

Swedish Government Report to Parliament 2000/01:114

Report on Sweden's Export Control Policy and Exports of Military Equipment in 2000

The Government hereby submits this Report to Parliament.

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Brief summary of the Report

In this Report the Swedish Government presents Sweden's exports of military equipment in 2000. There is also a brief account of important developments in the field of export controls. With reference to export controls for dual-use items, the Report includes a presentation of the new EC Regulation that was adopted in June 2000. It also contains a concise presentation of other rules in this area.

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1 Summary

The control of exports of military equipment is an important national concern. It is, and should continue to be, based on national rules, although the element of international dialogue has grown in recent years, particularly within the EU framework. Control of dual-use items is primarily based on international agreements, under which the parties undertake to prevent the spread of the items concerned in certain situations.

The main development in the field of military equipment is the continuing restructuring of the European defence industry. The cross-border mergers and cooperation agreements of recent years have diluted the national character of the defence industry. This trend is expected to continue. One important reason for this is the end of the cold war, which changed threat assessments and led in most countries to cuts in defence equipment procurement budgets. Diminished resources and substantially higher development costs for each new generation of military equipment have given rise to an awareness in most European countries with arms industries of any significance that, for economic reasons, purely national defence industries can no longer be maintained.

The trend everywhere is towards cuts and restructuring of national defence industries. Generally speaking, the US defence industry is ahead of its European counterparts in this respect. Various initiatives have therefore been taken both by the European Commission and individual governments in order to speed up and facilitate the restructuring process in Europe. The aim is to create a defence industry that can hold its own against the highly rationalized and large-scale US industry and thus avoid excessive American domination of the defence equipment sector.

The Swedish view of this trend and its implications was set out in the 1996 Defence Resolution (cf. Gov. Bill 1995/96:12 and 1996/97:4) and in *The New Defence Forces* (Gov. Bill 1999/2000:30). Swedish defence companies have been urged to strengthen their international links. Although – for the reasons described above – a domestic defence industry can no longer be maintained as before, it is essential for Sweden to continue to possess advanced technical know-how in this field, and to secure an adequate system of supply of matériel in order to pursue our policy of non-participation in military alliances. The continued existence of a Swedish defence industry as part of a larger European industry means exchanging our previous independence for a mutual dependence that offers adequate safeguards for access to necessary supplies of matériel for Sweden's defence should the need arise. Furthermore, restructuring at the European level should help to reduce the current surplus capacity in the European defence industry. This should, in turn, reduce the pressure to export in order to compensate for the loss of local orders. The Government regards this as a desirable effect in itself.

In 2000 Sweden continued its participation in the Letter of Intent (LOI) initiative that was signed by the Defence Ministers of France, Germany, Italy, Spain, Sweden and the UK in July 1998. The aim of this initiative is to identify and implement measures to facilitate the restructuring of the defence industry. In July 2000 a Framework Agreement was signed as a result of the LOI initiative. Export control procedures were one of the areas covered by the agreement. One important objective in this area is to ensure that different export policies in different countries

do not influence the shape of cross-border industrial ventures. By establishing a common framework in advance, conflicts between the national rules of different countries can be avoided. These efforts are described in greater detail in section 13 of the Report.

Work within the framework of the Code of Conduct on Arms Exports that was adopted by the European Union on 8 June 1998 also continued in 2000 and is described in Section 11. Both these activities are examples of processes that over time may lead to a gradual convergence of the arms export policies of EU Member States, and to a greater degree of restrictivity and responsibility in Europe as a whole.

Sweden plays an active part in international cooperation in a number of international fora in order to promote responsible export policies, effective export control procedures and increased transparency in this field. Great importance is attached to the ongoing international efforts to prevent and combat destabilizing accumulations and the uncontrolled spread of small arms and light weapons, especially in view of the UN conference to be held in July 2001. In accordance with its ambition to combat corruption the Swedish Government established cooperation with the international non-governmental organization (NGO) Transparency International in 1999 for the purpose of organizing a seminar on corruption in the trade in military equipment. Thanks to this collaboration it was possible to hold a seminar in Stockholm on this theme in February 2000. Collaboration continued during the year, and a second conference on this theme will be held in the United Kingdom in the spring of 2001.

A report on exports of military equipment will be found in the first part of this Report and in Annex 1.

Developments with respect to control of dual-use items have been characterized by an ambition to systematically strengthen the cooperation developed within a series of export control arrangements. From a practical point of view the most important feature of this cooperation is the exchanges of information that regularly take place within the various arrangements. These exchanges make it possible for export control authorities to distinguish between legitimate civil trade and acquisitions ultimately calculated to support programmes for the development or manufacture of weapons of mass destruction, or for other destabilizing military purposes. A new EC Regulation, Council Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology (OJ No L 159, 30.6.2000, p. 1), entered into force on September 28 2000. This completed the process of revision of the previous Regulation in this area, which started in 1998. The new Regulation provides for further harmonization of EU export controls in this area and consequently there will be less scope and need for separate national rules. This has necessitated extensive alterations in the Swedish secondary legislation and the adoption of a new Act, the Control of Dual-Use Items and Technical Assistance Act (2000:1064). As in the previous Regulation of 1994 binding rules are laid down in Regulation 1334/2000 on the Member States' obligations under the export control arrangements.

A report on the control of dual-use items will be found in Part II and in Annex 2.

Part I – Export controls and exports of military equipment

2 Exports of military equipment in 2000

Every year since 1985 the Government has submitted a Report to Parliament with an annual report on Swedish exports of military equipment. These reports provide Parliament with consolidated information about military equipment exports and a factual basis for broader public debate. Some caution is called for in attempting to identify trends in this material. Sweden's exports of military equipment are on a small scale. Consequently, individual sales of large systems cause considerable fluctuations in the annual totals which cannot be linked to long-term trends.

The information in the annual report is based on the reports that the manufacturers of military equipment are required to submit by law. The National Inspectorate of Strategic Products (ISP) collated the reports for the last year and submitted documentation for the statistical data on exports of military equipment in 2000 that are presented in Annex 1.

The value of the Swedish defence industry's invoiced sales of military equipment (both in Sweden and abroad) in 2000 totalled MSEK 11,107.8, which represents a decrease of 1% compared with 1999. The value of export deliveries in 2000 was MSEK 4,371, an increase of 19.6% at current prices compared with the previous year. Exports thus accounted for over 39% of the defence industry's total invoiced sales of military equipment during the year. Exports of military equipment as a percentage of Sweden's total exports increased in 2000 from 0.52% to 0.55%.

The value of the exports for which authorizations were granted in 2000 fell by 35% from MSEK 7,153 last year to MSEK 4,640. The whole of this decrease is accounted for by equipment classified as Other Military Equipment (OME). The value of OME for which authorizations were granted in 2000 fell by almost 63% compared with 1999. On the other hand, there was an increase in authorized exports of Military Equipment for Combat Purposes (MEC) of just under 119%, from MSEK 1,082 in 1999 to MSEK 2,369 in 2000.

As may be seen from the diagram in figure 1, Annex 1, the value of authorized exports has varied considerably in recent years while there has been very little variation in the value of actual exports. This is because deliveries related to a single export authorization are often spread over several years.

3 The Military Equipment Act

The manufacture and exportation of military equipment are governed by the Military Equipment Act (1992:1300, last amended by 2000:1248) and the corresponding Ordinance (1992:1303, last amended by 2000:64). Both these statutory instruments entered into force on 1 January 1993, replacing the Control of the Manufacture of Military Equipment etc. Act (1983:1034), the Prohibition of the Exportation of Military Equipment etc. Act (1988:558) and the corresponding ordinances.

