country - Total on the 14 bans (28 countries) and remaining countries in 2010**

<b>14 Bans</b>	<b>N.</b>	<b>14 Bans</b>	<b>March 2010</b>	<b>N.</b>	<b>March 2010</b>	<b>N.</b>	
Afghanistan**	1	Kenya**	1	Afghanistan	1	Sao Tome & P.	10
Angola**	19	Kyrgyzstan**	39	Angola	18	Sierra Leone	7
Benin**	8	Liberia**	21	Benin	8	Sudan	12
Cambodia**	1	Philippines	47	Cambodia	1	Swaziland	1
Comores**	1	Rwanda**	1	Congo Rep.	4	Zambia	1
Congo Rep.**	4	Sao Tome & P.**	10	Djibouti	1		
Djibouti**	2	Sierra Leone**	26	DR Congo	32		
N. Korea**	1	Sudan**	13	Equatorial Guinea	9		
DRC	85	Suriname*	1	Gabon	6		
Equatorial Guinea**	43	Swaziland	17	Indonesia	47		
Gabon**	7	Thailand*	2	Kazakhstan	59		
Indonesia	60	Uganda**	1	Kyrgyzstan	18		
Iran**	1	Ukraine	4	Philippines	47		
Kazakhstan**	73	Zambia**	1	Rwanda	1		

Source: Elaboration on EU Regulation ban list Annex A for each month/year. Notes: (\*) Assessed as Category 1 by IASA Program; (\*\*) Not listed by IASA Program in either Category 1 or 2;

Table 32 below shows the increase in the number of companies named in Annex A for each ban. Some of the companies named in the Annexes - especially in connection with blanket bans - remained on the lists throughout all the bans; some were named in some bans and then taken off the lists - either because the EU regulators were able to verify that the targeted deficiencies had been remedied or because the respective CAAs had revoked their Air Operator Certificates (AOC) and those companies were no longer certified to fly. Some companies appeared only on later bans (the Indonesian and Philippines companies, for example). As mentioned above, the total number of companies named in one or more Annexes A reached a total of 490 by March 2010, but the number of companies still on the ban list in March 2010 was 283.

**Table 32. Companies named by Ban - Annex A**

<b>Year</b>	<b>2006</b>			<b>2007</b>				<b>2008</b>			<b>2009</b>			<b>2010</b>
Month	03	06	10	03	07	09	11	04	07	11	04	07	11	03
Banned	92	176	139	98	149	150	145	147	154	167	194	256	232	283
<b>Total</b>								<b>285</b>						<b>490</b>

Source: Elaboration on EU Regulation ban list, Annex A for each month/year

Following their designation in the Regulation 2111's list, some of the banned companies relocated to other countries and, under new AOCs, continued their activities. Noteworthy among these is African International Airways (AIA), banned along with other Swaziland-registered airlines in March 2006.

Swaziland authorities promptly revoked AIA's AOC and the company quickly moved on to register itself in South Africa, obtaining a new AOC in October 2006. In the Regulation list issued October 2006, the paragraph dedicated to AIA reads: *"The authorities of Swaziland and South Africa have provided sufficient evidence that the Air Operator's Certificate issued to African International Airways under the aegis of the CAA of Swaziland has been withdrawn, and that the air carrier is now operating under a new Air Operator's Certificate issued by the CAA of South Africa which therefore has the responsibility for its safety oversight. Therefore, on the basis of the common criteria, and without prejudice to verification of effective compliance with the relevant safety standards through adequate ramp inspections, it is assessed that African International Airways should be withdrawn from Annex A."*

AIA operated a fleet of DC-8 freighters involved in the transport of arms and ammunition for the British Ministry of Defence (2002/2003 and 2007, to Afghanistan in the latter year) and for the Albanian and

<sup>714</sup>From Commission Regulation (EC) No 474/2006 (March 22, 2006) to Commission Regulation (EC) No 273/2010 (March 30, 2010).

Rwandan governments (2002: 250 tons of ammunition from Albania to Rwanda, for forwarded export to DRC rebel groups).<sup>715</sup>

### Box 18. Blanket bans

**The blanket ban on DRC.** The first blanket ban on DRC-registered airlines was issued at the end of a period in which DRC's civil aviation sector was slowly recovering from the disarray and lawlessness of the Second Congo War. Civil aviation authorities lacked funds, professionals, and political support for addressing the various severe problems that affected the country's aviation sector, including its appalling record of accidents (75 hull-loss accidents with 338 fatalities between 2000 and 2010, involving 57 different companies - domestic and foreign - and DRC's and Rwanda's Air Force aircraft.). In subsequent years, the EU regulators judged the improvements the Congolese CAA had implemented, such as the ban on unsafe Antonov aircraft and a more stringent control on airlines documentation and movements,<sup>1</sup> still insufficient and maintained the blanket ban.<sup>2</sup> The continuation of the blanket ban has had opposite consequences.

On one hand, the ban put pressure on DRC authorities to find solutions and funds for better regulatory and implementing systems in the field of aviation, as well as modernization of air surveillance and other technical programs.

On the other hand, the blanket bans (with the exception of Hewa Bora Airlines, included in the partial ban of Annexes B) continued to keep in the same basket airlines with very different management and safety records, thus contributing to the idea that all DRC-registered airliners were all badly managed and unsafe.<sup>3</sup>

The blanket ban on DRC-registered airlines also seemed to ignore the magnitude (once compared with the means) of the task the DRC authorities faced after decades of disruption caused by the wars DRC was involved in. If for chance, as a consequence of the Regulation 2111' list the Congolese Civil Aviation Authority had decided to demand all airlines to demonstrate a prompt and strict adherence to all ICAO standards or facing withdrawal of their AOC, the aviation sector would have likely collapsed and the country would have experienced a complete disruption of its economy, due to the vital role aviation plays in a country with no functional rail or road networks.

The size of the investments required for rapidly reversing a trend of aging fleets, scarcity of aviation professionals and technical means, as well as poor wages that favour corruption and disregard for rules, has been outside the reach of DRC Civil Aviation Authority and possibly outside the spending capacity of DRC national budgets.

**Other blanket bans.** Certain other blanket bans, like those the Kazakhstan- and Kyrgyzstan-registered airlines are under, pose a problem of coherency instead. The air cargo companies of these two countries - thanks to ad-hoc exemptions for military and aid flights - regularly performs flights for EU's ministries of Defence, aid agencies, and arms shippers and for "low-cost" arms and troops transshipments bound to Iraq and Afghanistan.<sup>4</sup> Recent massive relief operations during and after the tsunami in South East Asia and the earthquake in Haiti would have proved even more difficult if, following the EU bans, the authority of Kazakhstan and Kyrgyzstan had decided to ground the fleet of IL-76 aircraft of the banned companies.

It is worth noting that the payload capacity of all military transport aircraft in service owned by European/NATO countries equals the payload capacity of the cargo airlines's fleet of a single model, the IL-76 (see Table 36 and 38)

<sup>1</sup> See: UN Security Council, report of the Group of Experts on DRC, S/2008/773, December 12, 2008

<sup>2</sup> See "Air carriers from Democratic Republic of Congo" in the EU Regulation issue dated March 2007 for DRC carriers DRC authorities have decided to ground.

<sup>3</sup> The authors of this report have first-hand knowledge of the aviation sector in DRC, having worked in the UN Group of Experts on DRC in recent years.

<sup>4</sup> Confidential aircraft movements to and from Iraq and Afghanistan by IL-76s obtained for this report. See also, for example: UK Civil Aviation Authority, Exemptions issued under regulation 25(3)a of the aeroplane noise regulations 1999 from January 2003 to January 2010, [www.caa.co.uk](http://www.caa.co.uk). See also: See: Amnesty International, *Dead on Time* (2006).

<sup>715</sup> See Box 18 - Blanket Bans.

## 13. Do Aviation Safety Regulations Play a Role in the Control of Arms Transfers by Air?

### 13.1 Introduction

Two recent reports by SIPRI,<sup>716</sup> (*Stemming Destabilizing Arms Transfers: the Impact of European Union Air Safety Bans*, 2008 [**here SIPRI 2008**]; and *Air Transport and Destabilizing Commodity Flows*, 2009 [**here SIPRI 2009**]) have advanced the idea that - in addition to their stated goals - the EU bans and air safety regulations have been and will be effective instruments in the fight against airlines involved in "destabilizing" or "illicit arms shipments" and "commodity flows".

The authors of the above-mentioned SIPRI reports stated that in "relative terms, EU air safety enforcement measures through bans and inspection missions have led to formal AOC removal and notification in at least 10 times as many cases as any UN asset freeze or listing by the US Department of the Treasury's Office of Foreign Assets Control (OFAC). These developments point to possible means by which existing EC air safety regulations could be **modified** in order to sustain and enhance **the impact they have already had** on air cargo carriers with a suspected involvement in destabilizing or illicit SALW transfers." (SIPRI 2009, emphasis added).

The authors also stated that the "[...] available evidence indicates that air carriers involved in destabilizing or illicit arms transfers consistently operate in violation of international air safety regulations. Examples of air safety violations that have been highlighted in relevant UN reports include the falsification of plane registrations, cargo manifests and flight plans and the shipping of munitions without the required dangerous goods licence. Hence, targeting air carriers that violate air safety standards, or improving air safety standards in general, is likely to have a **disproportionate impact** on the activities of air carriers involved in destabilizing or illicit SALW transfers."<sup>717</sup> (SIPRI 2009).

To support their claims, the authors refer to research they have carried out on two sets of data: **1) the list of banned cargo airlines** named in EU Resolution 2111 issues between 2006 and June 2008 (**EU ban list**); and **2) a list of cargo airlines** named in UN and "other arms trafficking-related reports" between 1998 and 2008 (**UN/Other list**).

The research findings have been included in an on-line list of 109 cargo airlines titled "*Countering Illicit Trafficking–Mechanism Assessment Project (CIT-MAP) air cargo carriers database*."<sup>718</sup> The list included references to reports that supposedly backed the inclusion of the cargo airlines in the list.

In SIPRI 2009 the authors stated<sup>719</sup> that "*the results [of the SIPRI research] showed that the impact [of EU bans] has been profound. 186 air cargo carriers were identified as having been named in a UN or other arms trafficking-related reports between 1998 and 2008. Of these, 80 were identified as having also been barred from entering EU airspace because of being listed in European Community (EC) regulations or targeted because of EU-led technical inspection missions between March 2006 and June 2008. Hence, through the application of rigid air safety regulations, **the EU has indirectly managed to identify 43 per cent of all the air carriers that have been named in a UN or other arms trafficking-related report** between 1998<sup>720</sup> and 2008.*" That figure, the report adds, "*includes the 3 air cargo carriers decertified by Serbia but not named in EC air safety regulations and therefore not included in the data set's statistical results.*"

The conclusions and suggestions of the two SIPRI reports have been widely circulated and have also resulted in discussions held in EU institutions and resolutions on how to implement them.<sup>721</sup> The

<sup>716</sup> Griffiths, H., M. Bromley, *Stemming Destabilizing Arms Transfers: the Impact of European Union Air Safety Bans*, SIPRI Insights on Peace and Security, No. 2008/3 October 2008; Griffiths, H., M. Bromley, *Air Transport and Destabilizing Commodity Flows*, SIPRI, Policy Paper 24, May 2009.

<sup>717</sup> Griffiths, H., M. Bromley (May 2009).

<sup>718</sup> *CIT-MAP Air Cargo Carriers Database*, no more available in SIPRI website, but retrieved February 15, 2009; and annex *Case studies: Beyond the published EU blacklists*.

<sup>719</sup> Griffiths, H., M. Bromley, (May 2009), p.39.

<sup>720</sup> The text reads "1993," evidently a typing mistake.

<sup>721</sup> See: SIPRI 2009, p.45.

publication of these reports was also followed by an on-line database<sup>722</sup> where international organizations and NGOs could find information on the illegal or destabilizing activities of certain air cargo companies. Unfortunately, an in-depth analysis of the reports' assumptions and information-base reveals major mistakes and inconsistencies and baseless percentages, which jeopardize the conclusions and policy proposals of the reports.

