

# Sudan

## Arms continuing to fuel serious human rights violations in Darfur

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## Introduction

Arms, ammunition and related equipment are still being transferred to Darfur in the west of Sudan for military operations in which extremely serious violations and abuse of human rights and international humanitarian law are committed by the Sudanese government, the government-backed *Janjawid* militias<sup>1</sup> and armed opposition groups.

This report describes the arming process and its effects on the people of Darfur and neighbouring eastern Chad, many of whom have been forcibly displaced. It provides details of violations of the United Nations arms embargo on Darfur that occurred during January to March 2007. Amongst other things, it shows how the Government of Sudan violates the UN arms embargo and disguises some of its military logistics operations in Darfur, and what arms supplied to Sudan from China and Russia - two Permanent Members of the Security Council - have been used for violations of the Security Council's own mandatory arms embargo.

Amnesty International is urgently calling upon the international community to assert its authority and immediately adopt steps to strengthen the implementation of the UN arms embargo and stem the flow of arms to Darfur as part of a package of immediate measures to help protect civilians and uphold their human rights as is required by international law.

States supplying weapons, munitions and other military equipment to Sudan and to other parties to the conflict know, or at least should know, that these arms are often used to commit serious violations of human rights and international humanitarian law in Darfur and now in eastern Chad. The fact that the UN Security Council has left the UN arms embargo on Darfur somewhat vaguely formulated and especially lacking a strong UN monitoring, verification and public reporting mechanism is allowing some states and persons to violate it with impunity.

Despite assertions to the contrary by the Sudanese government, armed attacks on civilians by the Sudanese armed forces and allied *Janjawid* militias are ongoing in Darfur and now the conflict in Darfur has spread beyond Sudan's borders. Civilians in eastern Chad are now also being attacked by Sudanese *Janjawid* militias and their

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<sup>1</sup> The *Janjawid* armed militias, supported by the government of Sudan, are drawn from mostly nomad groups and commonly armed with Kalashnikov assault rifles, and also often using rocket-propelled grenades and *doshkas* (machine guns mounted on four-wheel drive vehicles), attacked, displaced and killed thousands of civilians.

local Chadian allies, who plunder and kill with impunity.<sup>2</sup> UN and African Union (AU) officials have reported numerous indiscriminate aerial bombings and attacks on villages and incidents of forced displacement, as well as summary executions, “disappearances”, looting and destruction of property.<sup>3</sup> Descriptions of these attacks to the UN indicate that tactics used have been very similar to those used during the height of the war in Darfur in late 2003 and 2004, characterized by (1) coordination of operations between the Sudanese armed forces and government-supported militia, (2) failure to respect the principles of distinction and proportionality, and (3) grave violations of international human rights and humanitarian law.<sup>4</sup> Rape, sexual violence, and other forms of gender based violence continue to be committed in Darfur by *Janjawid* militias as well as by Sudanese armed forces and armed opposition groups, including against children.<sup>5</sup>

The government of Sudan bears the primary responsibility for protecting civilians in Darfur yet is continuing to divert and deploy imported attack and other military aircraft, “dual use” and domestically made military equipment, as well as firearms and ammunition, as described in this report, to target civilians directly, launch indiscriminate attacks involving civilian casualties, and to arm and support *Janjawid* militias. These militias are supposed to have been disbanded, yet together with Sudanese government forces, bear the largest responsibility for grave violations of human rights and international humanitarian law in Darfur.

Armed opposition groups operating in Darfur also continue to receive small arms, light weapons and logistical supplies then blatantly misuse them to commit serious violations and abuses of human rights and international humanitarian law.

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<sup>2</sup> Amnesty International, “Chad: ‘are we citizens of this country’ - Civilians in Chad unprotected from *Janjawid* attacks”, AI Index: AFR 20/001/2007, 29 January 2007. The Sudanese *Janjawid* who attack villages in Chad appear to be a mixture of more formal forces and other community based militia. The more formal forces are most often, but not exclusively, incorporated into Sudanese paramilitary forces, such as the Popular Defence Force (*Quwwat difa’ al-sha’bi*) and the Border Intelligence Guard (*Haras mukhabarat al-hudud*), and receive a monthly salary as well as arms. Amnesty International researchers were given identity cards found on the bodies of *Janjawid* killed in Chad showing their membership of such paramilitary groups. The other, more informal, *Janjawid* forces are not incorporated into Sudanese government forces but may remain under their tribal commander (*aqid*) or be armed and mustered, usually under well-known *Janjawid* leaders, for specific occasions.

<sup>3</sup> Report of the High-Level Mission on the situation of human rights in Darfur pursuant to Human Rights Council decision S-4/101”, A/HRC/4/80, 9 March 2007, High Commissioner for Human Rights Calls for Probes of Incidents of Sexual Violence, Disappearances in Sudan’s Jebel Marra and South Darfur, UNHCR New Release on two reports, Geneva , 6 April 2007

<sup>4</sup> Report of the High Level Mission, *ibid*

<sup>5</sup> High Commissioner for Human Rights Calls for Probes, April 2007, *op cit*

Moreover, the proliferation of small arms and general absence of justice and the rule of law have enabled acts of armed banditry to become increasingly widespread.

The irresponsible transfer of arms to Sudan and its neighbours are a significant factor in the massive human rights catastrophe in Darfur and its spread into eastern Chad. More than 200,000 people have died in the four-year conflict in Darfur, Sudan, and more than 2.5 million have been displaced from their homes. During March 2007, there was no decrease in human rights violations and abuses against internally displaced people, including sexual and gender based violence. There were 40,000 new displaced civilians as a result of the ongoing violence and armed banditry continued unabated in this month.<sup>6</sup> Attacks on aid workers and humanitarian convoys continue, particularly in key towns such as Al Fashir. Between June 2006 and January 2007, 12 aid workers were killed, more than in the previous two years combined. Due to security situation, many aid agencies are becoming unable to continue to provide essential service to displaced populations; access to humanitarian aid services remained tenuous and even deteriorated in some places. Easy access to arms is intensifying and prolonging the conflict with disastrous effects on the civilian population and their longer-term wellbeing.

Research for this report included analysis of data with independent specialists and the receipt of detailed eyewitness accounts from Darfur that were offered to Amnesty International in the course of investigation. These have been complemented by data collected from open sources, databases and confidential sources.<sup>7</sup> When the drafting of this report had reached an advanced stage in late April, a confidential interim report of the UN Panel of Experts was leaked to the New York Times.<sup>8</sup> The newspaper published some of the main UN interim report findings and Sudan's government in particular strongly denied accusations attributed to the confidential UN report that it was flying attack aircraft and moving other military equipment into Darfur in violation of the UN arms embargo and using aircraft painted white to resemble UN aircraft in order to bomb and carry out surveillance of villages in Darfur. At that point, Amnesty International decided to complete the final work it had been doing on this report as planned, taking into account the fact that its main findings thus far for this report on arms movements to Darfur and transfers to Sudan had already been drafted, and that the partial overlap in detailed findings and illustrations with those in the UN interim report, such as on the movement of particular aircraft and arms into Darfur, was not sufficient to hinder Amnesty International's publication of its findings. Indeed, by casting more light on the problem in the public domain,

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<sup>6</sup> Darfur Peace Agreement (DPA) Monitor, UN Mission on Sudan (UNMIS), March 2007

<sup>7</sup> The approach is similar to that adopted for the Amnesty International report "*Sudan: arming the perpetrators of grave abuses in Darfur*", November 2004 (AI Index: AFR 54/139/2004)

<sup>8</sup> New York Times, "*Sudan Flying Arms to Darfur, Panel Reports*", by Warren Hoge, 18 April 2007

Amnesty International believes this report will enable further international action to urge the international community to help prevent violations of the UN embargo on Darfur and promote the human rights of its people.

For the reasons set out in this report, Amnesty International is again calling upon the UN Security Council to strengthen the UN arms embargo on Darfur by establishing more robust monitoring and verification mechanisms to ensure compliance and curb the flow of arms and associated equipment to those perpetrating grave violations and abuses of human rights and international humanitarian law in Darfur.

### **Amnesty International's position on the arms and security trade<sup>9</sup>**

Amnesty International takes no position on the arms trade *per se*, but is opposed to transfers of military, security or police (MSP) equipment, technology, personnel or training - and logistical or financial support for such transfers - that can reasonably be assumed to contribute to serious violations of international human rights standards or international humanitarian law. Such violations include arbitrary and indiscriminate killing, "disappearances" or torture. To help prevent such violations, Amnesty International campaigns for effective laws and agreed mechanisms to prohibit any MSP transfers from taking place unless it can reasonably be demonstrated that such transfers will not contribute to serious human rights violations. Amnesty International also campaigns for MSP institutions to establish rigorous systems of accountability and training to prevent such violations.

