

## **P6\_TA(2005)0436**

### **Arms exports**

#### **European Parliament resolution on the Council's Sixth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports (2005/2013(INI))**

*The European Parliament,*

- having regard to the Council's Sixth Annual Report adopted on 11 November 2004<sup>1</sup>,
- having regard to the updated User's Guide to the European Union Code of Conduct on Arms Exports, as agreed by the Council Working Party on Conventional Arms Exports (COARM) on 23 December 2004<sup>2</sup>,
- having regard to Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering<sup>3</sup>,
- having regard to the Common Military List of the European Union (equipment covered by the EU Code of Conduct on Arms Exports) adopted by the Council on 25 April 2005<sup>4</sup>,
- having regard to the Council Joint Action 2002/589/CFSP of 12 July 2002 on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons<sup>5</sup>,
- having regard to the 1997 EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms,
- having regard to Council Regulation (EC) No 1504/2004 of 19 July 2004 amending and updating Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology<sup>6</sup>,
- having regard to the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies,
- having regard to the European Security Strategy adopted by the Council on 12 December 2003,
- having regard to the United Nations Standard Minimum Rules for the Treatment of Prisoners<sup>7</sup>,

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<sup>1</sup> OJ C 316, 21.12.2004, p. 1.

<sup>2</sup> Council document 16133/1/04, 23.12.2004, p. 1.

<sup>3</sup> OJ L 156, 25.6.2003, p. 79.

<sup>4</sup> OJ C 127, 25.5.2005, p. 1.

<sup>5</sup> OJ L 191, 19.7.2002, p. 1.

<sup>6</sup> OJ L 281, 31.8.2004, p. 1.

<sup>7</sup> Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the

- having regard to its resolution of 17 November 2004 on the Council's Fifth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports<sup>1</sup>,
  - having regard to its resolution of 3 July 2003 on trafficking in children and child soldiers<sup>2</sup>,
  - having regard to its resolution of 26 May 2005 on small arms and light weapons<sup>3</sup>,
  - having regard to its resolutions on the non-removal of the EU embargo on arms sales to China, and in particular its resolution of 18 December 2003<sup>4</sup>,
  - having regard to its annual resolutions on human rights in the world and the European Union's policy on the matter, and in particular its resolution of 22 April 2004<sup>5</sup>,
  - having regard to Article 17 of the EU Treaty and Article 296 of the EC Treaty,
  - 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 Development (A6-0292/2005),
- A. whereas although the recent year-long review of the EU Code of Conduct on Arms Exports will serve to strengthen EU export controls, there are still further measures to be undertaken,
- B. whereas the European Union, in light of the threats outlined in the European Security Strategy, should make every effort to act, and be seen as acting, as a responsible global actor at the forefront of efforts to combat proliferation, foster global disarmament and develop arms transfer controls,
- C. whereas the transformation of the EU Code of Conduct into a Common Position appears likely, which would be a significant step forward in the development of the Code, requiring Member States to align their national legislation with the standards set by the EU Code, and whereas, to that end, COREPER on 30 June 2005 reached agreement on a revised Code of Conduct (to be adopted in the form of a Common Position) at the appropriate juncture,
- D. whereas although developments in arms transfer controls continue to move forward, for example increased support towards the Arms Trade Treaty, such developments continue to require the full support of the EU, and whereas, to that end, full backing is given to the Council conclusions dated 3 October 2005 stating EU support for the principle of an international treaty on arms trade,

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Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

<sup>1</sup> OJ C 201 E, 18.8.2005, p. 71.

<sup>2</sup> OJ C 74 E, 24.3.2004, p. 854.

<sup>3</sup> *Texts Adopted*, P6\_TA(2005)0204.

<sup>4</sup> OJ C 91 E, 15.4.2004, p. 679.

<sup>5</sup> OJ C 104 E, 30.4.2004, p. 1048.

