

P6_TA(2004)0058

Arms exports

{ TC"(A6-0022/2004 - Rapporteur: Raiil Romeva Rueda)"\l3 \n> * MERGEFORMAT }
Committee on Foreign Affairs
PE 346.928

European Parliament resolution on the Council's Fifth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports (2004/2103(INI))

The European Parliament,

- having regard to the Council's Fifth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports¹,
- having regard to the User's Guide to the European Union Code of Conduct on Arms Exports, as agreed at the Working Party on Conventional Arms Exports on 28 October 2003 (14283/03),
- having regard to the Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering²,
- having regard to the European Security Strategy, adopted by the Council on 12 December 2003,
- having regard to the EU Strategy against Proliferation of Weapons of Mass Destruction, adopted by the Council on 12 December 2003 and which aims inter alia to strengthen export control policy and practices,
- having regard to Article 17 of the EU Treaty and Article 296 of the EC Treaty,
- having regard to its resolution of 25 September 2003³ on the Council's Fourth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports⁴,
- having regard to its resolution of 20 November 2003 on the communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - European Defence - Industrial and Market Issues - Towards an EU Defence Equipment Policy⁵,

¹ OJ C 320, 31.12.2003, p. 1.

² OJ L 156, 25.6.2003, p. 79.

³ P5_TA(2003)0418.

⁴ OJ C 319, 19.12.2002, p. 1.

⁵ P5_TA(2003)0522.

- having regard to its resolution of 22 April 2004 on human rights in the world in 2003 and the European Union's policy on the matter¹,
 - having regard to its resolution of 18 December 2003² on the removal of the EU embargo on arms sales to China,
 - having regard to its previous resolutions of 6 July 2000 on the abduction of children by the Lord's Resistance Army (LRA)³ and of 3 July 2003 on trafficking in children and child soldiers⁴,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Foreign Affairs and the opinion of the Committee on International Trade (A6-0022/2004),
- A. whereas, specifically against the background of a post Cold War security climate characterised by a high level of regional instability, failing States, non-state players using child soldiers, terrorist networks and organised crime, observance of stringent controls on arms exports is of the highest importance,
- B. whereas the Council has identified some of these characteristics of a post Cold War security climate as amongst the key threats in the above-mentioned European Security Strategy,
- C. whereas organised crime and international arms smugglers have expanded their illegal activities in the area of small arms, the free and uncontrolled availability of which has been a major factor in the increase in the number of conflicts, and are trafficking weapons along routes which pass through the territory of the enlarged EU, and also through the new neighbouring countries of the enlarged EU and countries in the western Balkan region,
- D. whereas around half a million people die every year as a result of violence related to light arms, both in armed conflicts and in connection with criminal activity,
- E. whereas the last decade has seen a marked increase in the use of private security or military companies, which calls for the introduction of legislation to control and monitor the activities of private providers of military, police and security services,
- F. whereas the EU should fulfil its increased responsibility with regard to peace and security in Europe and throughout the world by means of further arms limitation and disarmament initiatives,

¹ P5_TA(2004)0376.

² P5_TA(2003)0599.

³ OJ C 121,24.4.2001, p. 401.

⁴ OJ C 74 E, 24.3.2004, p. 854.