## **Background**

The UN arms embargo on non-governmental groups in Darfur was imposed by the Security Council in resolution 1556 (July 2004). The initial exclusion of the Sudanese Government and its armed forces from that definition of the UN embargo on Darfur, as well as the absence of a proper monitoring mechanism to ensure compliance, rendered the embargo extremely weak. Given the dire humanitarian and human rights situation that was worsening in Darfur, this weakness was challenged by some governments as well as non-governmental organisations. Amnesty International published a comprehensive report in November 2004 detailing the various types of conventional arms and "dual use" transfers to Sudan and the deployment and use of that *materiel* in Darfur, including by the Sudanese armed forces, to carry out grave

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<sup>9</sup> For a general introduction, see Amnesty International and Oxfam, *Shattered Lives: the case for tough international arms controls*, October 2003 (AI index: ACT 30/003/2003)

abuses of human rights.<sup>10</sup> Eventually on 29 March 2005, the UN Security Council extended the arms embargo to all parties to the conflict in Darfur, and subjected any government movement of military equipment and supplies to Darfur to the prior approval, upon request, of the UN Security Council Sanctions Committee on Sudan.<sup>11</sup>

Although the March 2005 decision of the Security Council widened the definition of the UN arms embargo to include “all parties to the conflict”, hence to include governmental armed forces and non-governmental armed groups, the provisions of the embargo have been largely ignored by the Government of Sudan and the armed opposition groups as well as by several of the key states from where the most significant arms transfers have been sent to Sudan. The UN Panels of Experts established by the Security Council under Resolution 1591 (2005) have reported a similar pattern of ongoing arms flows into Darfur and serious violations of international human rights and humanitarian law carried out with those arms.<sup>12</sup> In October 2006 the UN Panel of Experts reported that “*blatant violations of the arms embargo by all parties continue unabated. Weapons, notably small arms ammunition and military equipment, continue to enter the Darfur States from a number of countries and from other regions of the Sudan*”.<sup>13</sup>

The UN Security Council has through its Sanctions Committee on Sudan continued to receive reports from the UN Panel of Experts of violations of the arms embargo and the use of such arms to commit human rights violations and abuses, but has not acted to implement the recommendations of the UN Panel to strengthen the UN arms embargo, including a call to apply the UN arms embargo to the whole of Sudan with certain exceptions, nor has the Sanctions Committee on Sudan always acted to name and shame those involved in the arming process.<sup>14</sup> It appears that the Security Council’s intention to deny arms to the *Janjawid* militia, through the adoption of resolution 1556 (2004), was circumvented by the fact that many of the militias were already formally part of the Government security organs or were incorporated into those organs, especially the Popular Defence Force (PDF), the border intelligence guard, the central reserve police, the popular police and the nomadic police, after the adoption of the resolution.

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<sup>10</sup> Amnesty International “*Sudan: arming the perpetrators of grave abuses in Darfur*”, November 2004 (AI Index: AFR 54/139/2004)

<sup>11</sup> See UN Security Council Resolution 1591 (2005), paragraph 7

<sup>12</sup> United Nations Reports of the Panel of Experts established pursuant to resolution 1591 (2005) concerning Sudan prepared in accordance with paragraph 2 of resolution 1665 (2006), S/2006/65, 30 January 2006, S/2006/250: 19 April 2006 and S/2006/795 October 2006

<sup>13</sup> United Nations, S/2006/795 Report of the Panel of Experts op cit; the Security Council through resolution 1672 (2006) did designate four individuals as subjected to targeted sanctions but has not received cooperation to this end from the governments of Sudan and Chad

<sup>14</sup> See for example recommendations 2, 3, and 7 (S/2006/250);

## **Irresponsible arms transfers to Sudan**

When the Security Council imposed UN arms embargo on non-governmental groups in Darfur in July 2004, much discussion took place as to why the Government of Sudan had been excluded from the embargo because Sudan's armed forces were known to be arming and actively supporting the Janjawid militias and so this was rectified in March 2005 when the UN embargo was extended to all parties involved in the conflict in Darfur. Nevertheless, according to the latest official trade data<sup>15</sup>, military and related equipment imported into Sudan was sent during 2005 from several countries. The official data from Sudan and the exporting countries may significantly underestimate the total quantity of military items transferred, but does give an indication of the scale and irresponsible nature of the international trade in arming Sudan, a country already awash with arms. The bulk was transferred from China and Russia, two Permanent Members of the Security Council. The governments of these supplier countries have been, or should have been, aware through the published and unpublished reports of the UN Panel of Experts to the UN Sanctions Committee on Sudan as well as the detailed report by Amnesty International published in November 2004<sup>16</sup> that several types of military equipment including aircraft have been deployed by the Sudanese armed forces and militia for direct attacks on civilians and indiscriminate attacks in Darfur, as well as for logistical support for these attacks.

Sudan imported \$24 million worth of arms and ammunition from the People's Republic of China, as well as nearly \$57 million worth of parts and aircraft equipment and \$2 million worth of parts of helicopters and aeroplanes from China, according to the data from Sudan for 2005, the last available trade figures. During a meeting in Beijing, the Defence Minister of China reportedly told Sudan's joint chief of staff that military relations had been "*developing smoothly*" and said: "*[We] are willing to further develop military co-operation between our two countries in all areas.*"<sup>17</sup> The Chinese company AviChina Industry and Technology recently delivered six K-8 military training/attack aircraft to the Sudanese Air Force and a further six will follow soon, according to a military magazine.<sup>18</sup> Beijing Aviation Science and Technology Co. (BASC), a subsidiary of the China Aviation Industry Corporation I (AVIC I), has announced on its website that it has developed and produced flight simulators for

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<sup>15</sup> United Nations COMTRADE trade data for the year 2005; unfortunately the COMTRADE data for 2006 is not yet available.

<sup>16</sup> Amnesty International, November 2004, *op cit*

<sup>17</sup> Financial Times, 4 April 2007

<sup>18</sup> Air Forces Monthly, December 2006

Sudan for their K-8S jets.<sup>19</sup> These simulators were delivered to the Sudan Air Force in 2005.<sup>20</sup> The K-8S is widely used as a basic training jet for fighter pilots. Some of the Sudanese Air Force fighter pilots will eventually graduate onto the NAMC Q-5 'Fantan' after undergoing basic training on the K-8S. The export version of the Q-5 is known as the A-5 'Fantan'.<sup>21</sup> Amnesty International is concerned that the Sudan Air Force has transferred these jet bombers to Darfur (see photograph and details below) without authority from the UN Sanctions Committee and is highly likely to use these newly acquired jets, as it has other aircraft, and the acquisition of expertise to fly the jets supplied from China, for indiscriminate attacks in Darfur in violation of the UN arms embargo and international humanitarian law, thus also posing serious questions about the systems of accountability and training provided to the Sudan Air Force to ensure respect for that universal law.

In 2005, the Russian Federation exported to Sudan \$21 million worth of aircraft and associated equipment including spare parts and \$13.7 million of helicopters, adding to its substantial arms deliveries in previous years.<sup>22</sup> The use of various types of military helicopters, particularly the Russian Mi-24 helicopter gunships acquired by the Sudan Air Force, to launch attacks in Darfur in which civilians are subjected to indiscriminate fire is of particular concern to Amnesty International, as outlined further below.

Belarus and Sudan signed military cooperation protocol on 15 June 2006 and have had close military ties for several years, particularly over the supply of armoured personnel carriers, the same type of which have been seen in Darfur in March 2007.<sup>23</sup> On 26 May 2004, the government of Belarus reported that during 2003 it had exported nine BMP 2 military vehicles, 39 BRDM 2 military vehicles, 32 122mm guns, including howitzers, all of Russian origin to Sudan.<sup>24</sup> As described below, Amnesty International is concerned that Belarus-supplied armoured personnel carriers are now being deployed in Darfur by the Sudan armed forces and can be used like other military vehicles have been by the Sudanese armed forces to facilitate violations of human rights and humanitarian law in Darfur.

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<sup>19</sup> <http://www.basc.com.cn/en/index.htm>

<sup>20</sup> <http://www.basc.com.cn/en/product/K8S.htm>

<sup>21</sup> Janes Aircraft Recognition Guide, 2005

<sup>22</sup> UN COMTRADE, *op cit*

<sup>23</sup> On the Belarus armoured personnel carriers (APCs), see Amnesty International, November 2004, *op cit*. The same type of APC was seen in Darfur in March 2007.

