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European Parliament resolution on the Council's Second Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports (13177/1/2000 - C5-0111/2001 - 2001/2050(COS))

by the European Parliament,

- having regard to the Council's Second Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports (13177/1/2000 - C5-0111/2001) ⁽¹⁾ ,
- having regard to Article 3 of the Treaty on European Union, on consistency in the Union's external activities, and to Article 11, on the objectives of the Common Foreign and Security Policy,
- having regard to the EU's Development Declaration of May 2000 with its commitment to policy coherence, including coherence between the EU's policy on arms exports and the EU's development objectives,
- having regard to the Guidelines on EU Policy towards third countries on torture and other cruel, inhuman or degrading treatment as adopted by the General Affairs Council on 9 April 2001,
- having regard to Article 17 of the Treaty on European Union, on cooperation in the field of armaments, and to Article 296 of the Treaty establishing the European Community, on protection of national security interests,
- having regard to the Joint Action ⁽²⁾ adopted by the Council on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons ⁽³⁾ ,
- having regard to the EU Programme ⁽⁴⁾ for preventing and combating illicit trafficking in conventional arms ⁽⁵⁾ ,
- having regard to its resolution of 5 October 2000 on the Council's 1999 Annual Report on the EU Code of Conduct on Arms Exports (11384/1999 - C5-0021/2000 - 2000/2012(COS)) ⁽⁶⁾ and to its previous resolutions on this subject,
- having regard to Rule 47(1) of its Rules of Procedure,
- having regard to the report of the Committee on Foreign Affairs, Human Rights,

Common Security and Defence Policy ([A5-0309/2001](#)),

A. whereas the external action of the EU is guided by values of democracy and the protection of human rights,

B. whereas it follows from the Treaty that the Common Commercial Policy must be consistent with the Common Foreign and Security Policy,

C. whereas the EU Code of Conduct on Arms Exports was a step forward in ensuring the consistency and coherence of Member States policies towards arms exports,

D. whereas the EU should take greater responsibility for peace and security in Europe and worldwide by taking further initiatives to promote arms limitation and disarmament,

E. whereas the General Affairs Council on 9 April 2001 adopted Guidelines on EU policy towards third countries on torture, and the UN Commission on Human Rights recently called on all governments to "take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export and use of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment",

F. whereas the Code of Conduct should be strengthened so that exports of military, paramilitary and security equipment shall be denied in circumstances where they might contribute to gross human rights abuses; and to ensure that this is effectively implemented, multilateral dialogue and information sharing between the EU Member States should be improved,

G. whereas the first Annual Report on the Code of Conduct revealed that the associated countries of central and eastern Europe and Cyprus, as well as Iceland, Liechtenstein, Norway and Canada had agreed to align themselves with the principle of the EU Code of Conduct,

H. whereas Member States agreed to a Common List of Military Equipment covered by the EU Code of Conduct as adopted on 13 June 2000,

I. whereas the effective monitoring of end-use is crucial and whereas the lack of provision for verifying the end use of export weapons in the Code of Conduct is a major weakness,

J. whereas the control of arms brokers is absolutely essential to stem the proliferation of arms in crisis regions,

K. whereas controls on the licenced production of military equipment abroad by EU companies are fundamental for preventing the circumvention of arms export control measures,

L. whereas transparency in this field is vital in order to ensure democratic accountability,

M. whereas some Member States still do not produce annual reports on their arms export control policies and there is no consistency in the reports produced by other Member States,

N. whereas there was a UN Conference in July 2001 on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects,

1. Reiterates its belief that EU policy in arms export must:
 - (a) ensure the consistency and efficiency of the EU's external action, in particular the Union's goals in combating terrorism, conflict prevention, combating poverty and its promotion of human rights;
 - (b) reinforce the EU's development cooperation objectives, and international development goals;
 - (c) satisfy the security policy imperatives and needs of the EU;
 - (d) meet the needs and challenges of the European defence industry;
 - (e) contribute to the development of a common defence policy;
2. Welcomes the publication of the Council's second annual report and the clear signs contained within it that considerable progress has been made towards greater convergence of Member States' policies towards arms export controls;
3. Recommends that the coming third annual report should make available as full an evaluation as possible of how far the goals as stated in paragraph 1 have been reached;
4. Underlines that the candidate countries should in their negotiations with the Union give guarantees that they will implement the Code of Conduct in full;
5. Welcomes the decisions by Turkey and Malta to subscribe to the Code's principles;
6. Regrets that so far the USA has not adopted its own code of conduct on arms exports; recommends that this issue should be made a permanent component of the transatlantic dialogue;
7. Calls on the Member States, the Council and the Commission to work towards an international code of conduct on arms transactions and to inform Parliament of their activities in this respect in the annual report on the application of the Code of Conduct on arms exports;
8. Regrets that so far the UN has not been able to establish a global arms exports control regime and that some of the Permanent Members of the Security Council, in particular Russia and China, continue to export arms without any restraints; asks the Council to take action at EU level for establishing a global arms exports control regime on UN-basis;
9. Calls on the Council to encourage the Member States to deny arms deliveries to countries which do not submit information to the UN's Register of Conventional Arms;
10. Supports the Member States' intention to update regularly the Common List of Military Equipment and their willingness to put forward the list for consideration within the Wassenaar Arrangement;
11. Urges Member States to reach early agreement on what constitutes an "essentially identical transaction";
12. Welcomes the fact that there has been agreement in Council on a common list of non-military security and police equipment; urges the Commission to:
 - act swiftly to bring forward an appropriate Community mechanism to

control such exports;