- G. whereas maximum transparency in this field, including the production of comprehensive Annual Reports, is an essential prerequisite for democratic accountability as the best guarantee of peace and stability,
- H. whereas the User's Guide to the European Union Code of Conduct on Arms Exports is an important step forward in clarifying the denial notification and consultation provisions of the Code and in helping to prevent diverging interpretations in different Member States,
- I. whereas the Council Common Position on the control of arms brokering presents a first step in the control of illegal arms brokering but a number of weaknesses still need to be corrected in order for its effectiveness not to be undermined,
- J. whereas despite the progress made, it appears that EU weapons, their components, EU licences to produce arms overseas, private EU military and security services, EU military personnel, expertise and training and equipment for capital punishment, torture and other cruel, inhuman and degrading treatment continue to be supplied to regions of the world in which the standards laid down by the Code of Conduct are undoubtedly being flouted,
- K. whereas, in order to combat illegal arms trading and effectively prevent the supply of arms to inappropriate end-users, it is essential that arms shipments, end-users of arms exports, other military and security equipment, licensed production and arms brokering should be subject to more effective controls,
- L. whereas, specifically in the context of the development of a European armaments industry and a common security and defence policy, there needs to be greater harmonisation of EU arms export control policy,
- M. whereas its above-mentioned resolution of 20 November 2003 emphasises that the internal opening-up of military markets should be accompanied by stringent export controls at the external borders of the EU,
- N. whereas the EU's share of the international arms trade in general and of exports of small and light weapons in particular has increased with the accession of ten new Member States on 1 May 2004, some of which have significant arms production and exporting activities; whereas some of the new Member States still lack sufficient capacity to meet the existing obligations of the Code immediately and would therefore need assistance to implement them,
- O. whereas approximately 80 percent of EU arms exports between 1999 and 2003 went to countries outside Europe,
- P. whereas the adoption of the Code of Conduct by the ten new Member States has increased the number of arms exports subject to the Code of Conduct,
- Q. whereas, in the context of the further enlargement of the EU, it is particularly important that the candidate countries Croatia, Bulgaria, Romania and Turkey also prepare annual reports on their arms export policy, improve controls on their arms exports and ensure that fundamental standards relating thereto are observed; convinced that the Member States should not only actively support this process, but should also set a positive example

with regard to strict observance of the Code of Conduct and production of comprehensive Annual Reports on their arms exporting activities,

- R. convinced that further harmonisation of Member States' arms export policy would represent an important contribution to the development of the ESDP and would also contribute to a strengthened common foreign policy approach by the Member States,
 - S. convinced that the EU's arms export control policy must be such as to ensure coherence in terms of the Community's external policy action, including its goals in the areas of crisis prevention, combating of poverty, strengthening of democracy and promotion of human rights,
 - T. convinced that only an international arms trade regime centring on an international Arms Trade Treaty based on States' existing responsibilities under international law would be truly effective within a global context,
1. Considers that, in the fight against international terrorism and in the interest of conflict prevention and regional stabilisation and respect for human rights, a clear and efficient common arms export control policy is very decisive;
 2. Welcomes, therefore, the progress referred to in the Fifth Annual Report on the implementation of the Code of Conduct, and in particular the continuation of the compendium of Member States' agreed practices published in Annex I and the table in Annex II containing data on the number and value of export licences issued and the value of arms exports;
 3. Welcomes in particular the improvements in the information provided by both old and new Member States in regard to their respective arms exports; but is, nevertheless, concerned about the value of the data provided in some instances;
 4. Considers that the provision of timely, complete and compatible data by all Member States is essential to ensure the transparency of the data provided;
 5. Is delighted that the process of harmonising reporting procedures has been continued and that further steps have been taken towards achieving fully comparable statistics between EU Member States;
 6. Wishes, therefore, despite the progress made in achieving greater harmonisation of statistical data, to see that each Member State provides data on the type and quantity of arms supplied and on the total value of exports and the number of licences refused, stating the reasons for refusal, and more precise information on the country of destination and classification of end-users, in order, on the basis of such fuller and more harmonised data, to improve transparency;
 7. Welcomes in this regard the establishment of a central database of denial notifications at the Council Secretariat in Brussels and stresses its usefulness, since it will immediately give all Member States a source of information enabling them to investigate specific denials; calls for the expansion, in due course, of this database to include information on consultations under the Code of Conduct as well as on end-users who are known or

suspected to have engaged in the re-export, diversion or misuse of arms and other controlled goods;