<sup>24</sup> UN Register on Conventional Arms for 2004

Additional quantities of arms and ammunition worth over \$650,000 were exported by Iran to Sudan in 2005 following a pattern of military equipment exports to Sudan over previous years, and in the same year Sudan imported aircraft from various other countries.<sup>25</sup> Kuwait has reportedly discussed military cooperation with the government in Khartoum in November 2006<sup>26</sup> and a Kuwaiti small arms trader has run a sales agency in Khartoum. According to the data from Sudan, Egypt and the United Arab Emirates were sources of small quantities of arms to Sudan in 2005.<sup>27</sup> It is not known whether aircraft exports from Saudi Arabia and the United Arab Emirates included military or “dual use” aircraft.

While Amnesty International does not have credible reports that *all* such exports to Sudan of military and associated equipment or that the military cooperation activities with the Government of Sudan have contributed to serious violations of international human rights and humanitarian law in Darfur, currently the risk is significant that *some* of those transfers will. Amnesty International is therefore calling for a cessation of all transfers of military and security equipment to Sudan with certain exemptions to be authorised by the UN, as described below.

These international arms transfers are augmented by Sudan’s domestic arms production. This relies to some extent on foreign inputs of components, special materials and expertise. The Sudanese Military Industrial Corporation continues to operate three military plants near Khartoum that produce ammunition, light infantry

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<sup>25</sup> UN COMTRADE, *op cit*; countries exporting aircraft parts to Sudan included Ukraine which exported a small quantity of spare parts in 2005 and has in the past been a source of parts for the Sudan Air Force fleet of Antonov aircraft which have been used in bombing and other military operations in Darfur;

<sup>26</sup> On 24 November 2006, it was reported that the Kuwaiti Chief of Staff Air Marshall Fahd Al Amir led a delegation to Sudan to discuss military cooperation and as a guest of Sudan Chief of Staff General Hal Ahmad Al Jili visited Sudanese army bases; Middle East Newsline 28 November 2006

<sup>27</sup> COMTRADE, *op cit*

weapons, military vehicles and Sudanese versions of the T-55 tank, seen in Darfur, for the Sudanese armed forces.<sup>28</sup>

Procurement of arms on the other side of the conflict in Darfur is even more shrouded in secrecy, but there have been numerous reports that armed opposition groups receive financial, political and other material support from neighbouring countries including the Libya, Chad and Eritrea.<sup>29</sup> The UN Panel of Experts investigating compliance with the UN arms embargo on Darfur has alleged that the Government of Eritrea has provided arms, logistical support, military training and political support to the Justice and Equality Movement (JEM), the Sudan Liberation Army (SLA) and the various factions of these armed groups that have continued to commit grave abuses of human rights in Darfur. Observers of the African Union saw two convoys of trucks taking supplies across the Libya-Sudan border in July and August last year.<sup>30</sup> It has not been altogether clear whether the ongoing supply of military and associated material to the armed opposition groups in Darfur emanating from Chad and the Libyan Arab Jamahiriya was the result of official policy of those governments or the independent actions of Government officials.

The Sudanese authorities have also allowed armed opposition groups from Chad that commit grave human rights abuses to operate from Darfur and these groups have obtained small arms and light weapons transferred to Darfur, including recent arms from China.<sup>31</sup> For example, in June 2006 Amnesty International reported on the use of arms manufactured in China by Chadian members of the United Front for Democratic Change (*Front uni pour le changement démocratique au Tchad*, FUC), at that time operating as an armed opposition group from Darfur. The FUC has since joined the government of Chad. Members of that armed opposition group in early 2006 were photographed carrying QLZ87 35mm automatic grenade launchers outside the town of El Geneina in Western Darfur, Sudan, near the Chad border, on 28 February 2006.<sup>32</sup>

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<sup>28</sup> Letter dated 30 January 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning Sudan addressed to the President of the Security Council, Arms production and procurement of military equipment, which states in paragraph 124 that: "Over the last decade, Sudan has significantly increased its ability to produce its own light weapons and ammunition. According to well-informed sources, the Sudanese Military Industrial Corporation continues to operate three military plants near Khartoum that produce ammunition, light infantry weapons, military vehicles and Sudanese versions of the T-55 tank".

<sup>29</sup> See for example the reports of the UN Panel of Experts, S/2006/65, 30 January 2006, S/2006/250: 19 April 2006 and S/2006/795 October 2006., *op cit*

<sup>30</sup> Information from AU Observers, February 2007

<sup>31</sup> §75, S/2006/795

<sup>32</sup> Amnesty International, "People's Republic of China. Sustaining Conflict and Human Rights Abuses – The Flow of Arms Accelerates", June 2006: p. 12.

Governments of countries named in this report cannot have been unaware of reports of the serious violations of international human rights and humanitarian law by the Sudanese security forces, but they have nevertheless continued to allow military equipment to be sent to Sudan from their countries. The obligation of states not to participate in the internationally wrongful acts of another state is affirmed in Article 16 of the U.N. International Law Commission's *Articles on Responsibility of States for Internationally Wrongful Acts*, commended by the UN General Assembly in 2001,<sup>33</sup> in terms which reflect customary international law binding on all States, as follows:

*“A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:*

*(a) that State does so with knowledge of the circumstances of the internationally wrongful act; and*

*(b) the act would be internationally wrongful if committed by that State.”*

## Continuing illicit flow of arms into Darfur

Although it is difficult for independent observers to get close to events in Darfur, it is clear from the information available from credible sources that the continuing flow of arms, ammunition and related material into the states of North, South and West Darfur and the lack of accountability to the rule of law when using of such equipment are significant factors contributing to serious human rights violations and abuses. These factors also underpin the frequent violations of the UN arms embargo<sup>34</sup> and those provisions limiting the movement of arms in the Cease Fire Agreements<sup>35</sup> that apply to the Darfur region of Sudan.

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<sup>33</sup> General Assembly Resolution A/RES/56/83 of 12 December 2001

<sup>34</sup> The UN arms embargo on non-governmental groups in Darfur was imposed by the Security Council in resolution 1556 (July 2004) and then strengthened by the Council in resolution 1591 (2005) to cover all parties to the conflict in Darfur.

<sup>35</sup> Humanitarian Ceasefire Agreement, N'Djamena, 8 April 2004; Protocol on the Enhancement of the Security Situation in Darfur, Abuja, 9 November 2004; Darfur Peace Agreement, Abuja, 5 May 2006. (8/04/2004 and 09/11/2004 are resp. Annexures 1 and 5 of the Darfur Peace Agreement)

A key aspect is that the Government of Sudan is routinely failing to seek approval from the UN Security Council's Sanctions Committee to move weapons, ammunition and other military *materiel* into Darfur and, as explained below, such unauthorised movements are in violation of Security Council Resolution 1591 yet continue unabated.<sup>36</sup>

### **Recent deployment of attack helicopters in Darfur**

Recent detailed eyewitness accounts given to Amnesty International corroborate the continued presence of Mi-24 attack helicopters<sup>37</sup> at Geneina, El Fasher and Nyala between January 2007 and March 2007. At Nyala one Mi-24 attack helicopter has been replaced by another in the period from January to March 2007- these two helicopter gunships had the registration numbers 925 and 926. (See Table 1 below)

Previously in January 2006, the United Nations Panel of Experts on Sudan had reported the redeployment by the Sudan Air Force of six Mi-24 attack helicopters to Darfur in violation of paragraph 7 of resolution 1591 (2005).<sup>38</sup> Again in October 2006, the Panel of Experts expressed concern about the continued unauthorised presence of Mi-24 attack helicopters at three capitals of the Darfur region, Al Geneina, Nyala and El Fasher.<sup>39</sup>

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<sup>36</sup> §15, S/2006/1045; §92, DPA Monitor, August 2006; §80, S/2006/795.

<sup>37</sup> The export version of the Mi-24 helicopter is known as the Mi-35

<sup>38</sup> UN Panel report of 30 January 2006 (S/2006/65)

<sup>39</sup> At El Geneina on 3 August 2006 the UN Panel had spotted attack helicopters with the following numbers: 918, 929 and 930 – see UN Panel report of 3 October 2006 (S/2006/795: §87).