The present Act is essentially based on the previous legislation and previous practices. However, it applies a broader definition of military equipment and

simplifies, clarifies and updates the provisions relating to the control of manufacturing and cooperation with foreign partners on military equipment.

The Military Equipment Act stipulates that military equipment must not be manufactured without authorization. Authorization is also required for all types of defence industry cooperation with foreign partners. The term 'cooperation with foreign partners' covers both export sales and other arrangements for supplying military equipment (for instance transfer of ownership or brokerage). It also includes the grant or transfer of manufacturing rights, agreements with a party in another country on the development of military equipment or production methods for such equipment together with or on behalf of that party, and agreements on the joint manufacture of military equipment. Lastly, with certain exceptions, authorization is required for the provision of military-oriented training.

The Act divides military equipment into two categories: Military Equipment for Combat Purposes (MEC) and Other Military Equipment (OME). The Military Equipment Ordinance contains provisions concerning the types of equipment that are assigned to the two categories.

Under the new Regulation on the control of exports of dual-use items that entered into force in September 2000 export authorizations are required in some cases for items that do not fall within the definition of military equipment but which are associated with military equipment that is exported. Further information on the new rules in this respect will be found in section 17 of this Report.

Until 31 January 1996 decisions on export authorizations were taken by the Government. Licenses that did not involve large-scale exports or matters of principle were delegated to the minister responsible for applications for authorization for exports of military equipment. Non-delegated Government decisions related to 98% of the total value of authorizations granted in 1995. As of February 1 1996, decisions relating to exports of military equipment are normally taken by the National Inspectorate of Strategic Products except in matters deemed to be of interest from the point of view of principle or of particular importance for other reasons, which are referred to the Government.

Following an amendment to the Military Equipment Ordinance in 1999, the police authorities may under certain circumstances deal with matters concerning exports of small arms classified as Other Military Equipment, their component parts and, where relevant, accompanying ammunition, if the applicant is entitled to own such a weapon in this country under the Weapons Act (1996:67). This applies, for example, if the recipient is a private individual or arms dealer in an OECD Member State.

4 Guidelines for exports of military equipment

Under section 1 (2) of the Military Equipment Act (1992:1300) an authorization may only be granted if there are security or defence policy reasons for doing so and if it does not conflict with Sweden's foreign policy. The principles applied when examining applications have been established by government practice and are described in the Government Guidelines for the Exportation of Military Equipment and Other Forms of Cooperation with Foreign Partners, which have been approved by Parliament (cf. Gov. Bill 1991/92:174, p. 41 ff., Gov. Bill 1995/96:31, p. 23 ff. and Report 1992/93:UU1). The Guidelines are attached to this report as Annex 3.

The Guidelines are interpreted on the basis of broad parliamentary support and are applied by the National Inspectorate of Strategic Products (ISP) in processing applications for export authorizations in accordance with the Military Equipment Act and the Military Equipment Ordinance.

The Guidelines contain two general criteria for the granting of authorizations under the Act, namely that cooperation with foreign partners is considered necessary to meet the Swedish armed forces' need of matériel or know-how or is otherwise desirable for reasons of national security, and that collaboration is not contrary to the principles and aims of Swedish foreign policy. These general criteria may be regarded as a clarification of section 1 (2) of the Military Equipment Act.

The guidelines also specify the factors that should be taken into account in connection with the consideration of individual applications. One basic condition is that all the relevant circumstances in a particular case must be considered, whether or not they are explicitly included in the guidelines. These criteria also apply to collaboration with persons or enterprises in other countries on the development or manufacture of military equipment. Sweden is one of the few EU Member States that has enacted legislation relating to arms brokerage.

The guidelines emphasize in particular the importance that should be attached to the situation regarding the respect for human rights in the recipient country in connection with the assessment of the foreign policy aspects of each application. The human rights criterion must always be taken into account, even in cases involving exports of matériel which in itself cannot be used to violate human rights.

The guidelines specify three types of *absolute obstacles* which, if they exist, make exports impossible. They are: sanctions adopted by the UN Security Council, international agreements to which Sweden has acceded (e.g. EU sanctions), and export bans imposed under the rules of international law on exports from neutral states during war.

As a result of the broader definition of military equipment that was introduced in 1993, equipment was divided into two categories that are subject to guidelines that differ in certain respects. For the category *Military Equipment for Combat Purposes* (MEC) the presumption is that the Government should not grant authorization for exports to a state that is involved in an armed conflict with another state or in an international conflict that may lead to an armed conflict, a state in which internal armed disturbances are occurring or a state in which widespread and serious violations of human rights occur. These conditions are the same as those applied before 1993, except that previously it was only necessary to take violations of human rights into account if the equipment itself could be used to violate human rights. Sweden differs from some other EU Member States in this respect.

In the case of exports of *Other Military Equipment* (OME), which consists largely of items that were not subject to control prior to 1993 (such as reconnaissance radars and simulators for training purposes), authorization should be granted for exports to countries that are not involved in armed conflicts with other states and in which internal armed disturbances and widespread and serious violations of human rights do not occur. The risk of armed conflict is not applied as a criterion in assessments of exports of Other Military Equipment.

Owing to the differences in the guidelines for Military Equipment for Combat Purposes and for Other Military Equipment, a larger number of countries may be considered as potential recipients of Other Military Equipment, i.e. equipment that is non-destructive. The broader definition of military equipment means that

previously unregulated exports are now identified and reported, as well as being subjected to political scrutiny.

As regards *follow-on deliveries* it is stated in the guidelines that “authorizations should be granted for exports of spare parts for equipment exported previously under an authorization, unless an absolute obstacle exists. The same applies to other deliveries, for example of ammunition, linked to previous exports of equipment, or otherwise in cases where it would be unreasonable to deny permission”.

With respect to collaboration with parties in other countries, exports to third countries should be assessed in accordance with the Swedish guidelines if the item has a predominantly Swedish identity. If the item has a predominantly foreign identity, or if Sweden has a strong defence policy interest in cooperation, the export rules of the cooperating country may be applied to exports from that country.

5 The National Inspectorate of Strategic Products (ISP)

The National Inspectorate of Strategic Products (ISP) was established on February 1, 1996 for the task of exercising the controls laid down in the Military Equipment Act (1992:1300) and the Control of Dual-Use Items and Technical Assistance Act (2000:1064) and the corresponding Ordinances. The Inspectorate thus assumed responsibility for most of the matters previously decided by the Government following preparation by the Inspectorate-General of Military Equipment and the department within the Ministry for Foreign Affairs that was responsible for exports of strategic products. The ISP has subsequently also been designated the competent national authority within the framework of the UN Chemical Weapons Convention (CWC).

The ISP is thus responsible for matters relating to authorizations and exports of both military equipment and products with both civil and military uses (dual-use items). Under section 1a of the Military Equipment Act and section 5 of the Strategic Products Act the Inspectorate refers cases to the Government for a decision when they are deemed to be of interest from the point of view of principle or of particular importance for other reasons. The ISP works in close consultation with the Ministry for Foreign Affairs and the Ministry of Defence.

The ISP maintains regular contacts with the companies whose exports are the subject of its control activities. Companies are required to provide the ISP with quarterly reports on their marketing of military equipment in other countries. These reports form the basis for the ISP's periodic reviews of export efforts with each company. Besides dealing with applications for authorization, the ISP reviews the notifications that companies are required to submit at least four weeks before submitting tenders or signing contracts for exports to- or cooperation with foreign partners on military equipment. Finally, exporters of military equipment must notify the deliveries of military equipment made under the export licenses issued to them.