The findings of research carried out by the two authors of SIPRI 2008 and 2009 regarding the alleged link between (a) companies targeted by the EU Resolution 2111's safety bans and (b) 'destabilizing transfers' are highly questionable:

- For several airlines included in the CIT-MAP database<sup>723</sup> and in the EU bans there is no evidence whatsoever in UN/Other reports that they engaged in either arms transfers or "illegal commodity flows".
- For several airlines included in the CIT-MAP database the EU safety initiatives could not have had any impact because they were already defunct between one and eight years before the first EU ban list was published.

The CIT-MAP initiative and database aims to expand beyond the limits of companies named in the EU ban list and UN/Other reports, as well as beyond "destabilizing arms transfers" as defined in Wassenaar Arrangement's "Best practices to prevent destabilizing transfers of small arms and light weapons (SALW) through air transport"<sup>724</sup> that excludes "those that are transported by government, military or Government-chartered aircraft. Participating States recognise that they assume full responsibility for transport by their government, military, or Government-chartered aircraft and that they encourage other States to assume the same responsibility."<sup>725</sup> Therefore, the CIT-MAP database listed companies engaged in arms shipments on behalf of governments, for example US Department of Defense-sponsored arms transfers to Iraq in 2004 and 2005, but targeting exclusively Eastern European or CIS air cargo companies and leaving out US and European airlines that engaged in thousands of arms shipments to Iraq in the same period.

## 13.2 Companies involved in "destabilizing" arms transfers according to SIPRI's CIT-MAP database

SIPRI explains (a) how the two lists were composed (EU ban list and UN/Other list), and (b) how this leads to an alleged correlation between air safety (EU ban list) and 'destabilizing transfers' (UN/Other list):

SIPRI 2008<sup>726</sup> stated: "The CIT-MAP study determined that between March 2006 and June 2008, the EC individually named 321 air carriers in the relevant regulations detailing the coverage of the blacklist. It found that three additional air carriers have also been targeted as a result of EC-led technical inspection missions, although these have not been named in the relevant EC regulations, bringing the total to 324." A note accompanying the text reads: "This study examines air carriers banned between March 2006 and June 2008."

SIPRI 2008 also stated that "of those 324 air carriers, the sample was narrowed to 271 air carriers by [a] **excluding** the 53 air carriers [actually 48]<sup>727</sup> covered by the European Commission's collective ban on Indonesian air carriers in July 2007 [...] The study then [b] **excluded** an additional 99 carriers that had a purely passenger capacity and left only those carriers with a significant cargo capacity. [...] The remaining

<sup>722</sup> On the basis of "Countering Illicit Trafficking—Mechanism Assessment Project (CIT-MAP)."

<sup>723</sup> "Countering Illicit Trafficking—Mechanism Assessment Project (CIT-MAP) air cargo carriers database" (retrieved February 15, 2009, SIPRI website).

<sup>724</sup> Wassenaar Arrangement, "Best practices to prevent destabilising transfers of small arms and light weapons (SALW) through air transport," Wien, December 2007.

<sup>725</sup> The Wassenaar definition excludes certain transfers: "These Best Practices cover air transport of SALW, excluding those that are transported by government, military or Government-chartered aircraft. Participating States recognise that they assume full responsibility for transport by their government, military, or Government-chartered aircraft and that they encourage other States to assume the same responsibility." (Wassenaar Arrangement, "Best practices" (December 2007), Point 1. Scope.)

<sup>726</sup> All quotations from Griffiths, H, M. Bromley (October 2008).

<sup>727</sup> The real number of Indonesian airlines named in EU bans during the March-2006-April 2008 period is 48 and not 53 as stated by SIPRI reports. The Annexes A include some duplication of the same companies, listed with or without the specification "PT," that in Indonesian means Limited Company. For example, the July 2007 ban includes both "PT. PELITA AIR SERVICE" and "PELITA AIR SERVICE"; "PT TRANS WISATA PRIMA AVIATION" and "TRANS WISATA PRIMA AVIATION". For some companies the duplication was meant to underline a different AOC, such as again in the case of "TRANS WISATA PRIMA AVIATION" and "TRANSWISATA (one word) PRIMA AVIATION" (April 2008). The different names all refer to the same company. The Indonesian companies mentioned in Annexes A to May 2010 are 60.

172 air carriers included 122 carriers that could be positively identified as having an air cargo capacity and 50 where available information was insufficient to determine the carrier's operating profile."

Therefore, according to SIPRI 2008, out of the total "172 air cargo carriers that have been listed in EC air safety regulations or targeted as a result of EC-led technical inspection missions, 80 (47 per cent) have been named in a UN or other arms trafficking-related report."

This 47 per cent is therefore crucial in comprehending the claim - by the authors of the SIPRI reports - of how this leads to a "disproportionate" impact "on the activities of air carriers involved in destabilizing or illicit SALW transfers"[SIPRI 2009] by the EU safety regulations.

**Table 33. SIPRI Reports: summary of findings on airlines**

Reference	Total airlines	Indonesian	Serbian	Passenger only	Cargo airlines
1. Named in EU Bans 2006-June 2008	321	-53	+3	-99	172
2. Named in UN-NGO reports 1998-2008	186				
of which:					
3. Also named in EU bans					80
4. Percentage of (3) on (1)					47%
5. Percentage of (3) on (2)					43%

Source: SIPRI 2008; SIPRI 2009

It is not clear why the SIPRI authors decided to adjust the EU ban lists by excluding the Indonesian air carriers and the passenger carriers, but one consequence of that decision was that the apparent correlation between air safety violations (EU ban list) and 'destabilising transfers' (UN/Other list) was strengthened. Like previously stated the UN/Other list was pulled from "UN Security Council and other arms trafficking related reports" (SIPRI 2008). Unfortunately here lies an **inherent bias**. First of all, all these UN and NGO reports are pre-dominantly focussed on Africa. Therefore excluding certain (Asian) companies from the EU ban list can only strengthen the alleged correlation between air safety (EU ban list) and 'destabilising transfers' (UN/Other list). Secondly, all the UN and NGO reports are pre-dominantly focussed on air cargo carriers. Once again excluding passenger aircraft from the EU ban list strengthens the correlation between air safety (EU ban list) and 'destabilising transfers' (UN/Other list). But it is worth noting that passenger airlines transport more than half of the cargo transported by air yearly on international routes, including arms.<sup>728</sup>

### 13.3 A sample of the 80 air cargo carriers in the CIT-MAP database

Moreover the 47 per cent and the claims it supports make only sense if some evidence of involvement in 'destabilising arms transfers' has been found to exist for all the 80 companies listed in the (a) UN/Other list and (b) in the EU bans. The **reasons why** the 80 cargo airlines were named in the above-mentioned reports (UN/Other list) and the reasons why they were named or banned in the EU safety-related bans hold the key for understanding the consistency of the two SIPRI reports' first and most important claim.

The list of the above-mentioned 80 companies (75 plus 5 aliases) includes: 28 companies (plus 1 alias) registered in DRC; 9 companies registered in Liberia; 8 in Equatorial Guinea; 4 in Kyrgyzstan; 4 in Bulgaria (plus 1 alias of a company registered in Serbia); 3 in Moldova; 3 in Russia; 3 in Sierra Leone; 2 in Serbia; 2 in Swaziland; 2 in Ukraine (plus 1 alias), and 1 each in Ghana, Kazakhstan, Libya, North Korea, Rwanda, Sudan, Uganda (plus 2 aliases).

<sup>728</sup> See, for example, SIPRI reports' exclusion of passenger airlines may lead to the assumption that large arms shipments can only be transported by air cargo carriers. Infantry weapons without ammunition are not dangerous goods and can be transported in the cargo compartments of passenger aircraft, as illustrated in this report (Chapter 6) by the example of arms shipped from Sofia to Paris and from Paris to Kigali by an Air France passenger aircraft in 2007.

### 13.3.1 18 companies mentioned out of context

Among the 80 companies named in the CIT-MAP database “suspected of being involved in destabilizing arms transfers”, EU bans, and UN/Other reports there were the following:

- **African Company Airlines (ICAO: no code):** this company was listed in the EU bans from March 2006 to October 2006. DRC authorities withdrew its AOC (Regulation 2111, March 5, 2007) and the company has not been listed since March 2007. The company was only named in the UN report S/2006/53 in the following context: “Only 19 of the some 50 airline companies investigated were approved to have their operating licences renewed for 2005 under decision No. 416/DAC/TC/SEC/2005, and some of those were required to address certain deficiencies within three months in order to be declared fit to operate. The companies in question are: Hewa Bora Airways (HBA), Malila Airlift, Wimbi Dira Airways, Air Kasai, Business Aviation, Malu Aviation, Espace Aviation Services, Air Tropiques, Air Navette, TMK Air Commuter, Air Beni, Gomair, African Company Airlines (ACA), Central Air Express, Filair, Compagnie Africaine d’Aviation, Africa One, International Trans Air Business (ITAB) and Virunga Air Charter.”<sup>729</sup> There is no mention of this company in UN/Other reports as involved in destabilizing or illicit arms or commodity flows. No mention whatsoever of this company as an entity with registered aircraft.
- **Aigle Aviation (ICAO: no code):** UN reports S/2005/30 (§59, 60, and 62) and S/2007/423 (§156)<sup>730</sup> mention this company for allegedly falsifying airworthiness certificates and for using a de-registered AN-28 in violation of “the provisions of paragraph 6 of resolution 1596 (2005)”, as well as for the reason that the pilots of one of its aircraft refused to release documentation to the Group of Experts. The company operated small aircraft (AN-28s and LET-410s) with a cargo capacity of about 1/1.5 ton. The UN S/2005/30 report stated that one of the aircraft operated by Aigle, a LET-410 with registration number 9Q-CEU, had an airworthiness certificate valid until October 17, 2004 and therefore was operating illegally in the DRC after that date. The report (dated January 2005) stated that the plane was based in Goma. It is not known if it actually flew after October 17, 2004. The plane was then registered in DRC on April 15, 2005 in the fleet of Free Airlines, and its airworthiness certificate expired July 8, 2007.<sup>731</sup> The UN report S/2005/30 noted: “The Group further noted that on 14 September 2004 the owner of the aircraft had changed the name of this Belgium company from Air Ocean Indién to MadAfrica Distribution. The company status was also modified, allowing it to purchase military equipment and materiel.” The UN report<sup>732</sup> does not explain the relationship between Aigle (operator) and the quoted document (relating to the owner of the aircraft). The plane was previously registered (2002-2006) in Madagascar as 5R-MGO with Madagascar Flying Services, an aircraft leasing company. MadAfrica Distribution, a company that is still active, was registered in Belgium on March 1, 2002 at 39 Rue des Deux Eglises and is listed as the same company as Air Ocean Indién.<sup>733</sup> The company has a variety of import-export businesses and recently bought demilitarized Alouette helicopters from the Belgian ministry of defence, for export to Madagascar.<sup>734</sup> In 2009, the DRC authorities withdrew Aigle Aviation’s license and the company was no longer listed in Annexes A of the EU regulations (November 2009). No matter the reality of Aigle Aviation as involved in military business,<sup>735</sup> there is no mention in UN/Other reports of facts or events connecting this company to arms trafficking or illegal commodity flows, despite the fact that the UN report S/2005/30 describes the activities of Aigle under the title “Improper registration: convenient disguise for illicit activities”.
- **Air Tropiques (ICAO: no code):** this company operates small aircraft (Beech, Piper, Let-410), and a Fokker 27 (9Q-CLN), whose airworthiness certificate expired October 29, 2007 and was reportedly

<sup>729</sup> S/2006/53, §129 and 130.

<sup>730</sup> The company was also mentioned in the UN report S/2006/53 as one of the companies visited by the Group of Experts in DRC.