*An Mi-24 attack helicopter (reg. n° 928) at Nyala airport in Darfur, March 2007 (copyright AI)*

**Table 1. Deployment of Mi-24 attack helicopters in Darfur.**

Place	Date	Type	Amount	Reg. number
El Fasher	January 2007	Mi-24P	2	Unknown
El Geneina	January 2007	Mi-24P	3	927, 931, 935
El Geneina	Mid-March 2007	Mi-24P	3	927, 931, 935
Nyala	January 2007	Mi-24P	3	926, 928, 929
Nyala	Early March 2007	Mi-24P	3	925, 928, 929
Nyala	Mid-March 2007	Mi-24P	1	928

It is a matter of international concern that for several years the Sudan Air Force has used this type of attack helicopter for operations during *Janjawid* indiscriminate attacks on villages in Al Darfur.<sup>40</sup> For example, on 15 November 2006, soldiers of the Sudanese armed forces and armed militia, supported by helicopter gunships, attacked several villages in the Birmaza area, killing at least three civilians, torching dozens of houses and destroying four relief halls of an international non-governmental organization.<sup>41</sup> Given the previous pattern of indiscriminate attacks over the past four years and the fact that the Government of Sudan still refuses to recognise the authority

<sup>40</sup> Brian Steidle mentions gunship attacks on the following villages: Labado, Hamada, Amikasar. The United Nations refers to attacks with gunships in the Birmiza area (§3, S/2007/104), the Adilya area (§4, S/2007/104), in Sayah, Gubba, Hashaba and Anka (§4, S/2007/104), Abu Hamra (§195-200, §266-267, S/2006/65). See also Amnesty International, November 2004, op cit

of the UN Sanctions Committee to move such weapons into Darfur, there remains danger of further such indiscriminate attacks.<sup>42</sup>

The type of armaments used in such helicopter gunship attacks has been described by Brian Steidle, a military observer for the African Union in Darfur<sup>43</sup> between September 2004 and February 2005, who gave the following eyewitness account before the U.S. House Subcommittee on Africa:

“Evidence of Government support: A helicopter gunship flying over the village of Labado after just recently firing. This village, as I mentioned before and showed the photograph, is no longer there. They deny that they use these. Here is a closer-up picture of one. We can see the Sudanese flag on the tail. Impacts from the rockets that they use on these villages and the shrapnel from the rockets that fired from the gunship. And this is flashettes, a flashette rocket. Each gunship carries about four rocket pods, each rocket pod, about 20 rockets; and in each rocket, about 500 of these little flashettes, which is a small nail. It comes out like a shotgun round, and it is not used against military targets. It is not used against trucks or buildings. This is used only against people, to kill or to maim people, and they use this almost exclusively.”<sup>44</sup>

### **Deployment of ground attack fighter jets in Darfur**

The Sudan Air Force has also been conducting a pattern of indiscriminate aerial bombings of villages in Darfur and eastern Chad using ground attack jet fighters and Antonov planes. In February 2007, the UN Secretary General appealed for a stop to this practice: “*In their ongoing efforts to flush out non-signatory combatants, the Government of the Sudan intensified aerial bombardment of non-signatory forces positions, including civilian targets... I am distressed by the deteriorating humanitarian and security situation on the ground. All parties must cease violent attacks on civilians. I particularly deplore the aerial bombings by Sudanese*

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<sup>42</sup> For example, on 21 and 22 April 2007, there were several unconfirmed reports of Sudan Air Force aerial bombing and attacks on the village of Jemmeiza in North Darfur by the Sudan armed forces using two helicopters and two Antonov planes in which it was claimed that 26 civilians were killed, including pregnant women; UNMIS Media Monitoring Report, 22/04/2007, Sudan Tribune 22 April 2007, *Agence France Presse*, 19 April 2007, Reuters 19 April 2007; Amnesty International has not been able to confirm these civilian casualties.

<sup>43</sup> Brian Steidle spent a total of 13 months in Sudan between 2003 and Feb 2005.

<sup>44</sup> Statement of Brian Steidle, in: “A Global Review of Human Rights: Examining the State Department’s 2004 Annual Report”, Hearing before the Subcommittee on Africa, Global Human Rights and International Operations of the Committee on International Relations of the House of Representatives, 17 March 2005, Serial N° 109-35: p. 79.

*Government forces, which have expanded to new areas since 16 January, resulting in more civilian casualties and suffering.”<sup>45</sup>*

**Between January 2007 and March 2007, Chinese A-5 ‘Fantan’ jet fighters were seen parked at Nyala airport (see**

Table 2 below). These aircraft are specifically designed to be used for ground attack operations. In early March a large bomb and some green ammunition boxes were seen next to the jets.<sup>46</sup> In March 2007, a third A-5 ‘Fantan’ jet (reg. number 410) was seen at Nyala airport. An Antonov military plane was also seen at various places in Darfur between January and March 2007 (see below).

**Table 2: Fantan jet bombers in Nyala**

Place	Date	Type	Amount	Reg. Number
Nyala	January 2007	Q5 Fantan	2	402, 403
Nyala	Early March 2007	Q5 Fantan	3	402, 403, 410
Nyala	Mid March 2007	Q5 Fantan	2	Unknown
Nyala	Late March	Q5 Fantan	3	402, 403, 410

<sup>45</sup> Monthly report of the Secretary-General on Darfur, 23 February 2007, S/2007/104

<sup>46</sup> Ibid



*Chinese A5 Fantan jet bombers at Nyala in Darfur, early March 2007 (copyright AI)*

The United Nations Mission in Sudan (UNMIS) reported that January 2007 “was marked by ground attacks by GoS [Government of Sudan] forces and armed militia as well as aerial bombardments by the Sudanese Air Force of suspected rebel factions.”<sup>47</sup> New displacements of villagers towards IDP camps continued relentlessly through January as a result of Sudanese armed forces and associated militia attacks as well as attacks by fighters of the SLA-MM (Minni Minawi) faction - especially in North Darfur where there were reports of Sudan Air Force aerial bombings in many locations - and attacks and intimidation by *Janjawid* militias.<sup>48</sup> Attacks on villages in the Sudanese state of West Darfur in January 2007 forced up to 5,000 people to flee their homes and seek refuge in two camps around El Geneina, according to a non-governmental organisation, Medair-Switzerland.<sup>49</sup>

On 22 March 2007, a plane described by witnesses as a Sudanese Antonov, bombed areas north and south of the north-eastern Chadian town of Bahai. The air strikes included the area around Lake Cariari, several kilometres from the Oure

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<sup>47</sup> *The DPA Monitor*, January/February 2007: p. 8.

<sup>48</sup> “Sudan Humanitarian Overview 1-31 January 2007”, OCHA, Vol. 3, Issue 1

<sup>49</sup> About 500 households were reported to have arrived in Ardamatta Camp, and another 300 in Durti Camp, having fled their homes with very little during the peak of the cold season. See <http://www.irinnews.org/report.asp?ReportID=57179>

Cassoni refugee camp. Oure Cassoni hosts nearly 27,000 Sudanese refugees. While no refugees were injured, several Chadian civilians and two humanitarian workers from an international NGO were wounded. This is not the first time that air strikes have occurred near Oure Cassoni, which is only 5 km from the Sudanese border. Air strikes were reported over a two-day period in early January 2007 and in October 2006. UNHCR has been seeking agreement from the refugees and Chadian authorities to move the camp further from the border.<sup>50</sup>

Deim Bishara village in Southern Darfur was attacked during late December 2006 by Arab militia ground forces that were supported by aerial bombardments from an Antonov aircraft. AU investigators confirmed that, apart from some combatants killed, 16 civilians were injured in the attacks. On 5 and 6 December, Government aircraft bombarded Shagbuba with ground support from armed militia and killed five civilians.<sup>51</sup>

### **Sudanese authorities disguising military aircraft in Darfur**

In their previous reports the UN Panel of Experts expressed concern about the use of white aircraft by the Government of Sudan.<sup>52</sup> The Government of Sudan has stated that “*it does not have any white fixed-wing aircraft and that all its aircraft bear logos or emblems... however, the Government did admit to using white helicopters for the transport of officials and tribal leaders attending reconciliation meetings, but not for any military purposes.*”<sup>53</sup> The UN Panel of experts reported to have documentary evidence of the existence of such aircraft, one aircraft an Antonov-26 with military registration number 7705 (additional marking: -26563) and another Antonov-26 bearing registration number ST-ZZZ<sup>54</sup>. The Panel concluded in its October 2006 report that the Government of the Sudan “*is in possession of white aircraft but gave false and misleading information to the United Nations*”<sup>55</sup> and “*continues to use unmarked white fixed-wing aircraft for aerial reconnaissance missions and hostile or offensive military overflights.*”<sup>56</sup>

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<sup>50</sup> “Chad: Air strikes and armed raids underscore UNHCR concern for camp security, UNHCR Briefing Notes, 27 March 2007

<sup>51</sup> Ibid.

<sup>52</sup> See for instance S/2006/795: §205 – 213. According to article 24 subsection 266 (i) of the Darfur Peace Agreement, it is prohibited by the parties “to disguise its equipment, personnel or activities as those of AMIS, United Nations agencies, the International Committee of the Red Cross/Red Crescent or any other similar organization”.

<sup>53</sup> S/2006/795: §206.