The ISP is financed by an annual fee paid by the manufacturing companies. The fee is assessed on the basis of the total invoiced value of controlled products delivered in excess of 2.5 MSEK a year. Since the fee is calculated on the basis of deliveries both in Sweden and abroad, there is no direct connection between the size of the fee and export orders. The fees are paid to the Ministry of Finance and not to the ISP, in order to avoid any direct connection between the Inspectorate's operations and the industry's payments. The Inspectorate's current activities are

financed by a budget appropriation in the normal way and its costs are covered by charging the industry at the end of the year, when the actual cost of operations and the value of companies' invoiced deliveries can be established. As regards the ISP's system of fees and charges it should also be noted that in 2000 the Agency for Administrative Development carried out an analysis of the system on behalf of the Government (*System of Fees and charges for the National Inspectorate of Strategic Products, 2000:25*). The findings of this report are now being considered by the Government Offices.

The number of applications for export authorization received by the ISP in 2000 totalled 1,571. Of these 231 were related to dual-use items. The corresponding figures for 1999 were 1,751 and 380 and for 1998 2,040 and 447, respectively. One explanation for the continuing decrease is that the Inspectorate increasingly makes use of project authorizations with more detailed specifications and a longer period of validity. General authorizations have also been introduced for military equipment belonging to Swedish or foreign armed forces. 145 declarations were submitted by the industry to the ISP within the framework of the Chemical Weapons Convention, compared with 161 in 1999. The corresponding number of declarations submitted to the OPCW secretariat in the Hague was 39, compared with 37 in both 1998 and 1999. Declarations in this context are statements about the operations carried on at companies or plants that use, import and export certain sensitive chemicals on a professional basis. One Swedish plant was inspected by the OPCW in 2000 under the verification provisions of the Chemical Weapons Convention, compared with two in 1999.

In 1999 the ISP introduced a new electronic workflow system. Rationalization proceeded in 2000 with respect to authorization procedures in order to simplify the administrative process for routine applications. The Inspectorate's aim is to process applications for export authorization within a month of receipt, and eventually within two weeks. Work continues on the introduction of a completely electronic system for the submission and processing of applications.

6 The Export Control Council

Under chapter 10, section 6 of the Instrument of Government the Government must, wherever possible, consult the Advisory Council on Foreign Affairs before taking decisions on important matters relating to foreign affairs. Under this provision, some matters relating to exports of military equipment call for consultation with the Council. However, it has also been considered desirable to achieve a broader political consensus in connection with other matters relating to such exports that are of interest from the point of view of principle. Parliament therefore passed a Bill (1984/85:82) in 1984 that proposed greater transparency and consultation in matters relating to exports of military equipment and the establishment of an Advisory Board on Exports of Military Equipment. The Board was reorganized on February 1 1996 in connection with the establishment of the National Inspectorate of Strategic Products (ISP), and was renamed the Export Control Council. At the same time its composition was broadened to reflect the broader composition of the Advisory Council on Foreign Affairs today. All the political parties in Parliament are therefore represented on the Export Control Council, which has ten members. An up-to-date list of the members of the Council is available on the ISP's website www.isp.se.

The Export Control Council is consulted before decisions are taken on important licensing applications. The Council is convened by the head of the ISP, the Inspector-General of Military Equipment, who also chairs the meetings. The Ministry for Foreign Affairs participates in the meetings, presenting assessments of the recipient countries under consideration. The Ministry of Defence also participates, providing assessments of the defence policy aspects of the matters under consideration. The Council seeks to interpret the guidelines in a consistent manner in order to provide further guidance for the Inspectorate.

In addition to being consulted on important cases, members receive periodic information on all export authorization decisions, and this ensures that they are fully informed of the Inspectorate's treatment of these matters. This procedure also ensures that Parliament is kept informed of the application of the Military Equipment Act (1992:1300). The Inspector-General of Military Equipment must also consult the Council when necessary on matters concerning the application of the Strategic Products Act (1998:397).

The Advisory Council on Foreign Affairs, and not the Export Control Council, is still consulted in cases where this is prescribed by the Instrument of Government.

Nine meetings of the Export Control Council were held in 2000, compared with seven in 1999.

7 The Technical and Scientific Council

The Technical and Scientific Council, which consists of representatives of several institutions with expertise in technological applications for both civilian and military uses, was established in 1984 to assist the Inspector-General in connection with decisions concerning the classification of military equipment. The Council held three meetings in 2000, the same number as in 1999 and 1998.

Following the establishment of the ISP, the field of activities of the Technical and Scientific Council has been extended to include dual-use items where the need arises.

8 Dissemination of information concerning export policies

Sweden actively encourages increased transparency in the trade in military equipment at the international level. Efforts are also made at the national level to disseminate information in this area. The Government's annual report on Swedish exports of military equipment is published in the context of its efforts to achieve greater openness. The annual report is published in Swedish and English and is available on the websites www.ud.se and www.regeringen.se, as well as in Rixlex (www.riksdagen.se).

The annual report that is issued within the framework of the EU Code of Conduct for Arms Exports is an important instrument for increasing transparency at the European level. Sweden has called for continuous improvement and expansion of this report. The Code of Conduct will be found in Annex 4 to this Report and is also available at www.isp.se. As a further measure to promote information access in this area internationally the Government has continued to provide funding for the

Internet database kept by the Stockholm International Peace Research Institute (SIPRI) (www.sipri.se), which contains information on national and international export control arrangements and some statistics on holdings and exports.

An important task for the ISP is to disseminate information about export controls, both to the general public and to the companies concerned. In 1998 the ISP published a revised edition of the handbook last published by the former Inspectorate-General in 1993. The handbook is chiefly intended for the defence industry and government agencies that deal with the manufacture and exports of military equipment. It describes current legislation, the regulatory framework and authorization procedures. A similar handbook concerning strategic products was published for the first time in 1998. In 2000 the ISP has as usual arranged seminars and information meetings on its activities primarily for personnel in the industry. The Inspectorate opened a detailed website on the Internet in 1998. The address is www.isp.se. In 2000 the website was expanded and also translated into English. In 2000 the ISP also published a yearbook, which was translated into English. This is a more popular version of the ISP's annual report and also contains some information that is supplied in the Government's annual Report to Parliament.

9 The UN Arms Registry and other international reporting on arms transfers

In December 1991 the United Nations General Assembly adopted a resolution urging Member States to report both their imports and exports of major conventional weapons to a Registry of Conventional Arms. Trade in the following seven categories of weapons is reported: tanks, armoured combat vehicles, heavy artillery, combat aircraft, attack helicopters, warships and missiles/missile launchers. In consultation with defence agencies and the ISP, the Ministry for Foreign Affairs compiles annual information which is submitted to the UN in accordance with the above-mentioned resolution.

In 1999, the eighth year of the UN Registry, 95 of the UN's 185 Member States (including Switzerland which has observer status) submitted information about their exports and imports of these seven categories of heavy weapons by the beginning of 1999. Since all the major exporters with the exception of North Korea and all the major importers except some countries in the Middle East report to the Registry, it is estimated that over 90 per cent of world trade in these weapons is covered by the Registry. Sweden only participates to a limited extent in the world trade in the relevant types of heavy weaponry.

In 1999, which is the most recent year for which information has been submitted, Sweden reported imports from Germany of 3 Leopard 2 (Strv 122) tanks and one MT-Lbu shrapnel-protected armoured personnel carrier (Pbv 4020). Sweden also reported imports from Switzerland of three Piranha armoured vehicles (Pbv 4020). On the export side Sweden reported exports of 35 combat vehicles CV 9030 to Norway. The report to the UN Register for 2000 will be compiled after the publication of this Report.