- E. whereas every year some half a million people die as a result of small-arms violence, both in the course of armed conflicts and in connection with crime,
- F. convinced that the development and implementation of a harmonised European arms export control policy would contribute decisively to a deepening of the Union's Common Foreign and Security Policy,
- G. whereas the unrestrained proliferation of arms exports both poses a threat to human life and broader socio-economic development and also undermines the EU's development cooperation policy and thus the Millennium Development Goals,
- H. convinced that any EU arms export control policy must reinforce and complement the other dimensions of the Union's external action, which include the goals of sustainable development, crisis prevention and promotion of human rights,
- I. whereas, as has recently been reported, the four major European arms suppliers have significantly increased their share of arms transfer agreements to developing nations from US \$830 million in 2003 (5.5%) to US \$4.8 billion in 2004 (22%),
  - 1. Welcomes the Council's Sixth Annual Report and reiterates the importance of annual reviews, as prescribed by Operative Provision 8 of the Code, as the main mechanism for reviewing and strengthening the Code;
  - 2. Welcomes the opportunity to provide a development perspective on arms export controls and takes the opportunity to stress the relevance of arms exports to European Union development cooperation policy;
  - 3. Regrets that the review has not gone further to develop clear criteria, and calls for substantial improvements in the level of detail for the criteria; calls for the Code to become legally binding, and urges the Council not to further delay its decision on the legally binding nature of the Code; takes note that on 26 September 2005 best practices for interpretation of Criterion 8 were agreed unopposed by the COARM Working Party and hopes these will be included in the next revised version of the User's Guide;
  - 4. Is deeply concerned by recent cases in the EU relating to transfers of production facilities overseas, including licensed production deals, and regrets that this area was not addressed more substantially in the course of the review; reiterates that an operative provision is needed which regulates the manufacture, quantity and export of finished goods produced in facilities overseas and that the Common Position should set a deadline both for the drawing-up and for the entry into force of that provision; notes that the revised Code of Conduct (to be adopted in the form of a Common Position) will state that applications for licensed production overseas are to be assessed against the criteria of the Common Position;
  - 5. Reaffirms the need to improve the denial notification system that was not addressed by the review; calls again for greater exchange of information on bilateral consultation on denials and for greater use of multilateral EU-wide consultation on denials;
  - 6. Reiterates its call for 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;

7. Calls for the establishment of a European dialogue between the leaders of the authorising bodies of the Member States, taking into account the situation assessments by the European Situation Centre;

### ***Common Position***

8. Welcomes the prospect of the Code becoming a Common Position; underlines that this should not restrict Member States' freedom of action to negotiate other international and regional measures on arms export controls; regrets, however, that this still has not happened, and calls on the Member States to make the Code legally binding;
9. Considers that a clear, efficient and harmonised common arms control export policy, anchored in a legally binding Code of Conduct, can play a decisive role in the fight against terrorism, conflict prevention, regional stability and the promotion of human rights;

### ***Temporary measures upon lifting an arms embargo***

10. Welcomes the introduction of a “toolbox” and specific mechanisms to regulate arms exports to post-embargoed states; considers that thorough monitoring is necessary even after the embargo has been lifted; considers that a review mechanism should be set up to assess and revise the toolbox if necessary; urges COARM to review the mechanism on a regular basis and to report on such discussions to the European Parliament;
11. Regards it as important that Member States should have the opportunity to consult each other on the licences issued for exports to post-embargoed states; additionally calls for the substance and outcomes of consultations to be circulated to all Member States;
12. Stresses the importance of sharing information with the European Parliament, on licence approvals and the toolbox’s modus operandi; regrets that no dialogue with the European Parliament has taken place in this regard;

### ***Equal criteria***

13. Urges the Member States to apply equal criteria to the evaluation of third states when considering any restriction or embargo on arms exports on account of human rights violations or growing regional instability; in the light of this, the embargo on China should not be lifted until there is a clear and sustained improvement in the situation as regards human rights and civil and political freedoms in the country and until the Tiananmen issue has been properly addressed; is also concerned that arms exports will increase the risk of regional instability in East Asia, particularly in the light of China’s recent anti-secession law aimed at Taiwan; urges China to take concrete steps to improve the human rights situation in the country, for example by ratifying the International Covenant on Political and Civil Rights and allowing the International Committee of the Red Cross to carry out inspections of Chinese prisons, releasing information on the fate of all the victims of the Tiananmen crackdown, and also strengthening its export control system and improving its commitment to international non-proliferation norms;