<sup>731</sup> The aircraft - with Air Karibu liveries but operated by Free Airlines - crashed in passenger service while taking off from Kamina-Ville airport June 21, 2007. Karibu/Free Airlines’ license was later suspended by the DRC transport ministry (see “Two DRC airlines grounded after fatal crashes,” *Mail & Guardian*, August 29, 2007). The same ministry’ decision applied to the DRC company Great Lakes Business Company

<sup>732</sup> For other shortcomings of this UN report see Box 18 - .GLBC/CAGL

<sup>733</sup> VAT number: 477160915

<sup>734</sup> See “Dernier vol mercredi des Alouette belges, vendues à Mad Africa Distribution,” September 6, 2009 and Belgian Aviation History Association, January 2010 (<http://helico.fascination.free.fr> and [www.baha.be](http://www.baha.be)).

<sup>735</sup> A MONUC cable covering the July 2003 period reported of an unspecified “claim” on Aigle Aviation and Comair as companies used by the UPC (Union des patriotes congolais). The claim was not substantiated by evidence, source, or details.

grounded (according to DRC's CAA) in 2008. The company is still active, flying with the other aircraft. The company was mentioned in UN report S/2006/53 along with African Company Airlines (see above) as one of the 19 companies whose AOC was renewed by the DRC authorities. No events or facts have been mentioned in UN/Other reports that connected the company with arms trafficking or illegal commodity flows.

- **Blue Airlines (ICAO: BUL):** this company (alias Business Cash Flow prior to 1991) was named along with Aigle Aviation in UN report S/2007/423, §156 (see Aigle Aviation above) for using an AN-28 in violation of *"the provisions of paragraph 6 of resolution 1596 (2005)"* and in S/2006/53, §131 (as "Bleu" Airlines), among the companies whose license was not renewed by the DRC authorities in September 2005 because the companies were non-compliant *"with regulations in force."* Blue Airlines' AOC was re-instated in 2006. One of the company still active aircraft, an AN-26 (9Q-CZO) was instead spotted flying over Kinshasa July 15, 2009.<sup>736</sup> August 3, 1998 a Boeing 727 (9Q-CDM) belonging to Blue Airlines was seized in Goma on by the Rwandese Col. James Kabarebe in an act of international piracy that started the Second Congo War. In an attempted blitz against DRC president Laurent-Désiré Kabila, the seized aircraft's captain was forced to transport Rwandese and rebel-FARDC troops to the Kitona airbase.<sup>737</sup> The EU ban's Annex A listed the company from March 2006 to March 2010. No events or facts connecting this airline with arms trafficking or illegal commodity flows have been made in UN/Other reports.
- **CHC Stellavia (ICAO: no code):** this company operated small aircraft (and eventually a Let-410 registered September 24, 2008 as 9Q-CUA) for passenger and cargo flights from Bukavu. It was named in a UN report (S/2007/423, §78, dated July 18, 2007) as one of the freight forwarding companies that served the gold and cassiterite mines in the Namoya area. *"Airlines based in Bukavu [...] carry ores for comptoirs that are located there and have correspondents in the mines for the purchase and direct extraction of those ores through freight forwarding agencies, the main ones being Delta Force, Atral and Zalia (for flights to Kamituga); Agefreco Air, Congocom Air and Stellavia (for flights to Namoya) [...]"* The UN report does not indicate any illegal trafficking by this company. The company was listed in the EU bans' Annex A from October 2006 (AOC 409/CAB/MIN/TC/0050/2006) to March 2010. No events or facts connecting this airline with arms trafficking or illegal commodity flows has been made in UN/Other reports.
- **Doren Air Cargo/Congo (ICAO: no code):** this company (formerly Doren Africa Ltd, owned by a Czech national) operated Let-410s and one AN-26, frequently leased to other companies in DRC. The only mentions<sup>738</sup> of Doren Air Congo or Doren Africa are in two UN reports (S/2005/30 §144-145 for Doren Africa; and S/2007/423, §144/145 for Doren Air Congo) in relation to: a) the leasing of a LET-410 (9Q-LEM, with an expired registration in Sierra Leone) to Peace Air Company, which the latter used for transport of cassiterite out of Walikale to Goma in 2004, during a period of intense fighting for control of the mines among FARDC (DRC Armed Forces) and various armed groups; b) the leasing of aircraft to other companies in 2007 for the transport of cassiterite; c) the lack of proper maintenance of its Let-410s, (another indirect mention is for an accident that occurred to one of its Let-410, registered as 9Q-CBQ, while operated by Goma Express in November 2006 at Walikale). No evidence of arms trafficking directly involving this company has been provided by UN/Other reports.
- **Malila Airflift (ICAO: MLC):** this company, mostly a passenger airline with three active aircraft (an An-32, convertible from passenger to 3.5-ton cargo; an AN-26 and an AN-28) was only mentioned once in UN report S/2006/53 (in the same context as African Company Airlines, see above) as one of the companies whose license was renewed in 2005. No events or evidence connecting this airline with arms trafficking or illegal commodity flows have been reported in UN/Other reports.
- **Malu Aviation (ICAO: no code):** this company, operator of small planes (Short Skyliner, AN-28, DH C8-100) serving North Kivu for the most part, was mentioned only in UN report S/2006/53, in the

<sup>736</sup> See paragraph 4.2 in this report..

<sup>737</sup> See paragraph 4.2 in this report. t. September 20 1998 the requisitioned aircraft flew from Entebbe to Bunia, in the occupied DRC provinces. The aircraft was later abandoned in Goma.

<sup>738</sup> An Amnesty International report, *Arming the East* (2005), mentioned the UN S/2005/30 report for Doren Africa.

same context as African Company Airlines and Malila Airlift. No events or facts connecting this airline with arms trafficking or illegal commodity flows has been made in UN/Other reports.

- **Southern Gateway (ICAO: SGE):** the EU bans and CIT-MAP mention a company called Southern Gateway as registered in Equatorial Guinea. Southern Gateway was included in Annexes A from June to October 2006. The name of the company was no more present in the following issues of Regulation 2111, apparently because Equatorial Guinea authorities sent a letter to the EU authorities specifying the list of companies authorized under the Equatorial Guinea flag. The list did not include Southern Gateway and the name of the company was dropped. The reason why it was included in the previous bans is not known and was not explained. A **Southern Gateway Corporation** was named in the December 2000 UN report (S/2000/1195) on Sierra Leone (\$229) as de-registered by Swaziland authorities along with other airlines (for a total of 43 aircraft), some of which allegedly owned by Victor Butt. The UN report did not mention any fact or evidence linking SGC to arms trafficking or to Butt.<sup>739</sup> The inclusion of this company in the CIT-MAP DB list is baseless if the CIT-MAP criteria have to be considered.

The authors of this report have however records that an AN-8, registration number EL-WHL (Liberia), manufacturing number 0Zhé3450,<sup>740</sup> performed few flights in the Second Congo War between Entebbe, Kisangani, and Matari in October 1999 and February 2000. The operator - Entebbe airport logs show (see Chapter 4) - was a company called in the documents "Cargo Fret". The aircraft transported coffee bags for the Nsamba Coffee Factory (Uganda).<sup>741</sup> A photograph taken at Lanseria November 27, 2000<sup>742</sup> shows an AN-8 with r/n EL-WHL and an "SG" painted in capital letter on the tail. According to Soviet Transports and the photographer, the AN-8 was operated by Southern Gateway (first spotted as such in Lanseria January 31, 1998) and was previously registered as EL-WVA<sup>743</sup> while in operation with Interstate Airways (based in Lanseria and registered in Swaziland). Allegedly,<sup>744</sup> An-28s belonging to Southern Gateway were leased to a company that during the Second Congo War ferried Rwanda military personell and transported tantalite from DRC's occupied areas. Director of Southern Gateway was Dick Van Der Westhuyzen, but the owner was Andrei Kossolapov, who later owned a company called African Aviation Services.<sup>745</sup>

- **Atlant-Soyuz (ICAO: AYZ):** the company was founded in 1993 and became the official carrier of the municipality of Moscow in 1999. Serving nearly 100 destinations for both scheduled and charter cargo and passenger flights, it is active and has extensively flown cargo for international organizations (including the UN and Oxfam in Sudan, Chad and Indonesia), the US military and the British DFID. It was cited in EU bans for certain aircraft restrictions within the community between March 2007 and November 2009. It was never mentioned in Annex A or B bans. A 2006 Amnesty International report<sup>746</sup> mentioned the company, along with other airlines, for arms flights from Tuzla on behalf of the US military. A May 2009 report written for the French Ministry of Defence<sup>747</sup> and

<sup>739</sup> The UN report quoted Swaziland authorities saying "while the names may be different, some of these companies are one and the same and did not operate from Swaziland." A report by the Center of Public Integrity "The merchant of death" in a series titled "Making a killing" (published November 20, 2002) attributed the information to a South African intelligence report: "South African authorities alerted civil aviation authorities in Swaziland that Butt's aircraft were 'suspected of involvement in illegal acts' In May 1998, "43 aircraft operated by five companies including Air Cess and Air Pass" were grounded because of 'inadequate documentation', the African intelligence file shows."

<sup>740</sup> See: Soviet Transports on-line database.

<sup>741</sup> Document included in Porter Commission flight logs, see paragraph 4.4

<sup>742</sup> Photographer Richard Vandervord, airlines.net

<sup>743</sup> This registration is, for a different period, the same registration of another AN-8, owned by Cargo Fret International (PO Box 873 Goma, DRC), manufacturing number OG3440, registered in Liberia November 1, 2002, with the reported operator being in 2002 Compagnie Aérienne de Grand Lacs (at that time domiciled at Avenue President Mobutu, Goma, DRC). As seen in Chapter 4, the same aircraft was sold November 30, 2000 to CAGL by Transavia Travel Agency (Sharjah).

<sup>744</sup> Confidential source.

<sup>745</sup> Andrei Kossolapov has been mentioned as "Kosalopov" in the UN Group of Experts's report on Angola (S/2001/966, §129) dated October 12, 2001, as director of a company called *J. Rand*, supposedly connected with Victor Butt's activities. The UN report stated that "the Mechanism has received allegations that Victor Butt has resorted to a network of subcontractors and partners through which he continues his sanctions-violating activities" including *J. Rand* among other companies. No evidence has been further provided on the credibility of those "allegations" on "Kosalopov". A report by the Center for Public Integrity/International Consortium of Investigative Journalists, dated December 30, 2002 (*Making a Killing*, chapter: *The Merchant of Death* by André Verlöy, November 20, 2002) mentioned Andrei Kossolapov as one of Victor Butt's competitor and then partner, along with Kossolapov's business partner Victor N. Zieleniuk (spelled: Victor Nicolajewics Zieleniuk in the above-mentioned UN report) and Yuri Sidorov. Neither the UN report, nor the CPI/ICJ report mention Southern Gateway.

<sup>746</sup> See Amnesty International, *Dead on Time* (2006). Research carried out for this report did not reveal involvement in arms trafficking.

<sup>747</sup> See: "The Control of Air Transportation of Small Arms and Light Weapons and Munitions: A Comparative Study of National Systems Utilised in the European Union," report by ISIS, SIPRI, and CICS for the French ministry of Defence, May 2009.

co-authored by the authors of SIPRI 2008 and 2009 reports mentions Atlant-Soyuz for “destabilizing transfer of SALW from Bosnia-Herzegovina to Iraq in 2004 and 2005.” The source of the information was the same 2006 Amnesty International report.<sup>748</sup> The Amnesty International report dedicated a chapter to US air cargo carriers that gave support to the US military in the invasion and occupation of Iraq. It is not known why only the Atlant-Soyuz flights (carried out on behalf of the US military and the new Iraqi Ministry of Defence) were “destabilizing transfers”. The Amnesty report specifically mentioned several military flights whose cargo the US authorities lost track of, but those flights were not performed by Atlant-Soyuz.