In various ways Sweden encourages increased reporting to the UN Registry and greater transparency as regards arms transfers. These efforts are part and parcel of Sweden's endeavours to promote greater openness in this area and thus strengthen confidence between nations and improve the factual basis for implementation of responsible export controls.

In the Security Forum of the Organization for Security and Cooperation in Europe (OSCE), the 55 Member States have agreed to observe certain principles for the transfer of weapons, including annual reporting to the UN Registry.

The Wassenaar Arrangement's reporting mechanism for military equipment basically follows the seven categories reported to the UN Registry, although some categories are reported in greater detail by being broken down into subgroups. The 33 Member States have agreed to report twice yearly in accordance with an agreed procedure and to include further information on a voluntary basis. The purpose of this agreement is to bring destabilizing accumulations of weapons to the notice of the Member States at an early stage. Exports of dual-use items and technology are also reported to the Wassenaar Arrangement twice a year.

Consultations concerning reporting to the UN Registry have regularly been held with the other EU Member States since 1995. In order to strengthen the Registry the EU sent a communication to the UN Secretary-General urging other members of the UN to provide information on their weapon holdings as well as on their own production of the equipment covered by the Registry. Sweden submitted this type of information to the Registry for the first time in 1997. That same year a review of the Registry was completed, although no concrete progress was made on the question of expanding the Registry.

Since 1990 the Government has, in the context of Sweden's efforts to achieve greater transparency in this area, submitted the English translation of its annual report to Parliament on exports of military equipment to the United Nations. Since the autumn of 1996 the information submitted to the UN Registry has been available on the United Nations website (www.un.org)

10 Cooperation on export control in the EU

Military equipment has been identified as a suitable area for cooperation within the framework of the EU Common Foreign and Security Policy (CFSP). The fifteen Member States regularly discuss various issues related to arms exports in the Council Working Group on Conventional Arms Exports (COARM). They may, for example, exchange information about their views on individual export destinations or take part in joint discussions on ways of developing national systems of rules in order to take new circumstances into account. In addition to the Working Group there is an ad hoc Working Party on European Armaments Policy (POLARM), one of whose tasks under its mandate from 1995 is to analyse alternatives for a European defence industry policy and propose measures within the framework of Community law.

The Code of Conduct on Arms Exports that was adopted by the Council of Ministers on 8 June 1998 is based on and further defines the common criteria for exports of military equipment which the European Council adopted in Luxembourg in 1991 and Lisbon in 1992. The text of the Code is attached as Annex 4. The Code specifies various criteria that are to be applied for the purposes of national assessments of export applications. These are consistent in all essentials with the Swedish guidelines for exports of military equipment. The Code represents a lowest common denominator in the area of export controls and there is nothing to prevent individual Member States from pursuing a more restrictive policy. It is an expression of the intention of the Member States to strengthen exchanges of relevant information in order to achieve greater mutual understanding and gradually

move towards a convergence of export policies between Member States. The Code requires Member States, inter alia, to inform each other of potential export transactions for which authorization is not granted (*denials*). A Member State that has issued a *denial* must be consulted where another Member State is considering granting authorization for an essentially identical transaction.

The Code requires Member States to present an annual report. Each Member State therefore prepares a report on its exports of military equipment and its application of the Code. The reports are collated by the presidency and are discussed at an annual meeting of COARM. The operation of the Code of Conduct is reviewed and possible improvements discussed at these meetings. After each meeting a consolidated annual report is prepared and submitted to the Council of Ministers for approval.

The second annual report required under the Code of Conduct was adopted by the Council in November 2000. Like the previous annual report it was, in line with Sweden's policy on transparency, published in the Official Journal of the European Communities (OJ). Among other things, the report described the guidelines that have been adopted in order to improve application of the Code, priorities for future coordinated activities and some statistics on Member States' exports of conventional weapons. The report shows that the Member States continued their discussions during the year on the formulation of a common European list of military equipment. This represents a step forwards in the work of further improving the effectiveness of the EU Code of Conduct. Furthermore, progress has been made as regards control of civilian equipment that may be used to violate human rights. A list of such equipment has been established, and the European Commission has been urged to draft a control mechanism expeditiously within the framework of the first pillar. Exchanges of information continued on the implementation of UN, EU and OSCE embargoes in order to develop uniform practice.

In accordance with the operative provisions of the Code of Conduct, EU Member States should encourage other arms exporting countries to subscribe to the principles laid down in the Code. The signing in December 2000 of a joint declaration between the EU and the USA on the promotion of increased openness and a responsible export control policy in the framework of international cooperation should be seen in this context.

Thus far, the following states have subscribed to the principles of the Code : the states of Central and Eastern Europe that have concluded Association Agreements with the EU, Canada, Cyprus and the EFTA countries that are members of the EEA, i.e. Norway, Iceland and Liechtenstein. As the latest addition, Turkey and Malta subscribed to these principles in 2000.

Sweden holds the EU presidency in the first half of 2001. The results of initiatives taken during this period will be reported in next year's Report to Parliament.

11 International arms embargoes

A decision by the UN Security Council on a weapons embargo is an absolute obstacle to Swedish exports under the Guidelines for Exports of Military Equipment. Binding embargoes agreed by the UN Security Council applied for all or part of 2000 to Angola (UNITA), Iraq, the Federal Republic of Yugoslavia,

Liberia, Libya, Rwanda, Sierra Leone and Somalia. Furthermore, Afghanistan, Armenia, Azerbaijan, Ethiopia, Eritrea, and Yemen were subject to non-binding embargoes imposed by the UN.

The EU's Member States comply fully with the UN Security Council's decisions on weapon embargoes. The Security Council's recommendations on restrictiveness (i.e. the non-binding embargoes mentioned above) are, since they are not binding, considered on a case-by-case basis. Within the framework of the Common Foreign and Security Policy, certain arms embargoes are unanimously decided and are applied in addition to those imposed under Security Council decisions. This may be regarded as an expression of the Member States' resolve to adopt common responses to various security policy issues. An arms embargo imposed by the EU is implemented by application of the national export control rules in each Member State. In 2000, the EU maintained embargoes for the whole or part of the year against Afghanistan, Bosnia and Herzegovina, Burma/Myanmar, Ethiopia, Eritrea, Indonesia, Iraq, the Federal Republic of Yugoslavia, China, the Democratic Republic of the Congo, Croatia, Libya, Sierra Leone and Sudan. In addition, EU Member States adhered to an arms embargo against Nagorno-Karabakh imposed by the OSCE in 1992.

12 International efforts to prevent and combat destabilizing accumulations and the uncontrolled spread of small arms and light weapons

Together with other countries Sweden is seeking to take effective measures against the suffering caused in post cold war conflicts by the circulation and use of small arms and light weapons. The term 'small arms and light weapons' basically includes small arms and other weapons intended to be carried and used by one or two persons, although a uniform definition has yet to be established.

Various international fora have for several years been engaged in efforts to prevent and combat the destabilizing accumulation and spread of small arms and light weapons. Sweden encourages the implementation in all countries of responsible export policies, supported by a comprehensive regulatory framework, effective enforcement systems and an efficient administration that supervises manufacturers, buyers, sellers, agents and intermediaries.

Sweden attaches particular importance to the control of arms dealers and to increased transparency in the arms trade. Sweden's legislation, which also applies to persons or legal entities acting as intermediaries in arms transactions, is often referred to in the context of international cooperation.

The Organization for Security and Co-operation in Europe (OSCE) adopted a Document on Small Arms and Light Weapons in November 2000 which contains standards, principles and measures relating to, inter alia, the manufacture and labelling of small arms, registration, export controls and export criteria, transparency, safe storage and surplus military equipment.