8. Wishes, furthermore, that information be included in the national arms exports reports on informal denials of arms exports before an official application for obtaining a licence;
9. Stresses the usefulness of this central database of denial notifications, since it will immediately give all Member States a source of information enabling them to investigate specific denials;
10. Welcomes the new and updated version of the EU Common Military List and its publication in the Official Journal; calls on Member States to make their reporting on "dual-use" exports more detailed and transparent because they have been frequently used for human rights abuses;
11. Considers that the wording of the Code of Conduct is leading to diverging interpretations by different Member States and welcomes, therefore, the User's Guide to the Code, which defines and clarifies the operative provisions of the Code; calls on Member States to amend the export criteria to improve their clarity and comprehensiveness and to ensure they fully reflect States' existing responsibilities under international law;
12. Welcomes the fact that a survey on how to apply criterion 8 (compatibility of arms exports with the technical and economic capacity of the recipient country) was initiated, representing a significant contribution to crisis prevention and sustainable development in socially less developed countries, whilst urging Member States to repeat the exercise with regard to the application of the remaining seven criteria;
13. Considers uniform EU rules on controls on arms brokering activities to be essential, and despite the welcome EU Common Position on arms brokering of 2003 there is still a lack of operative provisions for Member States to specifically control arms brokering, arms transporting and arms financing activities by EU nationals and residents when such activities, and the related arms deliveries, take place through "third countries";
14. Welcomes in particular the efforts of Austria, Belgium, Finland, France, Germany, the Netherlands, Sweden and the UK to control the brokering of conventional arms, and calls on the other Member States to speed up national processes for the implementation of the brokering controls provided for in the Council Common Position on the control of arms brokering;
15. Reiterates its view that a compulsory register and authorisation system should be introduced for the brokering of arms transactions, which should also apply to EU citizens and companies outside the territory of the EU in the same way as US legislation;
16. Calls on Member States to include arms transporting and arms financing services into their arms brokering legislation;
17. Calls on Member States to prohibit the brokering of equipment for capital punishment, torture and other cruel, inhuman and degrading treatment; and to criminalise violations, wherever committed, by EU nationals and EU-registered brokers and companies of the

UN, EU or OSCE arms embargoes, as well as the national arms embargoes of the relevant EU Member State;

18. Welcomes the fact that the "indication of the end-use of the goods" was included in the minimum details to be set out in an end-user certificate; at the same time calling for the inclusion of a non-misuse clause, declaring that the material will not be used for proscribed uses; reiterates, however, its demand to set up a transfer verification and post-export monitoring system that should include systematic physical inspections at points of transfer and of stockpiles by the competent national authorities, with the possibility of imposing penalties;
19. Calls, therefore, again on Member States to examine the possibility of setting up a common monitoring system at EU level, and recommends that consideration be given to a European arms export control agency model;
20. Calls on the Council and the Member States to maintain the EU embargo on trade in arms with the People's Republic of China and not to weaken the existing national limitations on such arms sales; considers that this embargo should be maintained until such time as the EU has adopted a legally binding Code of Conduct on Arms Exports and the People's Republic of China has taken concrete steps towards improving the human rights situation in that country, inter alia by ratifying the UN Covenant on Civil and Political Rights and by fully respecting the rights of minorities;
21. Asks the Council to ensure a coherent approach towards EU policy on the imposition of arms embargoes on governments responsible for serious violations of human rights;
22. Calls on the candidate countries - Croatia, Bulgaria, Romania and Turkey - to tighten their national legislation and above all their practices in the areas of arms exports on the basis of the Code, and to report on this practice in accordance with Annexes I and II to the Fifth Annual Report, calls on the Commission to follow the progress closely in the accession negotiation process and calls on all current Member States to compile and publish national annual reports for the calendar year 2004, and for each year thereafter;
23. Considers that the new neighbours of the enlarged EU and countries with which the EU has concluded, or intends to conclude, a stabilisation and association agreement should also be asked to observe the Code of Conduct; particular attention should be paid to Kaliningrad which has in the past served as a transit point for shipments of military equipment and arms from other parts of Russia for illicit end-users; calls on the Council and Commission to prioritise in their cooperation with the Russian Federation measures to combat illicit trafficking, including regular information exchange on export and transit controls and licences;
24. Calls upon Member States to provide in a co-ordinated way sufficient assistance to all states that do not have the necessary means to properly implement the Code of Conduct;
25. Welcomes in this regard the fact that the governments of Poland and Sweden initiated five informal COARM meetings between old and new Member States on arms exports controls, with the recommendation that this system of COARM meetings be maintained and also that it be made more representative and regular, and welcomes the efforts of the

government of the Netherlands to introduce candidate countries and other interested states to the practical application of the Code of Conduct;