<sup>54</sup> S/2006/795: §207-208.

<sup>55</sup> S/2006/795: §209.

<sup>56</sup> S/2006/795: §213.

Amnesty International has recently received eyewitness reports that the all-white Antonov-26 with Sudanese Air Force registration number 7705 is still operating in Darfur. It was spotted at several locations in Darfur including the airports at El Geneina and Nyala between January 2007 and March 2007. In early March 2007 this Antonov-26 aircraft (reg. n° 7705) was spotted at El Fasher parked near an assortment of bombs. The aircraft with registration number ST-ZZZ has also been spotted at various locations between January and March 2007.

There appear to be three planes with this registration number. An all-white Antonov-26 with registration number 'ST-ZZZ' and the markings 'SAF' on the nose (Sudanese Air Force) was seen at El Fasher (see photograph below) and at Nyala between January and March 2007. Additionally an Antonov-26 with white fuselage and a blue tail and also using registration number 'ST-ZZZ' was seen on the Khartoum apron in January and mid-March 2007. Finally, in August 2006 an Antonov-26 also bearing registration number 'ST-ZZZ' crash-landed at El Fasher airport after unconfirmed bombing missions in Darfur.<sup>57</sup> One of its engines had been destroyed.<sup>58</sup> This aircraft has been parked off the runway at El Fasher since it crash landed.



*This Antonov-26 ('ST-ZZZ') aircraft was spotted at various places in Darfur between January and March 2007 and parked here at Nyala, late March 2007 (copyright AI)*

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<sup>57</sup> S/2006/795, 3 October 2006, annex 3

<sup>58</sup> <http://aviation-safety.net/database/record.php?id=20060807-0&lang=en>.

In addition, Amnesty International has credible reports that all-white Mi-171 transport helicopters of the Sudanese Air Force with no logos or emblems have been spotted at Nyala airport between January and March 2007 (using the registration number 533), and El Fasher in March 2007 (using the registration number 528). The Sudanese Air Force has similar transport helicopters at other places which do carry logos or emblems.<sup>59</sup> The United Nations also recently reported the use of all white helicopters by the Sudanese Air Force in Southern Sudan in contravention of a Ceasefire Joint Military Commission decision.<sup>60</sup>

The use of all white aircraft and helicopters by the government of Sudan in Darfur is, *prima facie*, in violation of applicable norms of international humanitarian law. White aircraft and helicopters are generally used for the activities of the UN, AMIS and other humanitarian agencies, including notably the delivery of humanitarian aid. As mentioned in the Panel of Experts report of October 2006, the use of white aircraft “poses a grave threat to humanitarian agencies, the United Nations and AMIS operating in the Darfur region. This could lead to misidentification and possible engagement of aircraft by rebel forces.”<sup>61</sup> Sudan is obliged under international humanitarian law to take all precautionary measures to avoid losses of civilian lives and damage to civilian objects.

### **Delivery and use of small arms and ammunition by the Sudanese Government in Darfur**

At El Geneina airport between December and March 2007, witnesses observed five flights by Antonov aircraft operated by local Sudanese companies offloading cargoes of small arms and ammunition. At least one of the consignments of small arms and ammunition was reportedly destined for the Chadian armed opposition. Such fresh government supplies of small arms and ammunition to Darfur are fuelling further attacks on civilians and gross human rights violations and abuse, including by the Sudan Government-backed militia known as *Janjawid* who have been issued with assault rifles by the Government.

Government forces’ and militia armed attacks on humanitarian personnel occurred during early 2007. On 7 February 2007, three commercial trucks transporting relief supplies were attacked on three separate occasions on the route between Kabkabiya and El Fasher in North Darfur. While no relief items were stolen, each time the attackers sexually assaulted female and physically assaulted male passengers. On 11

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<sup>59</sup> For instance at Khartoum International airport an all white Mi-171 helicopter (registration number 531) with Sudanese flag on tail was seen.

<sup>60</sup> §259, CPA Monitor, October 2006.

<sup>61</sup> S/2006/795, paragraph 205

February, three armed men forcefully entered an NGO clinic in Mornei, West Darfur, at night, gathered all the patients and threatened their lives. On 17 February, some armed men believed to be militiamen entered Krinding II camp near Geneina and burnt one shelter. When some IDPs left their huts and protested, one of them was shot in the head and killed instantly.<sup>62</sup>

On 9 December 2006, armed men on horseback attacked a commercial vehicle convoy carrying people and medical and other supplies near Runju Runju in the Sirba area of Western Darfur. The truck was hit by a rocket-propelled grenade, and the people in the truck were shot at by the horsemen. Thirty-one civilians, including five school teachers, were killed in the attack.<sup>63</sup> On 18 November, armed forces of the Government of the Sudan and armed militia attacked and burned a significant portion of the village of Buli in Western Darfur, where more than 10,000 internally displaced persons had found refuge, and looted several villages between Rowata and Bul Bul in Western Darfur. Dozens of civilians were killed and thousands displaced in the attacks.<sup>64</sup>

### **Supplies of weapons used in attacks in eastern Chad by armed groups operating from Darfur**

The *Janjawid* militias who in recent years have laid to waste vast areas of western Sudan, form the backbone of the armed groups who are killing, tormenting and displacing civilians from targeted ethnic groups such as the Dajo and the Masalit in eastern Chad. The aim of the attacks appears to be to clear vast areas of communities primarily identified by the *Janjawid* as "African" rather than "Arab", and to drive them further from the border with Sudan.<sup>65</sup>

The pattern of displacement, massacres and abuse in Darfur has over-spilled the border areas of Sudan and there is a continuing precarious situation for over 2 million people living in aid camps along the border. All along Chad's eastern border with Sudan, *Janjawid* incursions have been clearing the land of members of

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<sup>62</sup> "Sudan Humanitarian Overview 1-28 February 2007", OCHA, Vol. 3, Issue 2

<sup>63</sup> Ibid

<sup>64</sup> Ibid

<sup>65</sup> Amnesty International, "*Chad: 'are we citizens of this country' - Civilians in Chad unprotected from Janjawid attacks*", AI Index: AFR 20/001/2007, 29 January 2007; Overwhelmingly, the attacks on civilians in Chad have been carried out by a loose coalition, based on common ethnicity, of Sudan government-backed militia who cross over from Darfur and local Chadian Arab groups. They are frequently joined by Chadian African ethnic groups such as the Mimi and Wadai, who live among the Dajo and other groups targeted for attack. Attackers from this alliance are invariably termed *Janjawid* by the survivors.

communities such as the Dajo, Mobeh, Masalit, Kajaksa and other groups, forcibly displacing approximately 120,000 people.<sup>66</sup> Although such incursions have occurred at least since 2003, they became far more intensive, serious and abusive in late 2005 as relations between the Sudan and Chad governments deteriorated and intensified again in late 2006 and early 2007. The government of Chad, in the face of such atrocities committed on its soil, has failed to protect the civilian population from Janjawid attacks. Officials have admitted as much to Amnesty International. By withdrawing and withholding troops from the Chad/Sudan border to fortify its positions against attacks from Chadian rebels, the Chad government left the civilian population unprotected from Janjawid and Chadian rebel attacks. The security vacuum created is leading to increased militarization as communities arm and form community defence militias. The Sudanese government has taken no action either to stop the attacks or to control and disarm the *Janjawid*. The Sudanese forces do not effectively patrol the country's border or make any efforts either to intercept or pursue the *Janjawid* whose fighters wear uniforms similar to those of the Sudanese army and have been found to be carrying identity cards showing them to be members of Sudanese paramilitary forces. Their raids often coincide with the attacks made against the government of Chad by Chadian armed groups based in Sudan, when the *Janjawid* take advantage of the absence of Chadian government troops to attack defenceless civilians in the border areas.

Amnesty International also has reason to believe that at least some Kalashnikov assault rifles in the hands of the *Janjawid* militia are new weapons. In mid 2006, an Amnesty International team visiting Djimeze in eastern Chad near the border with Sudan found the town abandoned with no sign of life. The haste of the departure was clearly visible with only essential things taken. Eye witnesses from other villages showed Amnesty International how the *Janjawid* militia had carried out the ambush in April 2006. They showed eight places where bodies, including those of infants, had been buried and the smell of putrefaction released from at least two bodies that had been dug up. A skull at the exterior one of the graves and a foot at the exterior one of a collective pit where seven persons had been buried were visible, while the pants of the person were still intact. Around these pits, a pair of sandals that belonged to one of the persons that he had buried, a 45 years old father of three children. "*The bodies had not yet decomposed. We buried them fifty centimetres deep. Heavy rains and dogs are the reason why the two bodies could be dug up. Among the people that I buried I recognised my cousins and my son-in-law,*" said one local villager.