- **Aviacon Zitotrans (ICAO:AZS).** This company, listed in the CIT-MAP DB, was never mentioned in Annex A or B but it was mentioned in EU Regulation 2111 July 2007 for certain aircraft restrictions within the community. The company, founded in 1995 and based in Ekaterinenburg in the Urals region, operated a few leased Il-76s in the late 1990s and presently has a fleet of seven aircraft, all Il-76s. The United Nations have used Aviacon aircraft extensively (official carrier for the World Food Program and support of the UN Mission in Sudan among other ones) as well as the Red Cross and Oxfam for relief and emergency flights. As stated in its website in April 2008,<sup>749</sup> the ministry of Transportation licensed the company for the transport of dangerous goods (from July 27, 2001, GSCHM-001162) and has been recommended by the same ministry “to carry out international transport of military equipment (approved by the Committee on Military-Technical Cooperation by order of the Government of the Russian Federation from 21.03.01 N. 216).”

The 2009 SIPRI report mentions the company under the chapter “The role of air cargo carriers in destabilizing or illicit SALW flows,”<sup>750</sup> “Typologies of companies engaged in arms transfers to Africa,” subheading “Type 3. Intercontinental carriers with close ties with Central and East European state arms manufacturers or ministries of defence.” The report states that the company “is a principal aviation transporter for state-controlled Russian arms companies located in the Urals region blacklisted by the US Government which [sic] supply weaponry and military equipment to African states involved in regional conflicts. A UN Security Council report of January 27, 2006 features a photograph of an Aviacon Zitotrans aircraft together with others under the title ‘Suspicious airplanes sighted by the group of experts on 16 November 2005 at Mwanza airport, United Republic of Tanzania.’ The note accompanying this statement refers to the UN Group of Experts on DRC report S/2006/53 dated January 27, 2006. One of the aircraft featured in the photograph belonged to Aviacon Zitotrans. The report did not mention Aviacon Zitotrans anywhere in the text, and no other UN GoE reports have mentioned the company. Documents seen by IPIS and TransArms, show that the presence at Mwanza of an Aviacon aircraft on November 16, 2005 was a follow up of a flight performed on behalf of the UN High Commissioner for Refugees on November 15 2005, from Geneva to Juba (Sudan). On November 16 the plane landed in Mwanza from Juba as an empty ferry, reportedly to pick up chilled fish fillets that Mwanza’s fishing and processing industries prepare in large quantities for export to Europe. Between 16 and 17 November, the plane left Mwanza for Bratislava, in the Slovak Republic.<sup>751</sup>

The SIPRI report further cites three sources to support its claims that Aviacon had among its customers arms manufacturers that have been “blacklisted by the US Government which supply weaponry and military equipment to African states involved in regional conflicts.” The first source is a media report<sup>752</sup> on the US Department of State sanctions announced January 7 2006; the second source is a Saferworld study by Paul Holtom on small arms production in Russia;<sup>753</sup> and the third source is a SIPRI study<sup>754</sup> on the UN arms embargoes, including a case study on Eritrea and Ethiopia (2000-2001) which in turn quotes Holtom’s study on Russia’s small arms deliveries to the two African countries. **First source.** The US sanctions - according to the original US Department of State

<sup>748</sup> See: Amnesty International, *Dead on Time* (2006).

<sup>749</sup> See: [http://web.archive.org/web/20080324232213/www.aviacon.ru/ru/Customer\\_Space/](http://web.archive.org/web/20080324232213/www.aviacon.ru/ru/Customer_Space/)

<sup>750</sup> Griffiths, H., M. Bromley (May 2009).

<sup>751</sup> Simply stated, the title of the picture in the UN report was a mistake and did not stand the UN rules on evidence.

<sup>752</sup> *ABC News*, January 6, 2007, “US Imposes Sanctions on Arms Suppliers to Iran, Syria”.

<sup>753</sup> Holtom, P., *Small Arms Production in Russia*, Saferworld, London, 2007, pages 30 and 31.

<sup>754</sup> Fruchart, D., P. Holtom, S. Wezeman, United Nations Arms Embargoes: Their Impact on Arms Flows and Target Behaviour, SIPRI and Uppsala University, Stockholm, 2007 (“Case study: Eritrea and Ethiopia, 2000–2001” by P.D. Wezeman).

document<sup>755</sup> that refers to the period December 2006–December 2008 - had nothing to do with “*African States*” (the reference is to Iran) and the arms manufacturers named in the sanctions did not violate any UN embargo. The Department of State lifted the sanctions against the companies on December 28, 2008. The US sanctions named some of the Russian arms manufacturers Aviacon had as customers (Rosoboronexport and Tula Design Bureau of Instrument Building, KBP) but neither Aviacon itself nor events that could connect Aviacon with arms flights to Iran. **Second source.** The Saferworld report stated that Russian small arms manufacturers delivered weapons to Eritrea and Ethiopia before and after the imposition of the UN arms embargo on those countries (May 17, 2000–May 15, 2001). The report did not include any mentions of transport companies or transport modalities used for the shipments and there is not proof whatsoever that Aviacon was involved in those arms shipments. **Third source.** The SIPRI study, quoting Paul Holtom’s Saferworld report, stated: “*It is known that Russia also delivered SALW and ammunition, including anti-tank systems and man-portable air defence systems to both Eritrea and Ethiopia in the immediate post-embargo period. Overall, the volume of suspected deliveries has been relatively small and actual delivery dates cannot be accurately determined, making it difficult to draw any firm conclusions on the will of suppliers to support the UN.*”<sup>756</sup>

While Aviacon Zitotrans is surely a defence logistic services provider, the insertion of this company in a list called “*Countering Illicit Trafficking–Mechanism Assessment Project (CIT-MAP) air cargo carriers database*” is baseless.

- **Air Bas (actually Airbus Transportation Inc., ICAO: RBS):** The company was registered in Dallas (Texas) June 26, 2002<sup>757</sup> and had its main operating base in Sharjah Airport International Free Zone (UAE, SAIF-Zone, Executives Suites, Y-2, 114, PO 8299, UAE).<sup>758</sup> Founder and owner of Airbas was Richard Chichakli. He was also one of the Airbas directors (along with the late Capt. Victor Lebedev)<sup>759</sup> and Airbas president. In January 2003 Serguei Butt joined the company and in April 2003 received 50% of the company’s shares.<sup>760</sup> Before joining Airbas as partner/owner, Serguei Butt had been appointed general manager of Airbas’s branch in Sharjah, UAE<sup>761</sup> in late 2002. January 30, 2004, Serguei Butt obtained an ITIN (Individual Tax Payer Identification Number) from the US Treasury.<sup>762</sup> At various stages in 2003 and 2004, Airbas used a fleet of Boeing 727 (initially one cargo, one passenger), one Antonov 12, two Ilyushin 18, and one Yak-42. Two additional Boeing 727s, one Antonov 26 and one Antonov 12 were also used on an ad hoc basis. Soviet-made aircraft were contributed by Serguei Butt from his share of aircraft registered in Equatorial Guinea under Air

<sup>755</sup> See: US Department of State, Iran and Syria Nonproliferation Act, <http://www.state.gov/t/isn/c20760.htm>

<sup>756</sup> “*Case study: Eritrea and Ethiopia, 2000–2001*”. The fact that Russia supplied Eritrea and Ethiopia with arms before and after the embargo may in itself be despicable, but it did so along with Bulgaria, China, Finland, Germany, Israel, Italy, the UK (for Eritrea) and the Czech Republic, Hungary, Kazakhstan, the United States, and Ukraine (for Ethiopia), according to the same studies quoted in the SIPRI report.

<sup>757</sup> See: Texas Secretary of State, Business Entities, Airbas Transportation Inc., Tax ID 800098068, registered June 26, 2002, with a given address at 4304 Druid LN, Dallas, TX 752051029 USA. According to the filed documents, its first directors were Richard Chichakli and Capt. Victor Lebedev, with address given as 811 South Central Expressway Suite 210, Richardson, Texas 75080. November 18, 2004, the company filed a change of registered agent/registered office, from the previous address to 7501 Inwood Road, Dallas, Texas, 75209, and from the previous registered agent (Chichakli) to the lawyer Clay Scott Jr. The last filing signed by Director and President Richard Chichakli was dated March 29, 2007. Documents show that the company charter had been forfeited with notification dated February 9, 2007.

<sup>758</sup> SAIF-Zone on-line directory, accessed March 5, 2003 and November 28, 2004; and confidential source.

<sup>759</sup> In addition to Airbas, Trans Aviation Global Group, and other companies, Richard Chichakli incorporated in the US San Air General Trading LLC (Texas June 6, 2000, ID 706956223, initially located at 701 E. Plano Parkway suite 112, Plano, Texas, 75074, then at 811 South Central Expressway, suite 210, Richardson, Texas 75080). The incorporation document shows a reference to a San Air General Trading FZE (UAE) as the principal company, said to be organized since July 15, 1998 in Ajman, with given address P.O. Box 932-20C, Ajman, UAE. The same document shows that San Air’s (US) managers were Serguei Denissenko, Vladimir Kviazeo, and Richard Chichakli, all formally domiciled at 701 E. Plano Parkway suite 112. San Air General Trading LLC (US) filed a certificate of withdrawal May 3, 2002, ceasing San Air presence in Texas. As shown in various documents, the San Air (FZE) general manager was Serguei Denissenko and Sanjivan Ruprah was its director (see for example, a San Air fax dated August 16, 2001 and addressed to Jean Paul Ekombolo, managing director of Ekomboje SPRL, Kinshasa, appointing him as San Air’s representative in Kinshasa for “negotiating the payments of funds outstanding to our company”, Crema Court documents, Sanjivan Ruprah trial). On San Air General Trading (FZE) see also infra (footnotes to 4.4).

<sup>760</sup> Confidential source on US Internal Revenue Service (IRS) tax return documents, Form 1120 for the year 2003.

<sup>761</sup> Airbas documentation filed for obtaining a license in Sharjah SAIF, confidential source.

<sup>762</sup> Department of the Treasury, IRS, Philadelphia Campus, CP-565A, Form W7, ITIN 953-75-4116, dated January 30, 2004 (AS Sergey But).

Cess EG (see below for this company), while the Boeings,<sup>763</sup> all initially registered in the US,<sup>764</sup> were contributed by Trans Aviation Global Group (TAGG) - domiciled in Richardson (Texas), incorporated April 24, 2002,<sup>765</sup> and owned by Richard Chichakli.

The company started actual operations in 2003, with subcontracts originated from contracts to other companies by the Red Cross, KBR,<sup>766</sup> and the US Department of Defense (since April 2003, for transport of military cargo and troops to and from Afghanistan with the Boeing 727s) and Iraq (with an AN-12 and a Yak-42, mainly under the call signs of Falcon Express Cargo,<sup>767</sup> Aerovista,<sup>768</sup> and some on behalf of Chapman Freeborn<sup>769</sup>). Airbus had a code-sharing agreement with Irbis Airways (FZE, UAE and Irbis, Kazakhstan, ICAO code BIS)<sup>770</sup> and Airbus flights to and from Afghanistan were performed under the Irbis call-sign.<sup>771</sup> The US Defense Energy Support Center granted Airbus fuel cards to be able to use fuel owned by the US DoD<sup>772</sup>. The company ceased actual operations in late 2004, after the US Logistics Agency suspended (August 25, 2004)<sup>773</sup> its contracts with Airbus for access to DoD fuel. Airbus tax and income filings to US authorities show that the company had a gross revenue of \$7.8 million in 2003.<sup>774</sup>