## *User's Guide*

14. Notes the changes to the User's Guide and encourages further updates according to new developments in the Code – for example, on the elaborated guidelines for Criterion 8 as these guidelines are an important element in assessing the impact of arms exports on development policies and programmes; calls for respect for human rights to be used as a general criterion;
15. Calls for the adoption of a new Code giving greater weight to the problem of arms proliferation and to the inclusion of Council Regulation (EC) No 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology<sup>1</sup>; urges further improvements before the new Code is adopted, such as the implementation of a human rights criterion, which must not be confined to considering whether a country is prepared to respect the international rules of war, and calls for it to be more politically binding until such time as it becomes legally binding;

## *Best practices for interpretation of criteria*

16. Recognises the acknowledgement by Member States that best practices for the interpretation of the criteria should be extended to the other seven criteria; stresses the need for a systematic approach, including an outline of how, and a timeline of when, the issue will be addressed so that guidelines are produced as efficiently as possible;

## *National reporting procedures*

17. Calls for the quality of national reporting to be substantially improved in order to permit accurate assessment of Member States' application of the Code of Conduct and to increase transparency; furthermore, Member States should agree on common specific standards to which all states must be required to adhere, including on the number of export and brokering licences covered by a recipient country, a full description of the types of equipment licensed for export, the quantity of each type of equipment licensed for export and specification on the type of end-user; urges that the funding of arms exports, e.g. in the form of state loans and loan guarantees, should in future be included in the national reports;
18. Urges the Council to require every Member State to publish national reports to agreed minimum standards;

## *Functions and content of an EU Consolidated Report*

19. Urges the Council to take the following steps towards creating an EU Consolidated Report:
  - identify timelines for information exchange and publish any statistical data in electronic format on a quarterly basis;
  - use the recommendations in the Stockholm International Peace Research Institute (SIPRI) Policy Paper on Improving the Annual Report<sup>2</sup> in order to achieve common

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<sup>1</sup> OJ L 159, 30.6.2000, p.1. Regulation as last amended by Regulation (EC) No 1504/2004.

<sup>2</sup> The European Union Code of Conduct on Arms Exports: Improving the Annual Report. SIPRI Policy Paper No 8, SIPRI, November 2004.

reporting standards and to facilitate the collection and submission of data for the EU Report;

- publish more information on EU-wide processes, including the denials system for export licences, the denials system for brokering licences and the database containing information on national outreach activities;
- provide details on how each priority guideline will be applied, the mechanisms that will be used, and the schedule for action;

### ***Incorporation of goods for re-export***

20. Calls for the removal of the new guidelines on 'incorporation' and calls upon all Member States to reaffirm their commitment to apply the Code to the export of components for incorporation;

### ***End-use***

21. Welcomes the Priority Guideline on post-export controls and urges Member States to agree procedures for the verification of deliveries to, and end-use/user in, recipient countries; recommends that Member States develop information-exchange mechanisms and consider the usefulness of expanding the central database to include information on end-use concerns in recipient countries, past instances of misuse and/or diversion, information-exchange between Member States on delivery and end-use/user verification of exports;
22. Calls for more pro-active European Union and national approaches to the control of exports of dual-use items in order to avoid the risk of possible access to sensitive items by undesirable end-users in third countries;
23. Recommends that the Member States examine thoroughly the human rights situation in arms-importing countries;

### ***Outreach***

24. Calls for more information on the database containing information on outreach activities, as stipulated in the Sixth Annual Report;
25. Recommends that Member States actively pursue key outreach priorities and coordinate activities on that basis;
26. Calls on the Council to share with the European Parliament details on 'Troika' meetings relevant to export controls;

### ***Arms brokering***

27. Urges Member States to work towards common implementation of the Common Position, particularly through implementation of planned information exchange mechanisms on brokering activities;
28. Urges common minimum practice on extraterritorial controls including the prohibition of brokering activities in violation of an arms embargo, irrespective of whether it is carried

out at home or abroad; Member States should also follow the example of countries, including Belgium, the Czech Republic, Estonia, Hungary, Poland, Slovakia and Finland, which require a licence for brokering of military equipment carried out abroad; as a minimum, Member States should follow the example of Germany where brokering in small arms and light weapons carried out abroad will also be subject to licensing;

29. Recommends that Member States further develop the Common Position by setting up a national registry of arms brokers which should include information on transportation and financial services related to third-country transfers of military equipment; urges the extension of the brokering database for denials to include information on the consultation on denials;