During the year Sweden also took an active part in the preparations for the UN Conference on Illicit Trade in Small Arms and Light Weapons in All its Aspects, which will be held in New York in July 2001. The aim of Sweden and the EU is the adoption of politically binding action programmes containing concrete measures

that give priority to export control, international cooperation and assistance to vulnerable countries.

The EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms (1997), the EU Joint Action on Combating the Destabilizing Accumulation and Spread of Small Arms and Light Weapons (1998) and the EU Code of Conduct on Arms Exports (1998) are important instruments in this connection.

13 The Swedish defence industry and international cooperation on military equipment

In *Renewal of Sweden's Total Defence* (Gov. Bill 1996/97:4, p. 154), which has been passed by Parliament (Report 1996/97:FöU1), and the Bill *The New Defence* (Gov. Bill 1999/2000:30), it was established that in the light, inter alia, of diminishing appropriations for defence equipment to Sweden's armed forces and the contracting international market, closer international cooperation appears to be a prerequisite for the survival of the Swedish defence industry and the future adaptability of the armed forces. Consequently, it has been obvious to the Government and Parliament for several years that the future capacity of the defence industry will to a large extent be based on mutual international industrial dependence and on the growing international cooperation that has followed in the wake of the internationalization of the defence industry. This determines indirectly Sweden's industrial capacity in the future, which in turn has repercussions for the supplies of military equipment to the Swedish defence. Reliable supplies of equipment are necessary in order to maintain the credibility of the defence force's ability to adapt. For a country like Sweden, which does not participate in military alliances, the credibility of its adaptability in the eyes of other countries is a vital security interest. The Government's view is that Sweden, by continuing to take part in international cooperation on defence equipment, safeguards Sweden's long-term foreign, security and defence interests.

The pace of restructuring in Europe has accelerated in recent years, although it has not yet achieved the level of concentration sector that has taken place in the USA, and it remains to be seen exactly how far the European defence industry will move in that direction.

Restructuring is already under way in the Swedish defence industry. In the autumn of 1997 the British company Alvis plc acquired Hägglunds Vehicle AB in Örnsköldsvik. In 1998, manufacturing capacity with respect to explosives and ammunition in Sweden, Norway and Finland was coordinated in the two constellations NAMMO (Sweden, Norway and Finland) and NEXPLO (Sweden and Finland). The Swedish companies involved in this venture include Bofors LIAB AB and Bofors Explosives AB. For several years Saab AB and British Aerospace (BAe), which owns 35% of Saab AB, have cooperated on the development and marketing of an export version of the Swedish fighter aircraft JAS 39 Gripen. In 1999, the German shipyard Howaldtwerke-Deutsche Werft AG (HDW) acquired Kockums AB, including the Karlskrona shipyard, while at the same time Celsius AB acquired a share in the German company. After approval by Parliament early in 2000 the Government decided to sell its remaining share of the Celsius group to Saab AB.

The defence industry in Sweden was thus further consolidated during the year when Saab AB acquired all the shares in Celsius AB following a public bid. The subsequent restructuring led to the creation of six business areas in the group, with almost 30 companies altogether. The consequences of this consolidation included the acquisition by the US company United Defence Industries Inc. of Bofors Weapon Systems AB, the core company of the previous Bofors group, during the summer of 2000. The national process of consolidation is probably not yet complete, although for obvious reasons it is likely to continue at a slower rate.

On July 6 1998 the Swedish Minister for Defence signed a Letter of Intent together with the Defence Ministers of France, Germany, Italy, Spain, and the UK, to initiate discussions for the purpose of identifying measures to facilitate the restructuring of the European defence industry. An Executive Committee consisting of representatives of each of the six states was set up within the framework of this Letter of Intent (LOI). The Committee was assigned responsibility for negotiating and presenting international instruments in this area. The states set up working parties made up of government officials for the purpose of studying and dealing with issues relating to security of supply, export control procedures, the harmonization of military specifications, research and technology, the security of classified information and the treatment of technical information. The technically complicated negotiations lasted until December 1999.

On May 9 and July 11 2000 the Executive Committee adopted a proposal for a Framework Agreement on measures to facilitate the restructuring and operation of the European defence industry. The Government decided to sign the Agreement on July 20 2000, and did so a week later in connection with a meeting of defence ministers in the UK. The Government had already predicted in its Bill *The New Defence* (Gov. Bill 1999/2000:30) that the nature of the future Framework Agreement would be such as to make it necessary to present it to Parliament for approval. A Bill proposing approval of the Framework Agreement was presented in January 2001 and passed by Parliament on March 28 (Gov. Bill 2000/01:49, Report 2000/01:UU8, Parl. Comm. 2000/01:171).

As regards the section in the Framework Agreement on export control, the outcome is in conformity with present Swedish regulations and guidelines and thus with Swedish policy in this area. The parliamentary Export Control Council has also been briefed on the negotiations. Progress reports have also been submitted on various occasions to the Parliamentary Standing Committees on Foreign Affairs, Defence and Industry & Trade, and on one occasion to the Advisory Council on Foreign Affairs. The Framework Agreement will enter into force gradually, starting in the spring of 2001, as it is ratified by the states concerned. Deepened cooperation in the six subareas covered by the Agreement has already started between the six parties to the Agreement. The aim is to complete national implementation of the Framework Agreement within a year by means of practical work at the level of public authorities, in order to facilitate the restructuring that will have to be carried out by the industry itself. In the longer term the parties to the Agreement need to consider the question of the participation of other European nations with defence industries in the LOI project.

If the Swedish defence industry is to hold its own in the restructuring process and achieve the desired level of cooperation with foreign partners, it must have the necessary knowhow to obtain orders. The 1996 Defence Resolution established that exports of military equipment would continue to be important for defence policy, and that it was desirable for the Government and Swedish authorities to give more active and organized support to the defence industry's export marketing efforts

within the framework of major export projects, provided that these efforts were consistent with the guidelines for exports of military equipment. Since 1996 this support has been coordinated by a working group at State Secretary level within the Government Offices. A post has also been established at official level in the Government Offices for the day-to-day coordination of support for export promotion.

14 Developments in the international trade in military equipment

The Stockholm International Peace Research Institute (SIPRI) compiles statistics on the trade in military equipment in its Yearbook and in a database. According to the most recent information available from SIPRI, transfers of major conventional weapons continued to decrease in 2000 at a rate of 26.5% at fixed prices compared with 1999. Sweden remained in 15th place, with 0.56% of total world exports, in the list of countries that export major conventional weapons (aircraft, warships, artillery, armoured vehicles, missiles, target acquisition systems and radar) during the period 1996-2000. Total exports for the same period amounted to USD 104,252 billion at 1990 prices. The largest exporter, the USA, accounted for about 47% during that period, followed by Russia (15%), France (10%), the UK (7%) and Germany (5%).

The leading importer of major conventional weapons during the period 1996-2000 was Taiwan, which accounted for 12%, followed by Saudi Arabia (8%), Turkey (5.4%), South Korea (5.1%) and China (5%). Sweden was in 38th place during the period with 0.6% of total imports of major conventional weapons.

15 Corruption in the international trade in military equipment

A seminar on corruption in the trade in military equipment was arranged in Stockholm in February 2000 in cooperation with Transparency International. It was attended by about 20 participants. The participants had been invited from four different categories: central government administration, the military sector, the defence industry and academia. Both producer countries and consumer countries were represented, as well as countries at various levels of economic development. Corruption in the trade in arms was discussed from various aspects and potential measures to address the problem were identified during the seminar. The report on the meeting has been presented to a wider international audience on Sweden's EU presidency website (www.eu2001.se). The Stockholm Initiative will be followed up by activities during Sweden's presidency and by a second conference in the UK in the spring of 2001.