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<sup>66</sup> Amnesty International, "*Chad/Sudan: sowing the seeds of Darfur*", June 2006 (AI Index: AFR 20/006/2006)

Some cartridges were still visible at the sight of the massacre, showing how the persons had been killed in this place, and some arrows, assegais and amulets were also littered on the ground. An analysis of the cartridges carried out for Amnesty International shows that these were fired using Kalashnikov assault rifles, including one in very good and new condition even though the cartridges were generally old and of mixed origin, originally from China, the old East Germany and Eastern Europe, so likely to have been recycled through other government surplus stocks.

### **Military and paramilitary vehicles used to facilitate serious human rights abuses**

Grave human rights violations have been committed by the Sudanese army and by officials of the Government of Sudan Police Service using 4-wheeled drive vehicles with 12.7 mm machine guns mounted on the back. Sudanese and Chadian armed opposition groups also use such vehicles in the commission of human rights abuses.

Amnesty International has previously reported that *“in many testimonies collected by Amnesty International delegates, it is reported that army vehicles accompanied Janjawid militias during their ground attacks on villages in Darfur; frequently the Janjawid also arrived in Land Cruisers. The government vehicles are reportedly used to carry soldiers and heavy weapons, as well as to provide active support when they have weapons mounted on them. They are often positioned at the edge of villages to prevent those who try to escape Janjawid attacks but sometimes they are described as attacking first.”*<sup>67</sup>

On 11 April 2007, a group of armed men, allegedly *Janjawid* militia, attacked Abujogh Market, 20 km west of Serif Beni Hesain, and seven other villages in North Darfur - Sindala, Omrakena, Warda, Hijer Obayed, Melibeida, and Betetil. The attackers reportedly used 30 vehicles equipped with heavy machine guns and artillery. Reportedly, 40 civilians were killed and 25 others were wounded. Villagers reportedly fled to the eastern area of Serief Beni Hesain.<sup>68</sup> On 25 December 2006, African Union ceasefire monitors reported that armed militia in about 30 vehicles attacked and looted Kineen village 8 km northeast of Kutum, stealing livestock. The bushes surrounding the village were reportedly set on fire and women were reportedly sexually harassed.<sup>69</sup>

On 7 April 2007, the Office of the High Commissioner for Human Rights reported that, according to local sources, in mid to late December 2006, the village of Deribat and eight other villages along the road from Kutur to Deribat were attacked

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<sup>67</sup> Amnesty International, *“Sudan: arming the perpetrators of grave abuses in Darfur”*, op cit

<sup>68</sup> UNMIS News Bulletin, 16/04/2007

<sup>69</sup> UN Sudan Bulletin, 02/01/2007

by air and land by government forces and allied militia. The attackers travelled on approximately 20 vehicles and on camel and horseback.<sup>70</sup> Testimony was gathered from two 25-year-old pregnant women who alleged having been raped. One of the victims was at her house with her husband when a group of soldiers came in. The attackers wore green military uniforms and travelled in a Land Cruiser vehicle. The soldiers shot her husband and then proceeded to kick and beat her. A group of 10 men then raped her. She was three months pregnant and had a miscarriage as a result of the rape.<sup>71</sup>

Such vehicles are also used by armed opposition groups. For example, on 28 January 2007, a commercial truck was attacked by seven armed men with a Land Cruiser pick-up along the Ed Deain-Nyala road, nine kilometres from Yassin. The truck was transporting supplies from El Obeid to Nyala. The armed men, who were suspected to be SLA Free Will soldiers looted two drums of diesel (400liters) and fled.<sup>72</sup> The use of 4-wheel drive vehicles is also used for military logistics in Darfur - observers of the African Union saw two convoys of trucks taking supplies across the Libya-Sudan border in July and August last year.

Many of the 4-wheeled drive vehicles used in Darfur by armed forces, militia and armed groups fall into the import trade category of “dual use” equipment since they can be used there for either military and security tasks or for civilian tasks. Moreover, many such vehicles acquired or imported as civilian vehicles have apparently been converted for the Sudan armed forces, militia and armed opposition into military or paramilitary vehicles with mounted machine guns. This presents a particular problem of control by governments, as recognised by the UN Panel of Experts which has repeatedly warned about the misuse of dual-use<sup>73</sup> vehicles and aircraft in several of its reports<sup>74</sup> and has recommended that the transfer of such items into Darfur “*should be restricted and their transfer subject to approval by the Committee*”.<sup>75</sup> Moreover, the main multilateral grouping of arms exporting states in the world, the Wassenaar Arrangement, has recently recognised that it is possible for export authorities to restrict or prevent the export of “dual use” items where these

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<sup>70</sup> “Sexual violence during attacks on villages in East Jebel Marra, Darfur”, Office of the High Commissioner for Human Rights, 6 April 2007

<sup>71</sup> Ibid

<sup>72</sup> UN Sudan Bulletin, 29/01/2007

<sup>73</sup> Equipment which may be used for civilian as military purposes, e.g. aircraft or 4x4 vehicles.

<sup>74</sup> See §50, S/2006/250; §91, S/2006/795.

<sup>75</sup> §63, S/2006/250.

items risk being used for a military use in circumstances contrary to international law.<sup>76</sup>

One example of what has been done to address this problem is given by the case of Land Rover Defenders which are driven by officials of the Government of Sudan Police Service and some are also used by humanitarian agencies. It appears that the Sudanese authorities sometimes militarise such vehicles by attaching machine guns (typically 12.7 mm) to the vehicles, an act which transforms them into highly mobile killing machines.

Grave human rights abuses have been committed by officials of the Government of Sudan Police Service using 4-wheeled drive vehicles with 12.7 mm machine guns mounted on the back. In October 2006, the UN Panel report alleged “*unconfirmed reports of the use of such vehicles (Land Rovers painted white) in Darfur by the Government of Sudan and other Janjaweed/militias supported by it.*”<sup>77</sup> The African Union's Ceasefire Commission issued a Report in September 2005<sup>78</sup> on one such incident in the town of Tawilla where an eyewitness, Abdallah Muhamed Abdallah, said:

*“I was in my barbershop attending to clients. My shop is near the mosque...I went to the mosque for prayers. After prayers... I went to the market. Whilst at the market I saw GoS Police coming with...police officers in two vehicles....They started firing toward the mosque...One of the GoS Police vehicles had a 12.7 mm machine gun and started firing towards the mosque”. The Commission was “of the view that the shooting of unarmed civilians and the wanton destruction of property in Tawilla by the GoS Police is highly condemnable and a clear violation of the Cease Fire Agreement”.*

On 26 July 2006 the United Nations team visited Port Sudan and “*witnessed a large consignment of imported Land Rovers*”. It would appear that, during 2005 and 2006, “*several hundred*” Land Rover Defenders were imported into the Sudan and, whilst some were destined for humanitarian use, the “*vast majority*” were for the Interior Ministry of the Sudan Government.<sup>79</sup>

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<sup>76</sup> Wassenaar Arrangement, Statement of Understanding on Control of Non-Listed Dual-Use Items, Vienna 2003, in which it was agreed that: “*Participating States will take appropriate measures to ensure that their regulations require authorisation for the transfer of non-listed dual-use items to destinations subject to a binding United Nations Security Council arms embargo, any relevant regional arms embargo either binding on a Participating State or to which a Participating State has voluntarily consented to adhere, when the authorities of the exporting country inform the exporter that the items in question are or may be intended, entirely or in part, for a military end-use*”

<sup>77</sup> S/2006/795 § 101

<sup>78</sup> Ceasefire Violation Report: Alleged GoS Shooting of Civilians in Tawilla Mosque on 9 Sep 2005

<sup>79</sup> Conversation with African Union official, Khartoum, 22/2/07

Now both Land Rover in the UK and their parent corporation, Ford Motors in the USA, have become aware of these facts and have recently stated that they have taken steps to stop these exports to Sudan. On 16 August 2006, James C. Gouin, Vice President and Controller of the Ford Motor Company said in a letter to the U.S. Securities and Exchange Commission:

*“Sales by Land Rover to its' authorised distributor take place in the United Kingdom, after which the authorised distributor takes control of the vehicles for export to various markets, including Sudan....we queried Land Rover's distributor about the ultimate disposition of the vehicles...we were advised that the distributor sells the vehicles...to a retail outlet in Sudan, which does supply vehicles to various Government Departments in Sudan. We have been advised...that the bulk...has been directed towards the Ministry of Interior”.*<sup>80</sup>

Subsequently, Land Rover in the UK confirmed on 20 March 2007 that they had become aware of these exports to Sudan, had also taken steps to ensure that no more such vehicles were sent to Sudan and had, indeed, recovered from their distributor a further quantity of vehicles destined for the Sudan.<sup>81</sup>

Amnesty International is concerned that those types of civilian four-wheel drive vehicles deemed necessary by humanitarian, human rights and international peace support organisations for their civilian operations, are not denied by vehicle suppliers to those involved in such operations in Sudan, even if this is part of an attempt by suppliers to prevent the acquisition of 4-wheeled vehicles to the parties to the conflict in Darfur given the conversion of such vehicles by those parties for use in military and paramilitary activities in Darfur.