There is no evidence of this company's involvement in illegal arms trafficking or illegal commodity flows (unless one considers its service in Iraq as "destabilizing" and illegal). However, the UN Group of Experts' report S/2003/1035 on Somalia, dated November 4, 2003, included a box (p. 25) on "Air Bas (sic) and the Butt connection with Somalia". The box did not provide any evidence of illegal activities by Airbus in Somalia or elsewhere and of Airbus connection with Victor Butt's activities in 2002-2004, the years of its existence. The box also repeated uncorroborated information from previous UN reports (in particular S/2000/1225 on Angola) - such as Richard Chichakli's role as chief financial officer of Air Cess (Holdings, Gibraltar, see section 4.4 in this report) and other "Victor Butt's owned companies". The box further states that Airbus had as clients the Somalia-registered airlines "Gallad Air and Jubba Airlines" (more precisely Gallad Air Cargo LLC, with operating base in Dubai,<sup>775</sup> and Jubba Airways, ICAO code JUB, with operating base in Dubai and Sharjah). Jubba Airways operated "passenger and cargo flights with Ilyushin-18D aircraft leased from and operated by Phoenix Aviation."<sup>776</sup> While Gallad Air Cargo and Jubba Airways were in effect customers of Airbus, the UN report does not provide evidence on why the relationships between Airbus and Gallad Air or Jubba Airways could be relevant for arms trafficking activities in Somalia. According to the same UN report, a Jubba Airways aircraft was chartered for the transport of uniforms from Dubai to Mogadishu in an undated event. The same report did not mention Gallad Air in connection with any event of arms trafficking or military flights. One may question the rationale for inserting this box in the report. There is no evidence-based mention of this company in UN/NGO reports on arms trafficking or illegal commodity flows. **The insertion of Airbus in the CIT-MAP database is baseless.**

<sup>763</sup> Registration numbers: N532DA (manufacturing number 22045, acquired from Aventura Aviation LLC), purchased 5/25/2004, leased to Mandala Airlines, de-registered from US registry August 25, 2004 for export to Kazakhstan, purchased by Mega Airlines 8/25/2004, re-registered UN-B2701; N8892Z (manufacturing number 21861, acquired from JTI ENGINES & AIRCRAFT LEASING, Miami), purchased 07/09/2004, de-registered August 25, 2004, exported to Kazakhstan, re-registered UN-B2702; N533DA (manufacturing number 22046, acquired from Aventura Aviation LLC), purchased 2/8/2005, de-registered 3/30/2005 and exported to Kazakhstan. See: ACAS database and US Federal Aviation Administration records (see below). The dates of official acquisition do not correspond to the periods in which the Boeings were used by Airbus. The discrepancies may stem from the difference between availability of the aircraft for operations by Airbus/Irbis and dates in official purchase documents.

<sup>764</sup> See: US Federal Aviation Administration website, Trans Aviation Global Group (TAGG), <http://registry.faa.gov/aircraftinquiry/>, for TAGG.

<sup>765</sup> See: Texas Secretary of State, Business Entities, Trans Aviation Global Group (TAGG), Tax ID 32005206795, located at 225 Syracuse PL, Richardson, Texas.

<sup>766</sup> Kellogg Brown & Root (KBR). At the time of the subcontracts to Airbus the company was a subsidiary of Halliburton Company. In 2007, KBR separated from Halliburton and became an independent company. See <http://www.kbr.com/About/History/>.

<sup>767</sup> Falcon Express Cargo was founded in 1995 and based in Dubai and Bahrain. The company operates cargo flights on behalf of Federal Express and other express parcel companies.

<sup>768</sup> Aerovista FZE is based in Sharjah Free Zone, see: <http://www.aerovista.aero/>.

<sup>769</sup> Chapman Freeborn is a global air cargo charter company. See: [http://www.chapman-freeborn.com/en/cargo\\_air\\_charter/](http://www.chapman-freeborn.com/en/cargo_air_charter/)

<sup>770</sup> Irbis Airways (FZE), P.O. Box 7820, Sharjah, SAIF Zone Directory, 2001-2002. See also: Irbis (ICAO code: BIS), registered in Kazakhstan. Part of Airbus fleet of Soviet-made aircraft were later re-registered in Kazakhstan under Irbis fleet.

<sup>771</sup> Confidential source.

<sup>772</sup> Last recorded in DoDAAC Custom Database, "Commercial Purchase Agreement Customers", TBTC02, published November 9, 2004.

<sup>773</sup> See: Defense Logistics Agency, Defense Energy Support Center, communication with Airbus dated August 25, 2004.

<sup>774</sup> US IRS, Airbus Transportation Inc., Form 1120, Employer identification number 38-3653457, US Corporation Income Tax Return for the year 2003, dated December 8, 2003; Airbus Transportation Inc., Financial Statements for the Year Ended December 31, 2003.

<sup>775</sup> See: AeroTransport Data Bank, Gallad Air, [www.aertransport.org](http://www.aertransport.org)

<sup>776</sup> JP Airline-fleet International, 2002-2003 and 2003-2004

- **Aerolift Ltd.** SIPRI 2009 stated: “In 2008 and 2009, DynCorp contracted Aerolift, a company documented in a 2006 UN Security Council Sanctions Committee report<sup>777</sup> as illicitly supplying ‘assault rifles, hand grenades, mines, PKM machine guns [light anti-tank weapons], surface to air missiles, multiple rocket launchers, different calibres anti-aircraft guns, anti-tank guns and heavy machine guns’ to al-Shabaab, an Islamist organization that controls much of southern Somalia”.

In reality, this is a case of mistaken identity. Amnesty International in September 2008 reported on this delivery to Somalia in a report titled “*Blood at the Crossroads. Making the case for a global Arms Trade Treaty*”<sup>778</sup> The information obtained by the Amnesty researchers was shared with the UN Somalia Panel and showed that the aircraft used for the delivery was sold by Aerolift to an Eritrean company named Eriko Enterprise.<sup>779</sup> In the sales agreement Eriko was allowed to use the Aerolift call sign (LFT) for a period “not exceeding three months” whilst a fresh ICAO call sign was being allocated. The contract between Aerolift and Eriko also included a provision that “*the Buyer is obliged to not perform flights under Sellers call sign on runways not registered in Jeppesen, military flights or flights with arms on board, to transport prohibited cargo*”<sup>780</sup> The registered owner of the aircraft in Eritrea was Skyroute Aviation.<sup>781</sup>

It should also be noted that the UN Group of Experts on the DR Congo reported on Aerolift-owned aircraft crashing within Central Africa.<sup>782</sup> Many Aerolift aircraft were leased to aviation companies operating in DR Congo (Uhuru Airlines, for example), but no direct link to arms trafficking (licit or illicit) was found by the United Nations regarding this company. Neither “leasing arrangements” with, nor the selling of aircraft to, companies who may have carried out illegal arms transfers may constitute involvement in illegal arms transfers. If the distinctions between operating an aircraft, owning an aircraft and selling an aircraft<sup>783</sup> are done away with, hundreds of companies could be linked to all sorts of illicit activities.

- **“Cess” (Equatorial Guinea).** The CIT-MAP database includes a company called **“Cess” (actually Cessavia, ICAO code: CSS)**. The EU Regulation 2111 ban lists included in Annex A the company (again as “Cess”) in the June 2006 ban list. In the ban list dated October 2006, the EU regulators stated that the Equatorial Guinea authorities had provided proof that the company’s AOC had been withdrawn (in an unspecified date). The company was no longer mentioned in other Annexes A. Cessavia was registered in Equatorial Guinea in 1998 (head: Victor “Butt”),<sup>784</sup> based Sharjah, with a reported address c/o Transavia Travel Agency, Sharjah. Cessavia operated four aircraft.<sup>785</sup> The company was later renamed **Air Cess** (still doing business as Cessavia) and listed as such in the Equatorial Guinea registry, again with ICAO code CSS and five aircraft.<sup>786</sup> A document dated June 30, 2000 and issued by the Equatorial Guinea CAA, shows Air Cess G.E. S.A. as owner of a to-be deregistered Yak-42 (3C-LLL, m/n 4520422306016) The company went out of business in 2001. Airbus Transportation (see above) inherited four of the Air Cess (Equatorial Guinea) aircraft, reportedly as part of a division of assets between Victor and Serguei Butt.<sup>787</sup> Cessavia/Air Cess (Equatorial Guinea) was named in a UN report of the Group of Experts on Angola (S/2000/1225, dated December 21, 2000) that stated (S128-129): “[...] In 1998, Cessavia, another company, was formed, registered in Equatorial Guinea, although it is now listed as Air Cess.” **The UN report did not link Cessavia/Air Cess (Equatorial Guinea) with any evidence**

<sup>777</sup> See: S/2006 a/913

<sup>778</sup> See: *Blood at the Crossroads. Making the case for a global Arms Trade Treaty*, Amnesty International, 17 September 2008: For the entire story see pages 77 – 79.

<sup>779</sup> Contract of Sale and Purchase of the Aircraft, 21 July 2006.

<sup>780</sup> Contract of Sale and Purchase of the Aircraft, 21 July 2006

<sup>781</sup> See: *Blood at the Crossroads* (2008): p.78.

<sup>782</sup> S/2005/436: §97; S/2007/423, §148.

<sup>783</sup> See: Swain, J., B. Johnson –Thomas, “Arab states trained Al-Qaeda to fight in Somalia”, *Sunday Times*, February 18, 2007.

<sup>784</sup> JP Airline-fleets International 1999-2000.

<sup>785</sup> One An-24T combi (registration: 3C-KKM, manufacturing number 1911803, previously registered in Swaziland as 3D-SBP); one An-12BP freighter (r/n 3C-KKO, m/n 1901706, previously 3D-SKN); one Ilyuscin 18V combi (r/n 3C-KKJ, m/n 184006903, previously 3D-SBC); one Ilyuscin 18D (r/n 3C-KKK, m/n 186009202, previously 3D-SBW). See: JP Airline-fleets International 1999-2000.

<sup>786</sup> One An-24RV combi (registration: 3C-KKH, manufacturing number 27307701, previously registered as EL-WTA); one Ilyuscin 18V combi (r/n 3C-KKJ, m/n 184006903, previously 3D-SBC); one Ilyuscin 18D (r/n 3C-KKK, m/n 186009202, previously 3D-SBW); one Ilyuscin 18V (r/n 1870102204, previously registered as 3D-SBQ); one Ilyuscin 18E (r/n 3C-KKR, manufacturing number 18500860, previously registered as EL-ARK). See: JP Airline-fleets International 2001-2002.

<sup>787</sup> Confidential source.

or event related to arms trafficking or illegal commodity flows. The insertion of this company in the CIT-MAP database is baseless.

- **CET Aviation. CET Aviation (ICAO: CVN).** The company *per se* did not operate any aircraft and has never been mentioned in industry databases as an active airline. The company went out of business in 2002. It was mentioned in a UN report of the Group of Experts (S/2001/1015, dated October 26, 2001, §270-271) on Liberia. The report stated: “In March 2001, San Air and Centrafrican Airlines moved to new offices in the Ajman Freezone (sic). When calling the switchboard of these companies, it seems both companies are now part of an entity called the CET Aviation Enterprise [...] To make things more complicated, a company CET Aviation exists in Malabo, in Equatorial Guinea. That company is run by a Valerii Naido, also a former employee of Victor Butt, who now assists an agency to register planes in Equatorial Guinea.” The UN report did not link CET Aviation to any event or evidence related to arms trafficking or illegal commodity flows. The company has also been mentioned in the UN report S/2005/30 (§69) and in an Amnesty International report<sup>788</sup> as the one that had re-registered an Antonov-32 in Equatorial Guinea (as 3C-QQT), previously registered in the C.A.R. by Centrafrican Airlines/San Air General Trading FZE as TL-ACH),<sup>789</sup> then illegally used by GLBC (DRC, see Chapter 10 in this report). Many other NGOs reports mentioned CET Aviation, all referring to the above-mentioned UN reports and without any further information. Its insertion in the CIT-MAP database is baseless.
- **Okapi Air.** The company was registered in Uganda. UN report S/2002/1146 (dated October 16, 2002, §107) mentioned the company as the “non-operational airline company Okapi Air. The purchase of the company allowed Victor Butt to use Okapi’s licences.” The company was not an air cargo carrier, but the UN Group of Experts recommended that financial restrictions be applied to it.<sup>790</sup> Evidently this “non-operational company” could not have transported arms or violated safety rules. Its insertion in the EU ban (March 2006) was related to the blanket ban on DRC. The DRC authorities, in October 2006, provided the EU regulators with evidence that the AOC of “Okapi” had been revoked. Since the year 2003, however, no further “activities” by this company or its related company Odessa Air have been mentioned in any “arms trafficking-related” reports. The insertion of this company in the CT-MAP database is consequently baseless.
- **ATO, Air Transport Office:** this company, founded in 1991, was grounded in 1997 by the DRC authorities for having supplied arms to UNITA during the Mobutu regime.<sup>791</sup> In DRC the company registered two old HS 780 C Andovers and one DC4-C54D in 1996, one L-1188 in 1999 (9Q-CTO with TharcisCo., according to the DRC aircraft registry) and (temporarily) an AN-32. It also leased some other aircraft in the early 1990s. All of its planes have been inactive for years,<sup>792</sup> having either been scrapped, stored or destroyed while in service with ATO or other companies.