Part II – Export controls of dual-use items

16 International cooperation on export controls

During the late 1980s and throughout the 1990s the issue of non-proliferation of weapons of mass destruction has held a prominent place on the international agenda. There are several reasons why this issue has attracted such attention: indications that certain countries in unstable regions have displayed an interest in acquiring weapons of mass destruction, revelations of Iraq's programme for weapons of mass destruction and of how close it was to developing nuclear weapons, and signs of growing interest among non-governmental players in acquiring weapons of mass destruction.

The term 'weapons of mass destruction' is usually confined to nuclear weapons and chemical and biological weapons. Long-range ballistic missiles and cruise missiles are often included in efforts to prevent the proliferation of weapons of mass destruction. 'Non-proliferation' is understood to mean multilateral measures designed to impede the spread of weapons of mass destruction. These measures are mainly embodied in a number of multilateral conventions and several informal export control arrangements.

As regards the first category, special mention may be made of the 1968 *Treaty on the Non-Proliferation of Nuclear Weapons* (NPT), the 1972 *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction* (BTWC) and the 1993 *Convention on the Prohibition of the Production, Development, Stockpiling and Use of Chemical Weapons and on their Destruction* (CWC). Sweden is a party to all three conventions (see Sweden's Agreements with Foreign Powers 1970:12, 1976:18 and 1993:28).

Under the 1968 NPT, non-nuclear-weapon states undertake not to receive or manufacture nuclear weapons, and the nuclear-weapon states commit themselves to disarmament. Under Article III, the parties also undertake not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, unless the source or special fissionable material is subject to International Atomic Energy Agency safeguards. Under Article III of the 1972 BTWC the parties undertake not to transfer, either directly or indirectly, equipment that can be used for the production of biological weapons. Similarly, Article I of the 1993 CWC lays down a general obligation upon the parties not to transfer, either directly or indirectly, chemical weapons to another state.

It should be emphasized that even if the primary objective of these international agreements is disarmament and prevention of the proliferation of weapons of mass destruction, all three agreements mentioned above contain provisions to the effect that parties shall promote trade for peaceful purposes. The reason for this is that a substantial proportion of the products and technologies concerned have dual uses, i.e. they have perfectly legitimate and peaceful uses at the same time as they can be used for the production of weapons. Such dual-use items – i.e. items that can be used for both civilian and military purposes – were previously referred to in the Swedish legislation as 'strategic products'.

For the purpose of facilitating international cooperation on non-proliferation of weapons of mass destruction, about thirty countries have joined a number of multilateral export control arrangements: the Zangger Committee (ZC), the Nuclear Suppliers Group (NSG), the Australia Group (AG), the Missile Technology Control Regime (MTCR) and the Wassenaar Arrangement (WA). Details of the memberships of these export control arrangements will be found in Annex 4. The purpose of these arrangements is to promote exchanges of information on proliferation risks between the members and to identify products and technologies that can be used to produce weapons of mass destruction, exports of which should therefore be subject to coordinated control. Generally speaking, it may be said that a considerable proportion of the work carried out by these arrangements consists in keeping the product lists up to date in the light of technological developments. The export control arrangements differ, however, from the relevant conventions in that they are not based on binding agreements under international law. Cooperation on multilateral arrangements is based, rather, on national legislation, which provides for export controls for products and technologies that are identified as strategic products. Consequently, participation in these export control arrangements may be regarded as a means of facilitating fulfilment of the obligation under international law laid down in the abovementioned conventions to refrain from assisting other states, either directly or indirectly, to acquire weapons of mass destruction.

Two key concepts in multilateral cooperation are denials and no undercut. A member of an arrangement which denies an export authorization for a specific transaction with reference to the objectives of the arrangements (denial) is expected to inform the other members of its decision. The other members of the arrangement are expected to consult the state that has issued this denial before deciding whether to grant an export authorization for a similar transaction. This consultation procedure is referred to as the ‘no undercutting’ principle. The system of issuing denials is used within the NSG, the AG, the MTCR and the WA. The ‘no undercut’ consultation procedure is used within the NSG, the MTCR and the AG.

The Zangger Committee

The Zangger Committee was formed in 1974. Sweden has taken part in the Committee’s work ever since the 1970s. The rationale behind this cooperation is application of Article III of the NPT. As mentioned above, parties must not transfer equipment or material especially designed for the production of special fissionable material unless it is subject to International Atomic Energy Agency safeguards. Quite soon after the entry into force of the NPT it became apparent that interpretations differed as to what equipment or material was referred to in Article III. In order to find a common solution to this problem, a committee consisting of representatives of the signatories of the NPT was formed in 1971. Three years later, the committee had produced two memoranda: one defining source and special fissionable material (Memorandum A) and one defining “equipment or material especially designed or prepared for the processing, use or production of special fissionable material” (Memorandum B, also referred to as ‘the trigger list’ since exports of the specified equipment would require or ‘trigger’ IAEA safeguards). Sweden has taken part in the work of the Zangger Committee from the start. In 1990, the members agreed to merge the two lists into a consolidated trigger list. Over the years, the Zangger Committee has concentrated on keeping the consolidated list up to date in the light of technological developments. The Zangger Committee’s control list, with related explanations, is included in the IAEA’s information circular no. 209 (INFCIRC/209/Rev. 2). In 2000 the members

collaborated with a view to promoting openness on the work of the Committee and sought to explain the role of export control within the framework of the NPT.

The Nuclear Suppliers Group

Cooperation within the Zangger Committee during the early 1970s included those countries that had signed the NPT. At that time, however, several important countries had not acceded to the treaty. In order to include these countries in the efforts to stem the proliferation of nuclear weapons, the Nuclear Suppliers Group was formed in 1974 (the 'London Club', later renamed the Nuclear Suppliers Group). A contributing reason was also India's explosion of a nuclear device in 1974. In 1976 the members of the NSG agreed on more extensive controls of exports of products that could be used to produce nuclear material for use in weapons. These guidelines are included in the IAEA information circular INFCIRC/254/Rev. 4/Part 1.

Sweden joined this regime at an early stage and took part in the drafting of the guidelines. Cooperation within the NSG revived in the early 1990s following revelations of how close Iraq had come to developing nuclear weapons and how exports of nuclear-related materials had contributed to this. The members decided at a meeting in the Hague in March 1991 to update the guidelines and to consider extending export controls from products and materials related mainly to the nuclear fuel cycle to dual-use items that can be used to make nuclear weapons. One year later the Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material and Related Technology (reproduced in INFCIRC/254/Rev. 4/Part 2) were adopted at the plenary meeting in Warsaw. These guidelines lay down that equipment that is not directly related to nuclear material but can be used to produce a nuclear device is to be controlled. Continuous discussions are in progress in the NSG concerning possible amendments to the guidelines in the light of technological developments. A review of the NSG's institutional arrangements was carried out in 2000. The members also considered further measures as regards the dissemination of information on cooperation within the Group.

The Australia Group

The Australia Group was formed in 1985. The establishment of this export control arrangement was primarily a response to the conflict between Iran and Iraq in the 1980s, during which it became known that Iraq had acquired substantial national capacity for producing chemical weapons. As a result, several countries tightened their export controls of chemicals and certain chemical production equipment. However, these national measures were not coordinated and as a result the degree of control varied from one country to another. In 1985, a meeting was convened on Australia's initiative for the purpose of discussing the possibility of harmonizing national controls. This initiative resulted in the drafting of a list of chemicals that should be subject to national export controls. Several of these chemicals also have legitimate peaceful uses. In June 1990, the members of the Australia Group decided to extend its remit to microorganisms, toxins and certain production equipment for biological weapons. Sweden joined the Australia Group in 1991. Cooperation in the Australia Group has recently been criticized by countries on the grounds that retaining export controls in relation to other parties to BTWC and CWC is discriminatory. The members of the Group consider such an export control necessary in order to fulfil the obligations they have assumed in the two conventions. In recent years, therefore, the Group has also launched a large-scale information programme in order to explain the work done in the Group's area of

operations. Among other things, the Australia Group has opened a website on the Internet: www.australiagroup.net.