### ***Regulation on torture equipment***

30. Welcomes the Commission's proposal, agreed by the 25 Member States, to adopt a new trade Regulation on torture equipment;
31. Welcomes the fact that the recently enacted Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment<sup>1</sup> imposes a ban and/or other restrictions on exports and imports of police and security equipment whose use is inherently cruel, inhuman or degrading, including leg-irons, as called for in Parliament's resolution of 3 October 2001 on the Council's Second Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports<sup>2</sup>;
32. Urgently calls for the extension of trade regulations on torture equipment to include controls on the transit of equipment through EU territory;
33. Refers to Article 33 of the UN Minimum Rules for the Treatment of Prisoners and urges that the trade regulations on leg-irons do not contradict UN minimum standards; urgently calls for adherence to UN Minimum Rules on the prohibition of leg-irons;
34. Urges Member States to use the EU Code and specifically the Common Position on Brokering to cover the brokering of torture equipment;

### ***Enlargement of the EU***

35. Urges Member States to look ahead to future expansion of the EU, and consider how best to involve and assist the next wave of accession states in information exchange mechanisms, in particular on COARM discussions and the denial notification system of the EU Code, in order to ensure the harmonisation of policies on arms export control and full implementation of the Code of Conduct's principles and criteria;

### ***International processes***

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<sup>1</sup> OJ L 200, 30.7.2005, p. 1.

<sup>2</sup> OJ C 87 E, 11.4.2002, p. 136.

36. Underlines the need for the EU and its Member States to play a dynamic role in supporting national, regional and international processes, for instance, the Economic Community of West African States (ECOWAS) Moratorium<sup>1</sup> and the Nairobi Protocol<sup>2</sup>;
37. Calls on the Council and the Commission to include in their further negotiations about developments in relation to the European Neighbourhood Policy and the Partnership and Cooperation Agreements the question of adherence to the EU embargo on trade in arms with the People's Republic of China;
38. Encourages Member States to use their experiences to promote and carry forward principles and key concepts within the Code, such as the criteria-based export licensing system, to other European states and other regions;
39. Is concerned by the problem of small arms and light weapons trafficking and impunity and calls on the EU, with the collaboration of the UN, to promote an international system for marking and tracing small arms and light weapons in order to create an efficient tool to combat their illicit manufacture, transfer and use worldwide;
40. Urges Member States to support the international Arms Trade Treaty, which seeks to build on common principles for international arms control;
41. Welcomes dialogue between the European Parliament and COARM, and calls for a systematic dialogue and information-exchange in order to continue supporting a transparent and strengthened EU export control regime;
42. Calls on the Member States to commit once more to the principle that the criteria of the EU Code of Conduct will not be compromised in the pursuit of foreign policy objectives;

***Development perspective on arms export controls***

43. Highlights the dangers of small arms and light weapons (SALW) proliferation to sustainable development and vulnerable social groups such as women and children, and therefore urges the Council and the Commission to prepare guidelines for SALW policies and programmes in developing countries that are compatible and consistent with EU development policy objectives and the need to support vulnerable groups;
44. Remains concerned that the legal dispute between the Council and the Commission over support for ECOWAS on small arms and light weapons risks holding up the establishment of effective mechanisms and programmes to tackle arms issues and related problems in the west African region;
45. Calls on the Council and the Commission to assess the role of DDR (disarmament, demobilisation, reintegration) projects in European Union external relations and development policies, and to clarify the division of labour between DG Development and DG External Relations in relation to those policies, and in this context further stresses the importance of an independent European Union development cooperation policy;

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<sup>1</sup> Economic Community of West African States Moratorium on the Importation, Exportation and Manufacture of SALW (Small Arms and Light Weapons) in West Africa.

<sup>2</sup> Nairobi Protocol for the Prevention, Control and Reduction of SALW in the Great Lakes Region and the Horn of Africa.

- 46 Further encourages Member States and the Commission to join the European Parliament in promoting good governance in relations with all regional organisations and third countries such as is being developed in partnership with African institutions, particularly in the field of the arms trade through such bodies as the ACP-EU Joint Parliamentary Assembly, ECOWAS and the African Union;
47. Welcomes the proposed comprehensive Strategy on SALW and calls on the Council and the Commission to clearly set out the budgetary implications of supporting such a strategy in accordance with their respective competences for the years 2005 and 2006;

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48. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the UN Secretary-General.