The company formed another airline in the Republic of Congo (Congo-Brazzaville), Cargo Express Congo (active between 1997 and 1998), with two aircraft registered in Liberia, one of which was scrapped and the other stored in Luanda after being intercepted by the Angolan Air Forces because suspected of carrying arms for UNITA.

ATO’s AOC was re-granted by DRC authorities in an unknown year (probably 1999). In October 2006, the DRC authorities reported to the EU regulators that ATO’s AOC was withdrawn and the company was no longer mentioned in the EU bans’ Annex A.

ATO was quoted in Human Rights Watch’s “Angola Unravels” and in the Small Arms Survey 2001<sup>793</sup> for the same 1997 events relating to UNITA.<sup>794</sup> The UN and NGO reports make no mention of, and

<sup>788</sup> Amnesty International, “DRC, Arming the East”, p. 55, AFR 62/006/2005, July 2005.

<sup>789</sup> See: San Air General Trading (Sharjah) “Certificat de radiation”, Civil Aviation Authority Central African Republic, 20/09/2000 and CET Aviation Enterprise FZE (Sharjah) “Registration certificate”, Civil Aviation Authority Equatorial Guinea, 21/5/2001, in Amnesty International, “DRC, Arming the East”, p. 55, note 267, AFR 62/006/2005, July 2005. See also: JP Airline-fleets International 2000-2001.

<sup>790</sup> The UN report S/2003/1027 lists the company among the ones that “did not react to the Panel’s Report.”

<sup>791</sup> See: Rupert, J., “Zaire Reportedly Selling Arms to Angolan Ex-Rebels,” *Washington Post*, March 21, 1997.

<sup>792</sup> An Il-18 that ATO once leased is, after many proprietary passages, still active with National Paints in Kyrgyzstan (AeroTransport Databank, serial number 187010403).

<sup>793</sup> See: Vines, A., “Angola Unravels,” Human Rights Watch, 1999; Small Arms Survey 2001, Chapter 3, *Fuelling the flames*, p. 118.

<sup>794</sup> The supplies to UNITA were mentioned in UN reports on Angola (S/2000/203, 10 March 2000; S/2000/1225, December 21, 2000) but ATO was not mentioned.

contain no information about, this company in relation to arms trafficking or illegal commodity flows in the period 1998-2008 covered by the SIPRI reports 2008 and 2009 and CIT-MAP database.

### 13.3.2. Companies that went out of business before the first EU Regulation 2111 ban list entered in force and were nonetheless included in the EU lists and in the CIT-MAP DB list

- **Uhuru Airlines**,<sup>795</sup> founded in 2002, ferried arms in 2003 for the DRC government. The EU ban dated March 2007 stated that the DRC authorities had provided evidence that the AOC had been revoked and the company was no longer listed in Annexes A. Actually, the company went out of business in **September 2005**, after its AOC was revoked by DRC authorities, nearly one year before being mentioned in the EU bans.
- **Air Cess (ICAO: ACS, Liberia)**. The company was founded in 1995 by Serguei Butt and operated three aircraft, all AN-8 freighter (r/n EL-AKM, EL-RDK, EL-WVA).<sup>796</sup> The EU ban dated October 2006 stated that Liberia's aviation authorities had provided evidence of the withdrawal of Air Cess's AOC (in an unknown time) and the company was no longer listed in Annexes A.

The UN Group of Experts report on Angola (S/2000/1225, dated December 21, 2000) unveiled that Air Cess Liberia (at that time directed by the Belgian pilot Ronald de Smet) had participated in a series of five arms flights to Togo in July-August 1997.

Three of those flights were performed under the call sign of Air Cess Liberia (ACS): one by a Ilyushin 18, r/n LZ-AZC that at that time was actually owned/operated by Air Zory (Bulgaria); two by an Ilushin 76, r/n EL-RDT (at that time owned/operated by Air Cess Liberia), whereas . The other two flights to Togo were performed 1) by an aircraft with registration number UR-82066 **that the report wrongly identified** as an AN-12 when it was in fact an AN-124 Ruslan owned by Antonov Design Bureau (ADB) and leased to the joint venture Antonov Airlines/Air Foyle; 2) by an Ilyushin IL-76, with r/n UK-76844, operated at that time by Tapo-Avia. The company ceased operations in 1998.

- **Jetline Inc. (ICAO: JLE)** founded in 1999 for VIP transport by the Sin-Sad governments, Community of Sahel-Sahara, and registered in Equatorial Guinea, but based in Tripoli and Sharjah FZE.<sup>797</sup> This company, registered in Equatorial Guinea, was mentioned in EU bans between March 2006 and October 2006 and was delisted for the same reasons Air Cess, CET Aviation and Air Bas were. Jetline ceased operations between 2004 and 2005.<sup>798</sup>
- **Air Leone**: this company, registered in Sierra Leone, was founded in 1989 as Ibis Air Transport and renamed Air Leone in 1999. It went out of business in **2005**.
- **Inter Tropic Airlines**, founded in 1999 and registered in Sierra Leone, went out of business in **2000**, but some of its service operations remained active until 2004.<sup>799</sup>
- **ATO, Air Transport Office/Cargo Express Congo**. These companies went out of business in 1997 and 1998 respectively.
- **Air Bas Transportation**. The company went out of business in 2004.
- **Cessavia/Air Cess (Equatorial Guines)**. The company went out of business in 2001.
- **CET Aviation**. The company went out of business in 2002.

**In summary**, the CIT-MAP database list named at least 22 companies whose insertion in the same list was unjustified, either because non connected with arms trafficking or illegal commodity flows (17) or because ceased operations before the first EU ban list (9 companies, including 4 of the 17 ones).

The insertion in the EU bans and in the CIT-MAP of the 9 companies that had already been defunct for between one and eight years before the first EU ban list is puzzling. Evidently, having ceased to exist, they could never have been "checked" for air safety violations by EU regulators and the bans could not have had any "*disproportionate impact*" on them.

<sup>795</sup> See: Amnesty International, *Arming the East* (2005)

<sup>796</sup> JP Airline-fleets International 1990-1999.

<sup>797</sup> Not to be confused with Jet Line International, ICAO: JLA, based in Moldova, with offices in Ukraine and Sharjah FZE.

<sup>798</sup> A company registered in Romania in 2005, MIA/JetEx Flying support (ICAO: JLA) is considered a successor of Jetline Inc.. See: AeroTransport Databank.

<sup>799</sup> See: Amnesty International, *Arming the East* (2005).

**TMK.** Surprisingly, the CIT-MAP list does not mention the Goma-based and Belgian-owned TMK (Transports et Messageries au Kivu) listed in EU bans Annex A (March 2006-March 2010) and in NGO reports. The company regularly transported coltan (Columbite-tantalite) and cassiterite (a source of tin) from DRC mining areas to Goma or Entebbe at a time when DRC mining areas were under the control of Rwanda, Uganda and their proxy rebel armies (1998-2002). A report by IPIS<sup>800</sup> documented that TMK shipped the minerals from Mombasa to Antwerp. Porter commission flight logs show that between 1998 and 2001, TMK aircraft landed in the military Old Airport in Entebbe, Uganda, 377 times from various DRC occupied areas.<sup>801</sup>

### 13.3.3 Blanket bans

The majority of the companies named in the EU bans were mentioned in blanket bans - i.e., in bans that addressed the inability of Civil Aviation Authorities to oversee companies under their authority and not the airlines in themselves. The number of companies named in EU blanket bans between March 2006 and April 2008 and whose aircraft did not undergo any actual safety checks amounted to 214, of which 48 entered the CIT-MAP list.

Only 6 companies included in the blanket bans (Annexes A and B) issued between March 2006 and April 2008 were actually singled out as a consequence of safety inspections: Central Air Express (DRC); Air Universal (Sierra Leone); Sky Gate (Kyrgyzstan); Jet Africa (Swaziland); Hewa Bora Airways (DRC, named in Annex B for restrictions on certain aircraft); and International Air Services (Liberia), the only one listed in the CT-MAP database. Only 29 companies named in the CIT-MAP database underwent actual safety checks that led to their inclusion in the EU bans.

### 13.3.4 Asset Operating History (AOH)

As noted above, the CIT-MAP database included 109 companies: the 80 companies said to have been named in UN/Others arms trafficking-related reports and 29 other companies that had operated or owned aircraft that were later operated or owned by the 80 companies allegedly linked with arms trafficking and illegal commodities flows. The Asset Operating History (AOH) criterion has been used to indicate possible relationships among those companies. *"The 172 air cargo carriers [...] were analysed on the basis of their asset operating history (AOH) to determine whether they had supplied, owned, leased or acquired aircraft to or from a company named in a UN or other arms trafficking-related report published between 1998 and 2008. This indicator was used to determine what proportion of the air cargo carriers banned from EU air space on grounds of air safety have conducted one or more business transaction with an air carrier suspected of being involved in destabilizing arms transfers."*<sup>802</sup>

An aircraft operating history cannot help to prove a link, past or present, between the seller and the buyer or between the lessor and the lessee of that aircraft, over and beyond the Terms of the Sales or the conditions of the leasing agreement.

**Firstly**, the responsibility of the buyer for what the aircraft is used for ceases at the moment the Purchase Agreement and Bill of Sale are signed, and even in the case of a simple lease there is no legal responsibility on the part of the leasing company over what the aircraft does while operated by the lessee. The former can terminate the lease if the aircraft's activities are in violation of the leasing agreement, but the company has no authority to do so if, for example, the lessee legally transports arms for a government (no matter what the lessor may think of such a shipment).

Deviating from the principle that the Purchase Agreement breaks the link between the previous owner and the aircraft been sold may lead not only to innuendos and unfounded relationships between sellers and buyers, but to the mistakes described in Box 32 of this report. Only the Purchase or the Lease Agreement may indicate whether the seller and the buyer, or the lessor and the lessee, have any further economic or legal links to the aircraft activities. If the principle of legal responsibility is cast aside, most of the world major airlines and aircraft leasing companies can be linked to what those who have bought or leased their aircraft did.

<sup>800</sup> "Supporting the War Economy in the DRC: European Companies And The Coltan Trade, Five Case Studies," International Peace Information Service, Antwerp, January 2002.

<sup>801</sup> Porter Commission, Entebbe military airport flight logs, see in this report §2.3.1.3

<sup>802</sup> CIT-MAP database, footnote and SIPRI 2008, p. 10, footnote n. 56.

**Secondly**, an AOH kept out of context may further lead to establish connections that are baseless. The sizeable number of airlines that every year go out of business results in hundredths of aircraft being put on sale and then bought by dozens of other companies

For example, an analysis carried out by the authors of this report in 2007 shows that, in the period 1990-2006, 218 airlines based in the Balkans, Belarus, Czech Republic, Slovakia, Moldova and Ukraine went out of business (61 in the Balkans only) and 121 new airlines were created and started operations. The large number of companies that went out of business between 1997 and 2006 in the above-mentioned regions and countries created an enormous second-tier aircraft market, in particular for Soviet-built cargo planes. In such a context, the AOH criterion cannot cast much of a light on the nature of business connecting sellers and buyers.

In fact, the reasons why an aircraft passes from the fleet of company A to the fleet of company B are hardly the consequence of particular connections between the owners of the two companies. Beyond the appearance, aircraft ultimate owners are very often large leasing companies or banks and trusts. The re-allocation of an aircraft from an airlines' fleet to another's one follows financial and business opportunity far more than particular business relationships between the old and new operator of that aircraft. On the aircraft short- or long-term leasing and charter markets, the key-players are not the airlines, but worldwide aircraft management companies whose services the aircraft owners and operators use for allocating their assets to the most profitable bid.