The view of the Swedish Government is that our participation in the Australia Group may be seen as a measure that is necessary for the fulfilment of our international obligations both under BTWC and CWC, i.e. to prevent the proliferation of biological and chemical weapons.

The Missile Technology Control Regime

On the USA's initiative a number of countries commenced discussions on export controls for missiles and missile technologies in 1982. On April 16 1987 it was announced that these discussions had led to the adoption of guidelines for exports of missile technologies which the individual countries each intended to implement through their national legislation. An Equipment and Technology Annex was attached to these guidelines, in which the products to be subject to national export controls were identified. This cooperation became known as the Missile Technology Control Regime (MTCR). The MTCR's control lists include complete missile systems (including ballistic missiles, space launch rockets and missiles and sounding rockets) and other unmanned aircraft systems (including cruise missiles and target and reconnaissance platforms) with a payload of at least 500 kg and a range of 300 km or more. Controls also extend to components of such systems and other products that can be used to produce such missiles. The MTCR export control regime was originally aimed at impeding the proliferation of missiles that could be used to deliver nuclear weapons. In 1993 the guidelines were amended to extend export controls to carriers for chemical and biological weapons too. It should also be mentioned that at present missiles are not the object of any multilateral conventions. Sweden has participated in this cooperation since 1991, when it incorporated export controls consistent with the MTCR guidelines into national export control legislation. In 2000 the members of the MTCR prepared a draft of an international Code of Conduct on ballistic missiles, to which all states are invited to accede. The draft contains a number of principles, undertakings and confidence-building measures calculated to stop the spread of ballistic missiles. A great deal of work remains to be done in order to win broader international support for this draft and to formalize its content in an international instrument.

The Wassenaar Arrangement

The Wassenaar Arrangement was formed in 1996 as a successor to the multilateral export control cooperation that had previously taken place within the framework of the Coordinating Committee on Multilateral Export controls (COCOM). It became increasingly apparent after the end of the cold war that cooperation within the COCOM framework must be extended to include former Eastern bloc countries. In November 1993, the members therefore decided to replace COCOM with a new forum, and on March 31 1994 COCOM ceased to exist. Sweden took part in these negotiations on the establishment of the new forum from December 1994. In July 1996 a consensus was reached on the basic document for this new forum, which was named after the town in the Netherlands where a large part of the negotiations had taken place – Wassenaar. Unlike its predecessor COCOM, the Wassenaar Arrangement is based on the principle that trade in products mentioned in the control lists should be permitted, but must be monitored in order to avoid destabilizing accumulations and must not focus on certain states identified in advance. Furthermore, cooperation within the Wassenaar Arrangement framework is not directed at particular identified states. According to the Initial Elements, the

basic document, the purpose of the arrangement is to contribute to regional and international security and stability by promoting transparency with regard to transfers of conventional weapons and dual-use items and thus helping to avoid destabilizing accumulations. The Wassenaar Arrangement targets a different and broader product portfolio than the other export control arrangements. Two control lists are attached to the basic document: the Munitions List, which covers conventional military equipment, and the List of Dual-use Items and Technologies, which covers technologies with civilian and military uses that are not included in the control lists of the other control arrangements. As regards controls of the latter category, it is expressly stated in the Initial Elements that the arrangement is intended to complement and strengthen cooperation in the abovementioned arrangements without duplicating their work. Examples of product categories appearing on the list of dual-use items are special types of material, propulsion systems, sensors, lasers, computers, certain crypto products and special equipment for telecommunications, information safety, electronics, navigation, avionics, materials processing and certain types of marine equipment.

The operation of the Wassenaar Arrangement was reviewed in 1999, and it was concluded that the basic document worked well. The Member States agreed, however, on certain measures designed to deepen and improve the effectiveness of the day-to-day exchanges of information within the framework of the arrangement and to update product lists faster in order to keep up with the rapid technological developments in many areas. In the field of military equipment the Member States agreed on an expansion of the reporting categories. In 2000 progress was made on the work of establishing a safe computer system for internal communication within the framework of the arrangement. The system is expected to come into effect in 2001. Further information is available at www.wassenaar.org.

17 A new EC Regulation on the control of exports of dual-use items

On June 22 2000 the Council of the European Union issued a new Regulation, Council Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology (OJ No L 159, 30.6.2000, p. 1), thus completing a long process of revision that started with a proposal from the Commission that was submitted on May 15 1998. The new Regulation entered into force on September 28 2000, replacing Council Regulation (EC) No 3381/94 setting up a Community regime for the control of exports of dual-use goods, which entered into force on July 1 1995. Unlike the multilateral export control arrangements that were described in previous sections, the Regulation is legally binding on Sweden. There will be consequently less scope and need for separate national rules. Its purpose is to establish free movement for controlled items in the internal market while strengthening and harmonizing the various national export control systems. The previous Regulation proved too complex for routine application by customs officers at national borders and did not adequately meet the industry's need of a transparent, coherent and predictable set of rules.

The Regulation combines the Member States' undertakings within the framework of the multilateral export control arrangements with the freest possible trade in the internal market. Developments in the arrangements (NSG, MTCR, AG and WA) are taken into account by continuous changes to- and updates of the lists of items

annexed to the Regulation. These changes are discussed in an ad hoc advisory working group. The application of the Regulation is the subject of regular discussions in a Commission-led coordinating group that has been set up specifically for this purpose. The entry into force of the new Regulation necessitated certain changes to national legislation. For example, the annexes to the Regulation are adopted under Article 133 of the EC Treaty within the framework of Community cooperation under the first pillar, which means that they are directly applicable at the national level.

One innovation in the new Regulation is the explicit requirement for authorization with respect to software and technology transmitted by electronic media, for example by personal computer, telefax and telephone to destinations outside the Community. Verbal transmission of technology by telephone is controlled only where the technology is contained in a document the relevant part of which is read out over the telephone, or is described over the telephone in such a way as to achieve substantially the same result.

Article 6 of the new Regulation establishes a general Community authorization for certain exports to specified third countries. General authorizations were, however, granted at the national level even before the entry into force of the new EC Regulation. The Community authorization may be regarded as an important step towards further harmonization of Community export controls. The new authorization eases the burden for the exporting companies since they can now refer to a single authorization regardless of the country in the EU from which exports are made. The new Community authorization is also an expression of the consensus that prevails between the Member States as regards exports to certain third countries.

Another change has to do with the granting of authorizations. The difference is that where previously applications were considered on the basis of national criteria, Article 8 of the new Regulation lays down common criteria on which the Member States must base their consideration of applications. These criteria do not differ from those that were previously applied in Sweden, but, like the Community authorization, a set of common criteria is a further step towards a more harmonized policy in this area and towards more stable export controls in the EU as a whole.

Another result of the new Regulation is that technical assistance is also made subject to controls. In connection with the adoption of the Regulation in June 2000 a Joint Action (2000/401/CFSP) was adopted within the framework of the Common Foreign and Security Policy. The Joint Action also regulates technical assistance given to countries outside the EC. A Joint Action was adopted for this purpose since the new Regulation is not applicable to services. The Joint Action only applies to technical assistance related to certain military end use. Exceptions are also made for data that may be considered generally available or data that represent basic scientific research.