Heavy military vehicles used in Darfur include armoured personnel carriers (APCs) designed purely for military and security purposes with armoured plating and facilities for using machine guns and assault rifles. The Government of Sudan has been actively importing such vehicles. Dozens of government “gun trucks” and thousands of troops were described as moving north from the provincial capital of El Fasher in September 2006. In March 2007, six APCs belonging to the Government of Sudan were seen in Nyala.<sup>82</sup> There is a real danger that such APC vehicles will be deployed to Darfur by the Government of Sudan and used in grave violations and abuses of human rights.

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<sup>80</sup> [www.sec.gov/Archives/Edgar/data/37996/000003799600062](http://www.sec.gov/Archives/Edgar/data/37996/000003799600062)

<sup>81</sup> Conversation with Export Director, Land Rover UK 20/3/07

<sup>82</sup> Confidential source

## The current UN arms embargo

On 30 July 2004 the UN Security Council in Resolution 1556 called for “*all states to take the necessary measures to prevent the sale or supply, to all non-governmental entities and individuals, including the Janjaweed, operating in the states of North Darfur, South Darfur and West Darfur, by their nationals or from their territories or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, whether or not originating in their territories.*”<sup>83</sup> [emphasis added]

This UN arms embargo applied to the *Janjawid* and other militia, as well as to the armed opposition groups, but apparently ignored the fact that the Sudan government and its forces had been supplying arms and logistical support to *Janjawid* and other militia, while encouraging and condoning grave violations of international humanitarian and human rights law by these militia, as well as deploying units which participate in deliberate and indiscriminate attacks on civilians with impunity. The reality was that many *Janjawid* militiamen were being incorporated into government paramilitary or police forces such as the Popular Defence Forces, the Popular Police or the Border Police.

On 29 March 2005 the Security Council adopted Resolution 1591 condemning “*the continued violations of the 8 April 2004 N’djamena Ceasefire Agreement and the 9 November 2004 Abuja Protocols, including air strikes by the Government of Sudan in December 2004 and January 2005 and rebel attacks on Darfur villages in January 2005, and the failure of the Government of Sudan to disarm Janjaweed militiamen and apprehend and bring to justice Janjaweed leaders and their associates who have carried out human rights and international humanitarian law violations and other atrocities*”<sup>84</sup> and therefore under Chapter VII of the UN Charter decided to establish a Committee<sup>85</sup> of the Security Council to monitor the arms embargo. The Security Council decided to include in the arms embargo

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<sup>83</sup> S/RES/1556 (2004), para 7. The UN Security Council imposed diplomatic sanctions on Sudan in April 1996 (Resolution 1054). In August 1996 the Security Council adopted Resolution 1070 to put into force an air embargo on Sudan but did not impose it for humanitarian reasons. All sanctions were lifted by Resolution 1372, 28 September 2001, because of Sudan's promise to comply with Security Council resolutions.

<sup>84</sup> S/RES/1591 (2005), para 2.

<sup>85</sup> S/RES/1591 (2005), para 3 (a). The Committee consists of all the members of the Security Council.

*“all the parties<sup>86</sup> to the N’jamena Ceasefire Agreement and any other belligerents in the states of North Darfur, South Darfur and West Darfur.”<sup>87</sup>*

It was further decided that these measures would:

*“not apply to movements of military equipment and supplies into the Darfur region that are approved in advance by the Committee of the Security Council upon a request by the Government of Sudan”;*

*“not apply with respect to assistance and supplies provided in support of implementation of the Comprehensive Peace Agreement” (para 7)<sup>88</sup>.*

Thus, in accordance with paragraph 7 of UN Security Council resolution 1591 (2005), the Government of Sudan is forbidden to move military equipment and supplies into Darfur without prior approval by the Committee of the UN Security Council.

The UN Security Council has explicitly demanded that the Government of Sudan, in accordance with the Sudanese Governments commitments under the 8 April 2004 N’jamena Ceasefire Agreement and the 9 November 2004 Abuja Security Protocol, immediately *“cease conducting offensive military flights in and over the Darfur region”*.<sup>89</sup> The Security Council, in resolution 1591 paragraph 1 *“demands that all parties take immediate steps to fulfil all their commitments to respect the N’jamena Ceasefire Agreement and the Abuja Protocols.”*

The UN Panel of Experts investigating and reporting on violations of the UN arms reported in October 2006 that *“blatant violations of the arms embargo by all parties operating in Darfur continue unabated”* and *“weapons, notably small arms, ammunition and military equipment, continue to enter the Darfur states from a number of countries and from the region of the Sudan... Weapons and ammunition have been observed being offloaded at the Geneina and El-Fasher airports and moved to various locations in Darfur. In spite of the clear understanding of its obligations under Security Council resolution 1591 (2005), at the time of writing this report, the Government of the Sudan still had not requested approval from the Committee to move weapons, ammunition or other military equipment into Darfur, thereby knowingly violating the provisions of the resolution.”<sup>90</sup>*

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<sup>86</sup> The parties to the N’jamena Ceasefire Agreement are: the Government of Sudan, the Sudan Liberation Movement/Army (SLM/A), and the Sudan Justice and Equality Movement (JEM).

<sup>87</sup> S/RES/1591 (2005), para 7.

<sup>88</sup> S/RES/1591 (2005), para 7. See also para 3 (a) (v): The Committee is tasked *“to consider requests from and, as appropriate, provide prior approval to the Government of Sudan for the movement of military equipment and supplies into the Darfur region”*.

<sup>89</sup> S/2006/1591: para 6.

<sup>90</sup> S/2006/795

The UN Security Council has also explicitly demanded from the Government of Sudan in accordance with the Sudanese Governments commitments under the 8 April 2004 N'djamena Ceasefire Agreement and the 9 November 2004 Abuja Security Protocol to immediately “*cease conducting offensive military flights in and over the Darfur region*”<sup>91</sup>. Offensive military flights in and over the Darfur region are prohibited, according to UN Security Council Resolution 1591. However, this does not apply to non-offensive military flights which, if carried out in order to move military equipment or supplies *into* Darfur, require the prior authorization of the UN Sanctions Committee on Sudan. *Within* Darfur the re-supply of military equipment not permitted and only the withdrawal of military equipment is allowed when the Parties have notified the Cease Fire Commission (CFC) of a troop movement, and the CFC subsequently specifies the route along which the troops have to move.

Sudanese government officials told the UN Panel of Experts that “*the Government had a sovereign right to transfer weapons and additional military personnel into Darfur without obtaining the specific permission of the Security Council.*”<sup>92</sup> However, decisions made by the UN Security Council under Chapter VII of the United Nations Charter are binding on all Member States of the United Nations and the Government of Sudan has never requested, nor obtained, permission from the UN Security Council Sanctions Committee to move military equipment and supplies into Darfur. Thus, the Government of Sudan’s ongoing movements of military equipment and supplies to Darfur, as detailed above, are violations of the UN arms embargo.<sup>93</sup>

Through its resolution 1672 (2006), the Security Council designated four individuals for the targeted sanctions (travel ban and assets freeze) imposed by resolution 1591(2005). In October 2006, the Panel of Experts provided the Sanctions Committee with a confidential annex to its report<sup>94</sup> containing information regarding

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<sup>91</sup> S/2006/1591: para 6. The term “offensive military overflight” is discussed in the UN Panel of Experts’ October 2006 report (S/2006/795 paragraph 215) is defined according to the following criteria: “• Overflights in pursuit of a specific military objective that are undertaken for purposes other than defending the aircraft from a clear and imminent threat. • Use of the aircraft to achieve a military advantage disproportionate to that required to neutralize a clear and imminent threat. • Unprovoked attack with aircraft, such as strafing or bombing of villages. • Use of aircraft in support of offensive ground operations. • Retaliatory attack, that is, action in response to a prior attack. • Flights that deposit troops participating in an imminent offensive operation. • Operation of the aircraft in a manner to intimidate or harass, for example flying mock attack runs, frightening children and animals, circling over an area for a considerable period of time without any operational reason with the aim of scaring people and animals, destroying buildings with rotor wash, sonic booms and the like

<sup>92</sup> S/2006/795: §81.