- ensure that this Community instrument includes a ban on the promotion, trade and export of police and security equipment whose use is inherently cruel, inhuman or degrading, including leg-irons, electroshock stun-belts and inherently painful devices such as serrated thumb cuffs;
- ensure that this Community instrument will suspend the transfer of equipment whose medical effects are not fully known, such as high-voltage electroshock weapons, pending the outcome of a rigorous and independent inquiry into its effects; as well as suspend the transfer of equipment where its use in practice has revealed a substantial risk of abuse or unwarranted injury, such as leg-cuffs, shackle boards, restraint chairs and pepper gas weapons;
- commit itself to an EC-wide ban on the manufacture and use or, where applicable, the suspension of such equipment.

13. Welcomes the work being done to achieve greater convergence of Member States policy regarding exports to countries and regions not subject to embargoes but which merit special vigilance;

14. Is disappointed that little progress seems to have been made towards controlling arms brokerage; calls for Member States to increase their efforts towards controlling arms brokerage, and also to work towards the development of an international legally binding agreement on brokering;

15. Regrets deeply that no progress appears to have been made towards agreeing a common system of end-use monitoring;

16. Regrets deeply that no action has been taken to place controls in the licensed production abroad of military equipment by EU companies; calls on the governments of the Member States to require their explicit consent for the transfer of military items produced abroad under a licensing agreement, in order to reduce the risk that equipment is transferred on to dubious and proscribed end-users;

17. Reiterates its position that as soon as possible the Code should be made legally binding for all current and applicant EU Member States;

18. Calls on the Council to ensure that the Member States move forward in a spirit of partnership, cooperation and mutual confidence-building with the applicant countries to develop and implement the provisions of the Code of Conduct together, attaching particular significance to effective respect for international embargoes, which should be legally enforceable through national legislation;

19. Calls on the Council and the Commission to provide assistance to the applicant states for a responsible disposal of surplus weapons in cooperation with NATO and the OSCE;

As regards transparency

20. Welcomes the agreement by Member States to give a fuller description of the reasons for the denial of licences; expects this information to be included in future annual reports;

21. Calls on the Member States to extend the multilateral consultation mechanism agreed for dual-use items in the dual-use regulation of 22 June 2000, meaning that they would circulate a notification to all Member States if they grant

an export licence for an item for which another Member State previously denied a licence;

22. Welcomes the increase in the number of countries producing annual reports on their arms export control policies; calls on those Member States who do not yet publish annual reports to do so;

23. Underlines that the consolidated Council report in its current shape does not allow effective evaluation of Member States' export control policy; welcomes the commitment by Member States to harmonise their national annual reports and urges them to ensure that common minimum standards are set at the most comprehensive level possible; calls on the Commission to draft a proposal for uniform criteria to be used by the Member States in drawing up their reports on arms exports and, in this regard, to follow the example of the most informative and transparent report by a Member State;

24. Urges the Member States to ensure that their harmonised national annual reports will include:

- information on licensing policy, including policy developments, treaty commitments, international obligations (e.g. embargoes), changes to legislation, and the way in which the state has implemented the EU Code,
- for each licence granted or denied a description of the equipment, details on the quantity, destination, end-user and (at least approximate) value,
- information on the type of licence and the dates of any decisions taken, and where applicable, the reasons for denial, including the substance and outcome of bilateral consultations on denials,
- separately listed actual transfers, again including data on the nature of the goods, type of licence, quantities, values, destinations and end-users,
- the same level of disclosure on all transfers of controlled goods which escape the licensing process, e.g. government-to-government transactions;

25. Believes that all Member States should make provisions for parliamentary scrutiny of their arms export control policies and their export licensing decisions;

26. Reiterates the view that greater effort is needed to establish common rules for EU control of the legal trade in small arms and light weapons, and effective EU controls to combat and eradicate trafficking and smuggling in such arms; calls on Member States to actively follow up its contribution to the 2001 UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects; calls on Member States to promote the adoption of strict legally binding international criteria, based on States' obligations under international human rights standards and international humanitarian law, on arms transfers, in the form of a Framework Convention on International Arms Transfers;

27. Demands that arms exports are progressively integrated into the common commercial policy and that Article 296 of the EC Treaty is adapted accordingly; believes that Member States should invoke Article 296 of the EC Treaty only in exceptional circumstances, when they consider their essential interests are at risk;

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28. Instructs its President to forward this resolution to the Council, the Commission and the parliaments and governments of the Member States and of the third countries who have agreed to align themselves with the principles of the

EU Code of Conduct.

(1) OJ C 379, 29.12.2000, p. 1

(2) OJ L 9, 15.1.1999, p. 1

(3) The term 'small arms and light weapons' also covers very lethal and powerful weapons, such as portable anti-tank and surface to air missiles. International organisations have adopted different more precise definitions of this term.

(4) Adopted by the General Affairs Council of 26 June 1997.

(5) The term 'conventional arms' refers to arms that are not atomic, biological or chemical. Since there is no generally accepted definition of what constitutes arms, there is neither any such definition of this term.

(6) OJ C 178, 22.6.2001, p. 273.

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