26. Reiterates its call for legally binding provisions and full harmonisation of Member States' arms export control policy as a short-term goal, and urges Member States to make progress in this direction, penalising any violation by enterprises registered in the EU of the arms embargoes of the UN, the EU, the OSCE or any Member State;
27. Recommends that, in the interim period, the following steps be taken:
 - (a) full pre-consultation between the Member States with regard to transfers to regions susceptible to crises, together with the development of an EU checklist of "red flag" early warning indicators to indicate when there are serious concerns with regard to a particular end-user which could impact upon the licensing of arms exports;
 - (b) a full multilateral approach to the consultation process in connection with decisions to grant or refuse licences, with, as a first step, a commitment by Member States to circulate to all other Member States the substance and result of any consultation to which they are party, particularly in the case of undercutting;
 - (c) incorporation into national law of all the principles, criteria and operative provisions of the Code of Conduct, on the understanding that this does not affect the right of Member States to operate more restrictive national policies;
 - (d) all future EU embargoes to refer to those categories of equipment on the Common Military List or in the Annexes to the Dual-Use Regulation to which an embargo is to apply;
28. Calls, with regard to the establishment of a common European armaments market, for controls on the movement of armaments within the European Union to be removed step by step, in the context of a common EU arms export control policy through, for example, the agreement on a no-undercutting rule under the EU Code of Conduct;
29. Strongly supports the proposal for a Council Trade Regulation imposing an export ban on all equipment for the death penalty, for torture or any other degrading or inhuman treatment, prohibiting specific arms such as anti-personnel mines and laying down strict controls for equipment that might be used for internal repression;
30. Calls, with regard to export controls in relation to third countries, for particular attention to be paid to products which may be used for both civilian and military purposes such as surveillance technology and similarly to spare parts and products suitable for use in cyber warfare or for non-lethal human rights abuses;
31. Shares the concerns of COARM on the desirability of permitting the export of regulated goods for humanitarian ends in circumstances where an export permit would otherwise be refused; accepts that in conflict regions certain types of regulated goods may contribute to the security and welfare of the civilian population, but stresses that this must be investigated very strictly on a case by case basis, with the Member States being given sufficient guarantees against abuses;

32. Calls upon Member States to acknowledge that the Code also applies to the licensing of items intended for incorporation by the importing country into a sub-assembly or finished weapons system for subsequent export to a third country;
33. Calls upon Member States to approve legislation requiring the licensing of the production of EU licensed arms (or their components) in third countries;
34. Calls upon Member States to acknowledge that the Code of Conduct also applies to all forms of "government to government" transfers, in particular to the transfer of surplus arms; reiterates that the export or transfer of surplus arms to countries where they will be used for human rights violations, breaches of international humanitarian law or other violations of international law is in violation of the Code;
35. Calls upon Member States to acknowledge that the Code of Conduct also applies to the transfer of military, security and police personnel, expertise and training and to private military and security services;
36. Calls upon Member States to agree on a list of countries involved in armed conflicts to which arms exports should be banned in principle, drawing upon the reports and recommendations of the UN Security Council monitoring mechanisms on arms embargoes;
37. Stresses the importance of research aimed at guaranteeing legal supervision and controls on the electronic transfer of knowledge, software and technology having a potential link to goods on the Community list of goods for which an export licence is required;
38. Calls on non-EU arms-exporting countries, too, to give their support to the principle and criteria of the Code of Conduct, so that through the Code a genuine contribution can be made to world arms export control, conflict prevention and the promotion of peace in the world;
39. Considers that the effective global control of arms exports can only be achieved by an international arms trade control regime and calls, therefore, upon Member States to promote stringent international rules on arms exports in view of the 2006 UN Review Conference on Small Arms and to work towards a legally binding, international Arms Trade Treaty, including measures for the conversion and restructuring of enterprises producing military goods;
40. Calls on the Council and the Member States to strictly monitor compliance with end user certificates, and in particular with notifications concerning the country of final destination, the ban on re-export and the declaration that the goods will not be used for purposes other than the stated use;
41. Calls on the governments of Member States to conduct a thorough review of the Code of Conduct, taking into account the demands and recommendations mentioned above and consulting relevant parties such as parliaments and non-governmental organisations;
42. Instructs its President to forward this resolution to the Council and the Commission, and to the parliaments and governments of the Member States and of third countries which have agreed to observe the principles of the Code of Conduct.