**Table 34. Biennial turnover of airlines based in the Balkans, Belarus, Czech Republic, Slovakia, Moldova and Ukraine, for the selected years**

Years	Ceased operations	Started-Up
1997-1998	688	na
1999-2000	740	na
2001-2002	746	na
2003-2004	663	599
2005-2006	512	438
2007-2008	213	296
2008-2009	272	303

Source: Elaboration on JP Airline-fleets International's index sections 1997/1998 to 2008/2009.

### 13.3.5 SIPRI's recommendations

The SIPRI 2008 and 2009 reports recommend that the EU safety rules be strengthened and the EU Regulation 2111 expanded to new regions, as a means to further track and ground "arms trafficking" airlines. Due to the fact that the first EU bans have practically dealt with all the countries that were directly involved in conflicts in the past 20 years (except Iraq and some few other countries, India for example), it is very unlikely that additional EU bans could serve as an indirect tool to ground "arms traffickers."

Promoting air safety policies by infusing them with a sort of proxy law-enforcement role could cause misunderstandings vis-à-vis the EU transport agencies' policies. The EU bans have been already perceived in some countries, and in particular in the Developing and CIS countries, as bordering on an **anti-competition policy** and as being instrumental in the **creation of market opportunities** for Western European airlines and aircraft.<sup>803</sup>

For example, airworthiness and environmental certification rules enacted by the European Union<sup>804</sup> - duplicating, and sometimes interfering with, ICAO regulations<sup>805</sup> - have practically excluded from the

<sup>803</sup> "EU under fire over Zambia aircraft ban", *Lusaka Times*, 17 September 2009; "African airlines angry over EU ban", *New African*, May 2010.

<sup>804</sup> Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency; amended by Regulation 334/2007; Regulation 2042/2003 on *Continuing Airworthiness*, Amended by 707/20063; EASA, ED Decision 2003/9/RM, October 10, 2003; Airworthiness Directives, ED Decision 2/2003 on *the implementation of airworthiness directives for products, parts and appliances designed in third countries*; Regulation 1702/2003; Certification specifications: CS-34 for emissions and fuel venting; CS-36 for noise. For a discussion of the early implementation of noise regulations see: Atwood, M., A. Hall, *European and US Developments in noise Regulations*, Commercial Aviation Value Report No. 36, Clyde & Co, London, December 1998, [www.sherblackwell.com/resources.htm](http://www.sherblackwell.com/resources.htm)

<sup>805</sup> For ICAO regulations see: Annex 16 to the Convention on International Civil Aviation, Volume 1, Ed. 1 (applicable January 1, 1972); Ed. 2 (app. October 1977); Ed. 3 (app. August 1978); further rules: November 1981; November 1988; November 1993; November 1997; November 2005. See: Boettcher, J., Presentation, EASA, Rulemaking Directorate, Cologne, Germany 17-19 December 2007. The ICAO Annex 16 Volume 1 Chapter 2, 1971 was applicable to aircraft for which the application for certificate

possibility of re-certification in European countries and from civilian service in European airports all types of aircraft built by Antonov (with the exception of AN-26 and 26B models) and by Ilyushin (including the Il-76 model, with the exception of six aircraft with new engine types)<sup>806</sup>. These rules have created a situation in which the only market this aircraft could serve in Europe is the military and emergency/relief air transport market, under particular exemptions from the above-mentioned rules, granted case by case.

As already noted in Box 52, EU's ministries of Defence and aid agencies have extensively used the services of EU banned cargo companies for "low-cost" arms shipments and relief cargo bound to Iraq and Afghanistan<sup>807</sup> and recently for relief operations in South East Asia and the Haiti. If the authority of the countries where the banned companies were located had decided to ground those same companies, none of those military and relief operations could have been carried out with the same rapidity and costs. Whereas hardly effective in grounding "arms trafficking" airlines, the expansion and strengthening of EU safety regulations and Resolution 2111 bans may in effect have unintended consequences that the EU regulators should carefully take into consideration.

### 13.4 Aircraft markets and air transport safety

Apart the questionable role of air safety regulations on tracking and grounding "arms trafficking" airlines, the banning of airlines that do not respect ICAO safety regulations from the skies of certain world regions may be a temporary solution for making the skies of those regions safer, while in the same time promoting the respect of air safety policies among countries interested in trading with those regions. However, air safety regulations could not in themselves (nor were designed for) solve the real problems that lie behind the severely negative safety records of certain world regions and, in particular, Africa.

Table 35 reports the number of accidents involving hull-loss and casualties over an 11-year time span (2000-2010) for the listed aircraft.

**Table 35. Accidents (Hull-Loss) occurred between 2000 and 2010 to the listed aircraft in civilian service**

Aircraft	N. of accidents	Fatalities	Airlines
AN-12	41	136	33
Let-410	39	193	35
Lockheed C-130 (military)	36	343	22
Boeing 727	23	242	19
AN-26	21	242	21
Il-76	17	42	15
Boeing 747	15	319	13
MD-80 series	15	800	14
AN-24	15	174	13
Boeing 707	14	37	13
Yak-40/42	5	142	5
DC-10	5	0	5

Source: Elaboration from Aviation Safety Network Database.

The majority of passenger, cargo and combi aircraft presently in service have been manufactured in North America, Europe, USSR/Russian Federation, Ukraine, Brazil and China. The economic viability of the aircraft manufacturing industry depends a great deal upon market demand worldwide of new

*of airworthiness for the prototype was accepted before 6 October 1977); ICAO Annex 16 Volume 1 Chapter 3, 1977 was applicable to aircraft for which the application for certificate of airworthiness for the prototype was accepted on or after 6 October 1977 and before 1 January 2006); ICAO, International Standards and Recommended Practices, Environmental Protection, Annex 16 to the Convention on International Civil Aviation, Vol. II, Aircraft Emissions (November 1993); ICAO Annex 16 Volume 1 Chapter 4, 2001, applicable to aircraft for which the application for certificate of airworthiness for the prototype was accepted on or after 1 January 2006.*

<sup>806</sup> The six new Il-76 models were acquired from 2006 by Volga-Dnepr and Silk Way Airlines. See: AeroTransport Databank and Gallagher, I.T., *Volga-Dnepr to Add Updated Freighter*, Journal of Commerce March 11, 2010. On Cooperation programs between EASA and the CSI, see: "Collaboration with Commonwealth of Independent States Strengthened," EASA communications 02/2006, Cologne, February 17, 2006.

<sup>807</sup> Confidential aircraft movements to and from Iraq and Afghanistan by Il-76s obtained for this report. See also, for example: UK Civil Aviation Authority, Exemptions issued under regulation 25(3)a of the aeroplane noise regulations 1999 from January 2003 to January 2010, [www.caa.co.uk](http://www.caa.co.uk). See also: See: Amnesty International, *Dead on Time* (2006).

models. Fact is that the life-cycle of several airplanes may run from 30 to 40 years if properly maintained and not overused (landing/takeoff is one of the major factors contributing to airframe stress).

By selling old aircraft models to countries economically less developed, airlines and aircraft manufacturers based in advanced economies free their fleets and stocks of old models and make room for new models. The same cycle also creates a market for the spare parts of old aircraft models.

Older aircraft models are not necessarily less safe than the newer ones, but they entail higher costs for proper maintenance and fuel. If airlines have problems matching revenue with expenses (as in several Developing Countries), the likely results could be a lack of proper aircraft maintenance, overuse, and extended working hours for pilot and crew that create safety hazards. This happens, in particular, in countries where the civil aviation authorities (CAAs) does not have the funds and personnel necessary to keep strict tabs on the airline companies under their supervision.

Fact is that the market of freighters is not large and the worldwide cargo fleet has a limited capacity. Research carried out for this report considered 39 major models of all-cargo, convertible and combi<sup>808</sup> aircraft. On the basis of these parameters the findings show that there are currently 2,323 aircraft in active civilian service as all-cargo, convertible and combi.<sup>809</sup> Table 36 below shows the number of active aircraft for the models taken into consideration. The table ranks them according to their relative importance in the cargo market by assessing their total cargo capacity.

**Table 36. Freighters, Convertible, and Combi aircraft presently in civilian service by Total Capacity (in Ton)**

Model	Payload	N.	TC	Model	Payload	N.	TC
BOEING 747-SERIES/F/SCD/C	112	334	37,408	LOCKHEED L-100-20/30	18	36	648
MD-11-F/CF	90	162	14,580	BOEING 707-320C	43	10	430
IL-76/MD/T/TD	47	172	8,084	LOCKHEED L-1011-200F	59	6	354
BOEING 757-200/APC/PCF/FF	33	157	5,181	BOEING 737-200F	29	12	348
A300B4/F4-200F/600R	40	136	5,440	BAe 146 200/300QT	12	28	336
BOEING 767-200/300F	50	105	5,250	IL-18	13	25	325
MD-10-10 F	65	68	4,420	DC-9/C/F	15	21	315
BOEING 727/F/C	19	214	4,066	AN-32A/B	7	43	301
AN-124 Ruslan	120	28	3,360	TU-204-100-200/C	25	11	275
A300-600F	55	58	3,190	AN-225 Mriya	250	1	250
AN-12 series	20	143	2,860	ATR 42/QC/C/L	4	48	192
A310/C/F	40	57	2,280	ATR 72F	7	25	175
BOEING 777F	104	21	2,184	BAe ATP/F	8	21	168
DC-10-30F	79	25	1,975	BOEING 737-700C	20	7	140
DC-8-55/72F	43	35	1,505	LOCKHEED L-188 Electra	15	5	75
IL-96-400T	92	16	1,472	AN-72	11	6	66
BOEING 737-300F	20	74	1,480	AN-22	50	1	50
YAK-40K	13	66	858	FOKKER F27-050	6	7	42
DC-8 -73F	49	17	833	BAe (HS) 748	6	6	36
AN-26B/T	6	116	696	Total	1,695	2,323	111,648

Sources: Elaboration from AeroTransport Databank; JP airlines-fleets International; ACAS DB; azfreighters.com; rzjets.net; Flight International, *World Airlines Census*, August 18/24 2009. The cargo capacity of each model is an average rounded from figure in kg.

It is worth noting that 573 (24.6%) of the aircraft listed in Table 36 are operated by Federal Express (362) and UPS (211). Both Federal Express and UPS – along with most of the major US airlines – participate in the US Civil Reserve Air Fleet (CRAF) system and must keep a portion of their fleet permanently available for the needs of the US Air Transportation Command, in case of war – as with the Persian Gulf war in 1990 and the invasion of Iraq in 2003<sup>810</sup> - and for other emergency situations. Most of the fleets operated by Federal Express and UPS (and this is true of other express delivery services too) are engaged in parcel delivery, thus lowering the number of cargo aircraft (Boeing and Airbus in particular) available for the use of ad hoc shippers.

<sup>808</sup> Convertible and combi aircraft are variants of passenger aircraft models. They are specially designed for the use in cargo markets, either with or without passenger compartments.

<sup>809</sup> See Table 36 for sources.

<sup>810</sup> See Amnesty International, *Dead on Time - arms transportation, brokering and the threat to human rights*, May 2006.

In addition, a portion of the world's cargo fleet serves regional markets or has long-term charter contracts with major air cargo shippers, further closing windows of opportunity for the logistic needs of international relief organizations, the United Nations included.