<sup>93</sup> Communication with UN official, March 2007

<sup>94</sup> S/2006/795

individuals who could be considered for designation and thereby subject to such targeted sanctions.<sup>95</sup> Although the travel ban does not require States to prevent entry of their own nationals, in October 2006 the UN Panel of Experts reported that the Government of the Sudan had not implemented the financial sanctions in connection with the designated persons, nor had the Government of Chad.

The African Union Mission in Sudan (AMIS), a peacekeeping force of 7,500 personnel, has been deployed in Darfur since 2004. The presence of AMIS forces has provided some protection to civilians in Darfur. However, it has failed to stop mass killings, rapes and forcible displacement of civilians. AMIS efforts continue to be hampered by limited capacity and financial resources. AMIS also has no mandate or capacity to monitor the UN arms embargo. In 2007 negotiations continued between the United Nations, the African Union, and the Government of Sudan concerning the strengthening of AMIS and the deployment of a so-called hybrid United Nations-African Union peacekeeping force for Darfur.

## **Conclusion and recommendations**

Amnesty International is deeply dismayed by the fact that certain governments, including two Permanent Members of the Security Council – China and Russia - are allowing ongoing flows of arms to parties to Sudan that are diverted for the conflict in Darfur and used there and across the border in Chad to commit grave violations of international law. Governments that ratify international human rights treaties have a particular obligation to ensure that such treaties are upheld and that the human rights of the population living within the state are protected. Yet the Sudanese government has participated in massive breaches of international humanitarian and human rights law in Darfur and armed opposition groups in Darfur continue to carry out grave abuses of human rights.

Governments must ensure that they do not transfer weapons and other military equipment, including “dual use” equipment, that are likely to be used to commit violations of human rights or international humanitarian law. Consistent with

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<sup>95</sup> The UN Panel of Experts may recommend that particular individuals are “designated” by the Security Council if they impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, violate the measures implemented by Member States in accordance with paragraphs 7 and 8 of resolution 1556 (2004) and paragraph 7 of resolution 1591 (2005) as implemented by a State, or are responsible for offensive military overflights described in paragraph 6 of resolution 1591 (2005).

principles of international law, all states must refrain from authorizing transfers in circumstances when they know or ought to know that weapons of the kind in question are likely to be used to commit violations of international law.

A *preventive* approach is needed to address situations where it becomes evident that particular types of arms will be used for serious violations of international law and the international community cannot rely solely on UN arms embargoes which are, by their very nature, only imposed when the catastrophic misuse of arms is already occurring. It should be carefully noted, therefore, that in December 2006, the UN General Assembly voted by a very large majority to establish a process for a global Arms Trade Treaty based on respect for existing international law, including the UN Charter, relevant arms control treaties, international human rights law and international humanitarian law.<sup>96</sup> If such a Treaty had been in place earlier, the arming of forces that have perpetrated atrocities and abuses in Darfur, and previously in southern Sudan, could have been denied the means to do so. Currently, the UN Secretary General is seeking the views of all states on a global Arms Trade Treaty and Amnesty International and its partners are urging all governments to respond positively to the Secretary General.

The international community and in particular the UN Security Council should now act decisively to strengthen the design and implementation of the UN arms embargo on Darfur until such time as there is no longer a danger that arms will be misused to facilitate serious violations of international human rights and humanitarian law in Darfur. The authority of the Security Council itself is being greatly undermined as the Sudanese authorities and armed groups in Darfur are allowed to act with such obvious impunity before the eyes of the world, importing and diverting arms to commit flagrant violations of international law, including fundamental provisions of international human rights law in contravention of Article 1 of the UN Charter.

Amnesty International therefore recommends that:

**The UN Security Council:**

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<sup>96</sup> UN General Assembly resolution 61/89 of 6 December 2006, "Towards and International Arms Trade Treaty" with 153 votes in favour, one vote against and 24 abstentions All Member States are invited to submit their views on the feasibility, scope and draft parameters of such a treaty to the UN Secretary General.

1. *Urgently strengthen the monitoring and verification mechanisms of the UN arms embargo to improve the implementation of the arms embargo on the parties to the conflict in Darfur so that:*

*(a) with immediate effect a detailed generic list of items prohibited for transfer to the parties to the conflict in Darfur, including the Government of Sudan, is drawn up and published by the UN Sanctions Committee and kept under regular review by the Committee using information received from the UN Panel of Experts and other credible sources about the categories and types of items that have been used, or can reasonably be assumed will be used, in violation of the UN embargo and contrary to international law by the parties to the conflict in Darfur, including all types of military equipment defined in paragraph 7 of Resolution 1556;*

*(b) recommendations are made by the UN Sanctions Committee without delay to the Security Council concerning the inclusion of other relevant items that should be on the list of prohibited items, taking into account information on the use of “dual use” equipment used in military and paramilitary operations, spare parts for such equipment, particularly for aircraft and vehicles, and the logistical, brokering and financial services used for transactions and deliveries of such arms transfers that could be used to facilitate serious violations of international human rights and humanitarian law and would be consistent with the purpose and definition of the UN embargo on Darfur as defined in Resolutions 1556 (2004) and 1591 (2005);*

*(b) UN observer personnel are stationed at all ports of entry in Sudan including Darfur and given adequate resources to monitor the movement of items prohibited for transfer and to ensure that any suspected violation of the UN embargo is fully investigated, reported immediately to the UN Sanctions Committee and exposed in a UN report if confirmed true;*

*(c) a UN monitoring and verification system is set up to ensure that the Government of Sudan accounts for any imported items not included on the list of items prohibited for transfer – as defined above - and that through a system of verification involving UN field observer teams regular checks are made to guard against diversion or circumvention of the UN arms embargo, and;*

*(d) Member States are required to submit copies of end-user certificates to the UN Sanctions Committee of all proposed arms transfers to Sudan and to countries bordering Darfur covering all items on the list of prohibited transfers in order to enable the UN Panel of Experts and UN*

observer personnel to ensure that such transfers are not diverted to any of the parties to the conflict in Darfur.

2. Publish without delay all the reports and interim reports of the UN Panel of Experts to the UN Security Council Sanctions Committee on Sudan concerning actual violations of the UN arms embargo.
3. Ensure that adequate human and other resources are allocated to the UN Panel of Experts and the UN Secretariat to conduct investigations to help ensure compliance with the UN arms embargo on Sudan, including experts with Arabic language skills.
4. Proceed swiftly with (a) the implementation of the Heavy Support Package to ensure that AMIS is able to protect the civilian population effectively and proactively; (b) all steps necessary to implement the UN-AU hybrid operation, in particular by ensuring the Government of Sudan's agreement and co-operation with the operation, and by generating the necessary military, police and civilian personnel, as well as all essential financial and material resources; and (c) ensuring that the UN-AU hybrid operation has the mandate and capacity to oversee the disarmament and demobilization of the government-supported *Janjawid* militia and of armed opposition groups; and is mandated to monitor and enforce the strengthened UN arms embargo.

**All states:**

5. *Immediately suspend the transfer of arms to the parties to the conflict in Darfur*, including all types of weapons, ammunition, military and paramilitary equipment, security and policing equipment, as well as parts and components for such equipment, "dual use" equipment, and related logistical, brokering and financial services used to arrange or deliver such transfers, which are likely to be used or diverted for use by the parties to the conflict in Darfur, for serious human rights violations or war crimes in Darfur, or for violations of the UN embargo on Darfur as defined in Security Council Resolutions 1556 (2004) and 1591 (2005) .
6. Take appropriate measures, including all legal and administrative means, against any activity that violates the UN arms embargo on Darfur in accordance with the UN Charter.
7. Investigate and hold criminally accountable all persons suspected of aiding or assisting the commission of war crimes or crimes against humanity in Darfur through the supply of military, security or policing equipment, or

through deliberately facilitating or arranging the supply of such equipment, with knowledge that their action would facilitate the commission of such crimes.

8. Hold accountable companies operating within their national jurisdiction that are transferring or arranging the supply of such equipment to Sudan when they know or ought to have known that they would contribute to serious violations of international human rights and humanitarian law.
9. Actively assist the UN Sanctions Committee on Sudan and the UN Panel of Experts by sharing relevant information, including copies of End User Certificates, on possible arms transfers to Sudan and the countries neighbouring Darfur and credible information on violations and suspected violations of the UN arms embargo on Darfur.
10. Support the process for a global Arms Trade Treaty as agreed in the General Assembly by making submissions to the UN Secretary General calling for such a Treaty based on respect for existing international law, including the UN Charter, relevant arms control treaties, international human rights law and international humanitarian law, so that it serves as a preventive mechanism as soon as possible.

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