As shown in Table 36, the world fleet of key cargo, combi and convertible aircraft has a capacity of nearly 112,000 tons, but the real capacity available to ad hoc shippers and international organizations is probably less than half that volume. Considering the proportion of cargo aircraft engaged in parcel and express mail services or bound by long-term contracts, not much is left over (probably some 1,000/1,300 aircraft) for use in charter and ad hoc operations. As seen in this report, passenger aircraft transport a sizeable amount of cargo in their belly, including arms

Not listed in Table 37 are cargo aircraft used in military configurations or in government services (for example, there are presently 318 Il-76s, 232 AN-12s, and 184 AN-32s in military or government service). Also excluded are the hundreds of smaller planes (capable of transporting between 1.5 and 6 tons in cargo configuration) in service in local or regional markets, particularly in Africa.<sup>811</sup> These small aircraft may add a considerable amount of capacity to the local air cargo markets, but cannot be used beyond a range of some hundred miles. As shown in this report (paragraph 4.4 , Entebbe flight logs) these planes can however play a significant role in certain regions, in particular in remote areas such as DRC's mining sites where armed groups held their headquarters.

**Table 37. Freighters, Convertible, and Combi aircraft presently in civilian service ranked by payload (in kg)**

Model	Payload	Model	Payload	Model	Payload
AN-225 Mriya	250,000	DC-8-55/72F	43,200	YAK-40K	13,000
AN-124 Ruslan	120,000	BOEING 707-320C (Freighter)	42,900	IL-18	12,973
BOEING 747-SERIES/F/SCD/C	112,490	A300B4/F4-200F/600R	40,500	BAe 146 200/300QT	12,000
BOEING 777F	103,870	A310/C/F	40,000	AN-72	10,700
IL-96-400T	92,000	BOEING 757-200/APC/PCF/FF	32,755	BAe ATP/F	8,062
MD-11-F/CF	89,540	BOEING 737-200F	29,491	ATR 72F	7,183
DC-10-30F	79,380	TU-204-100-200/C	24,900	AN-32A/B	6,700
MD-10-10 F	65,000	AN-12 Series	20,000	AN-26B/T	6,300
LOCKHEED L-1011-200F	58,960	BOEING 737-300F	19,731	BAe (HS) 748	6,300
A300-600F	55,017	BOEING 737-700C	19,731	FOKKER F27-050	6,000
BOEING 767-200/300F	50,000	BOEING 727/F/C	18,600	AN-24T/RT	5,700
AN-22	50,000	LOCKHEED L-100-20/30	17,831	ATR 42/QC/C/L	4,000
DC-8 -73F	48,988	DC-9/C/F	14,670		
IL-76/MD/T/TD	47,000	LOCKHEED L-188 Electra	14,520		

Sources: Elaboration from AeroTransport Databank; JP airlines-fleets International; ACAS DB; azfreighters.com.

**Table 38. European/NATO-owned military cargo aircraft (excluding aerial refueling) – Country ranking by airlift capacity**

Country	N.	Total Payload (Ton)	Country	N.	Total Payload (Ton)
UK	56	1,549	Sweden	8	160
Germany	87	1,450	Romania	11	144
France	90	1,374	Denmark	4	80
Turkey	83	830	Netherlands	4	80
Italy	37	614	Austria	3	60
Spain	77	530	Czech Rep.	7	59
Greece	27	432	Bulgaria	8	55
Hungary	3	225	Norway	2	40
NATO	3	225	Lithuania	3	33
Belgium	11	220	Slovakia	4	33
Poland	16	199	Finland	2	18
Portugal	30	192	<b>Total</b>	<b>576</b>	<b>8,602</b>

Source: Elaboration on table "European/NATO air transport fleets August 2010 in service" in "European Airlift", Military Logistics International, September/October 2010, [www.mil-log.com](http://www.mil-log.com). (\*) Tristar.

<sup>811</sup> AN-24T/RT (6,000 kg); LET 610 (4,536 kg); BEECH 1900D (3,896); SAAB 340B (3,795); BEECH 1900C (2,969); DASSAULT Falcon 20C (2,812); BEECH Super King Air 350C (2,532); FAIRCHILD DORNIER Expediter 23 (2,500); CESSNA 208 Grand Caravan (2,041); LET (AYRES) 410 UVP-E Cargo (1,710); PILATUS PC6 Turbo Porter (1,530); PZL-MIELEC AN-2 (1,500).

Non-Western-built aircraft play an important role in charter markets, not only because they are less likely to be committed to parcel service/long-term contracts, but also because of the superiority of their performance in terms of costs, capacity and ability to use airports whose runways cannot land the larger, Western-built, aircraft. Leaving aside Western-built military aircraft with similar capabilities, if a disaster region with small and precarious airport runways must be reached with substantial cargoes, there are few alternatives to the use of Il-76s or Antonov aircraft (AN-12 or AN-26 and AN-32). These market conditions help to explain the success of dozens of CSI and East European carriers which, after the collapse of the Soviet Union, were able to put hundreds of former USSR military aircraft into civilian service (not all of them certified for civilian use by their manufacturers), such as the Il-76 and AN-12.

**Table 39. European/NATO-owned military cargo aircraft (excluding aerial refueling) – Model Detail**

Country	Model	N.	Payload	Payload Tot.	Country	Model	N.	Payload	Payload Tot.
UK	C17	6	75	450	Hungary	C17	3	75	225
UK	KC1/C2*	9	31	279	NATO	C17	3	75	225
UK	C130J	24	20	480	Belgium	C130E/H	11	20	220
UK	C130K	17	20	340	Poland	C295	11	9	99
Germany	A340	2	47	94	Poland	C130E/H	5	20	100
Germany	C160	83	16	1,328	Portugal	C212	24	3	72
Germany	A319	2	14	28	Portugal	C130E/H	6	20	120
France	CN235	19	5	95	Sweden	C130E/H	8	20	160
France	A340	2	47	94	Romania	AN24/26	4	5.5	22
France	A330MRTT	1	45	45	Romania	C130E/H	5	20	100
France	C130E/H	14	20	280	Romania	C27J	2	11	22
France	C160	52	16	832	Denmark	C130J	4	20	80
France	A319	2	14	28	Netherlands	C130E/H	4	20	80
Turkey	CN235	50	5	250	Austria	C130K	3	20	60
Turkey	C130E/H	13	20	260	Czech Rep.	C295	1	9	9
Turkey	C160	20	16	320	Czech Rep.	AN24/26	4	5.5	22
Italy	C130J	22	20	440	Czech Rep.	A319	2	14	28
Italy	A319	3	14	42	Bulgaria	AN24/26	6	5.5	33
Italy	C27J	12	11	132	Bulgaria	C27J	2	11	22
Spain	C295	13	9	117	Norway	C130J	2	20	40
Spain	CN235	17	5	85	Lithuania	C27J	3	11	33
Spain	C212	36	3	108	Slovakia	AN24/26	2	5.5	11
Spain	C130E/H	11	20	220	Slovakia	C27J	2	11	22
Greece	C130E/H	15	20	300	Finland	C295	2	9	18
Greece	C27J	12	11	132	Total		576		8,602

Source: Elaboration on table "European/NATO air transport fleets August 2010 in service" in "European Airlift", *Military Logistics International*, September/October 2010, [www.mil-log.com](http://www.mil-log.com). (\*) Tristar.

## Conclusions

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This report has demonstrated through various examples the deep involvement of commercial aviation in the transport of military equipment, troops, and commodities that have supported the built-up to war, the outbreak of wars, and covert operations. The support commercial aviation has given to those activities can be described in part as legal, in part as illegal, but mostly irresponsible according to international humanitarian law or international human rights law standards.

The “business of war”, and more in general the business that stems from the logistic support of military, police, and covert operations, has in effect attracted thousands of civilian transport and logistics companies serving all transport modalities. They are or were based in various countries, including all the permanent members of the UN Security Council. However, very few transport and logistics companies have ever been sanctioned by the “international community” and the United Nations for their irresponsible activities.

This report has also demonstrated that - when arms are involved - the distinction between “questionable” and “respectable” airlines is hard to find. For example, during the first operations of “Iraqi Freedom” dozens of US and European airlines transported thousands of tons<sup>812</sup> of military equipment that were later used to kill thousands of civilians and to devastate the Iraqi environment. These transportation companies clearly contributed to a war of aggression waged against a country accused - on the basis of fabricated evidence<sup>813</sup> - of possession of weapons of mass destruction. None of those airlines has ever been questioned or sanctioned for their role in the Iraq war. Nor have any of these airlines ever been black listed or deemed “questionable” or “unethical”.

We can argue that the executives of airlines and other transport and logistics companies have the duty to respect international humanitarian law or international human rights law. Fact is that there is a hierarchy of responsibility in regard of operations that entail arms shipments or logistics support to warring parties. Bringing to justice the executives of transportation companies that decided to serve wars of aggression, irresponsible arms transfers, and covert operations can only make sense if the policy-makers - who at the top of the hierarchy of responsibility took the decisions - were also brought to justice. History shows that none of the policy-makers responsible for decisions that tragically affected the lives of millions of people have been brought to justice if they belonged to, or were allied to, the world’s most powerful nations.

Can the Congolese, the Ugandans and Rwandans, the Nicaraguans, the Iraqis and Afghans, the Azeri and Armenians - to reference a few of the cases highlighted in this report - really believe in international justice as we have known it in the last decades? Will the transport companies’ executives be more responsible in the near future as a consequence of international justice as it has been administered to date?

Finally, this report has addressed the issue of the present situation in air cargo markets and its consequences on air safety and humanitarian operations. Commercial aviation has, in fact, also contributed to the supply chains of humanitarian and relief operations in hundred of major catastrophic events and emergencies, saving the lives of countless people all over the world. Readers will not have any difficulty to find evidence that several companies, named in this report, have also served humanitarian and relief operations in the most tragic and difficult situations. Pilots and crew of those airlines often risked their lives to provide food, blankets, clothes and clean water to countless of destitute peoples. They deserve recognition beyond what their companies have done in other situations. As shown in Chapter 13, as long as the situation in the cargo markets will remain as it is today the logistics of wars and humanitarian operations will continue to overlap in the foreseeable future..

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<sup>812</sup> See: *Dead on Time* (2006).

<sup>813</sup> See: *Iraq weapons of mass destruction*, report released by the UK government September 24 2002 (<http://webarchive.nationalarchives.gov.uk/+http://www.number10.gov.uk/Page271>) and “Prime minister’s Iraq statement to Parliament”, September 24 2002 (<http://webarchive.nationalarchives.gov.uk/+http://www.number10.gov.uk/Page1727>); “Iraq’s weapons of mass destruction programs”, CIA, October 4, 2002, [https://www.cia.gov/library/reports/general-reports-1/iraq\\_wmd/Iraq\\_Oct\\_2002.htm](https://www.cia.gov/library/reports/general-reports-1/iraq_wmd/Iraq_Oct_2002.htm); “Background briefing on WMD”, White House, James S. Brady Briefing Room, July 18, 2003, Dan Bartlett, White House Director of Communications, <http://georgewbush-whitehouse.archives.gov/news/releases/2003/07/20030718-8.html>; Chulov, M. H. Pidd, “Defector admits to WMD lies that triggered Iraq war”, *The Guardian*, February 15, 2011 (<http://www.guardian.co.uk/world/2011/feb/15/defector-admits-wmd-lies-iraq-war>).



It is worth noting that the Emma Maersk - the world's largest container ship - is capable of transporting 11,000 standard containers (TEU) on a single voyage, for a total cargo weight of 154,000 tons,<sup>814</sup> nearly 1.5 times what the whole world air-cargo fleet in civilian use can transport.<sup>815</sup> (Credit: Santiago Mena Saez, 19 October 2010)

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<sup>814</sup> Official Maersk's estimate, "maersk method" (a standard container of 20' - TEU - with 14 ton cargo). The Emma Maersk has actually a capacity of 14,000 TEU, according to industry less strict standards.

<sup>815</sup> For analyses of the turnover between old and new aircraft model and the regions where they have been or will be introduced, as well as for forecasts on the world aircraft fleet development and movements see: Airbus Industry, Global Market Forecast 2009-2028, Blagnac, 2009; World Air Cargo Forecast 2008/2009, Biennial, Boeing Co., 2008; Eurocontrol, Long-Term Forecast: IFR Flight Movements 2008-2030, Ed. Number: v 1.0, 2008; Eurocontrol Statford Doc.387 v1.0, February 24, 2010.

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