Swedish legislation

The Swedish Control of Dual-Use Items and Technical Assistance Act (2000:1064) and the associated Ordinance (2000:1217) complement the Council Regulation at the national level. Both the Act and the Ordinance entered into force on January 1 2001 and replaced the Strategic Products Act (1998:397) and the Strategic Products Ordinance (1998:400).

The definitions in the Swedish legislation refer to the definitions in Article 2 of Regulation (EC) no. 1334/2000. 'Technical assistance' means all technical support in connection with repairs, development, manufacture, fitting, testing, maintenance

or other technical services which may be delivered in the form of training, transfer of knowledge and skills or consulting services.

Technical assistance must not be given to non-EU states if it is intended for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons.

Authorization must be obtained for exportation and transfer of dual-use items, and the granting authority is the ISP. However, in the case of nuclear material and materials etc. listed in Annex 1 to the Council Regulation, authorizations are granted by the Swedish Nuclear Power Inspectorate. Data on the number of export applications concerning dual-use items that have been submitted to the ISP will be found in Annex 2.

Unlike the legislation on military equipment, in which export authorizations represent exemptions from a general prohibition of exports, the reverse applies under the rules for control of dual-use items. In such cases export authorizations are granted unless they are prejudicial to foreign or security interests within the meaning of the EC Regulation.

Authorizations may also be required for exports of items not included in the annexes to Council Regulation (EC) No 1334/2000 if the exporter has been informed by the ISP that the item is or may be intended for use in connection with weapons of mass destruction or missiles that are capable of delivering such weapons (cf. Article 4 (1) of the Regulation). The Regulation also contains requirements for authorizations in certain cases for exports related to military end use or military equipment. Article 4 (2) of the new Regulation contains directly applicable provisions requiring authorization for exports of items that are not listed in the annexes, but which are or may be intended for military end use in a country that is subject to a UN, EU or OSCE embargo. The Regulation gives a detailed definition of the term 'military end use' as various forms of use related to military items, and this is further defined in section 3 of the Swedish Control of Dual-Use Items and Technical Assistance Act, which states that military items shall be understood to mean items that constitute military equipment under section 1 of the Military Equipment Act. The new Regulation also contains a provision based on Swedish legislation that has now been incorporated into Community law. The provisions of section 7 of the previous Strategic Products Act have been used as a model for Article 4 (3) of the new Regulation, which lays down a directly applicable requirement for export authorization for items not mentioned in the annexes which are or may be intended for use as parts or components for military equipment that has been exported illegally. With reference to Article 4 (1), 4 (2) and 4 (3) the ISP must inform exporters about the use of the item. However, under Article 4 (4) exporters are also obliged to inform the competent authority, i.e. the ISP, if they are aware that an item is or may be intended for use referred to in Article 4 (1)-(3). In that case the ISP must decide whether or not an authorization is required for exports of the items in question.

Catch-all clauses have been added to ensure that the objectives of the legislation are not circumvented due to the fact that, on account of technological developments, the lists of items are seldom all-inclusive (cf. Article 4 of the Council Regulation).

It has been the Government's ambition to ensure that the routines applied in connection with export controls are rational and efficient in order not to place an unnecessary burden on industry. Progress in this respect may also help to give the

industry an advantage in relation to competitors from countries where the procedure takes longer. Initiatives designed to achieve this aim are being taken continuously both by the Government and by the ISP.

Like the previous legislation, the Dual-Use Items and Technical Assistance Act does not include any provisions concerning the possibility of obtaining advance notification of whether an export authorization will be granted in the event of exportation of dual-use items to a specific destination. However, in practice the ISP gives companies advance notifications nonetheless. The main reason for this is that exporters are obviously keen to know whether it will be possible to carry out a transaction with a 'risk country' before the tender procedure starts. Ten advance notifications were issued in 2000.

Intangible transfers

A priority issue during the year that has been considered by most of the export control arrangements is the question of future controls of intangible transfers, i.e. transfers of software or technology without exports of physical products, such as electronic transfers of software or technical information, e.g. drawings, and educational materials via data links, fax or the Internet. The rules of the export control arrangements were essentially drafted at a time when software and computer files were normally distributed physically from the sender to the recipient on magnetic tapes, diskettes and CD-ROMs. Networks were slower and less reliable than today, and both sellers and buyers preferred to transfer software, computer files etc. by means of physical media.

Following the rapid developments in electronic information and communication services in recent years, it is now slower, more costly and often less reliable to transfer technology on physical media. Electronic transmission has become the rule rather than the exception. The lack of generally available security solutions, which used to be a limitation, is now being remedied. But export control arrangements are now facing a new kind of control problem. There is general agreement that electronic transfers must, at least partly, be controlled so as to ensure that the objectives of export controls are not undermined by the circumvention of physical controls. The discussion centres on practical ways and means of monitoring compliance with authorization requirements with respect to electronic exports while at the same time safeguarding fundamental civil rights and freedoms.

Article 2 of the new Council Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology defines 'export', inter alia, as "transmission of software or technology by electronic media, fax or telephone to a destination outside the Community". 'Exporter' is defined, inter alia, as "any natural or legal person who decides to transmit software or technology by electronic media, fax or telephone to a destination outside the Community".

Electronic transmission of software or technology via computer networks such as the Internet can basically be accomplished in two ways. One way is via e-mail, in which case both the sender and the recipient are identified. The other way is for the sender to make the software or technology available in a database (World Wide Web or other Internet databases, such as FTP databases), from which it can be downloaded by interested recipients. The latter method is commonly used, for example to support marketing and sales efforts. A problem in the context of export controls is that the recipient is not necessarily a resident of the EU but may be from a third country, and such transmission, which is initiated by the recipient, should strictly speaking be subject to authorization.

Article 21 (7) of the Regulation lays down that “relevant commercial documents relating to intra-Community transfers of dual-use items listed in Annex I shall indicate clearly that those items are subject to controls if exported from the Community.” This means that a recipient who downloads the software or technology from a database is informed that the transaction may be subject to export control. Supervision of compliance with the rules on electronic transmission, and of exports via electronic media, gives rise to complex problems both with respect to the protection of fundamental human freedoms and rights and the special need of technical expertise that is required to exercise supervision.

According to the existing Swedish rules, the customs authorities only exercise supervision of the physical transfer and exportation of products. This is an analogous to corresponding EU rules. For this reason, the supervision of electronic transmissions and electronic exports has been assigned to the ISP in the new Swedish Ordinance.

The Government has taken initiatives leading to cooperation between the Commission and the Member States on the complex issue of electronic transmissions and exports in order to promote the development of national control mechanisms that neither exaggerate nor underestimate the need of supervision and that do not differ too much. If the level of control is not harmonized to an appropriate extent, there is an obvious risk that fast-moving electronic exports will find the ‘easiest’ way out of the EU’s internal market to third countries.

18 Cryptography

The Government presented its views on certain aspects of the use and control of crypto products in its Communication to Parliament on cryptography (1998/99:116), which was adopted on May 6 1999, were.

The question of the extent to which export controls should apply to crypto products has attracted considerable attention both in Sweden and abroad. Account must be taken both of the important role these products play in the development of electronic services and the need – for reasons of national security– to prevent access to powerful cryptographic tools, for example by users who are associated with the development or production of weapons of mass destruction. The main forum for international discussions in this field is the Wassenaar Arrangement, which adopted a new list for information security products in December 1998. The requirements were relaxed somewhat in December 2000 by abolishing the requirement relating to the maximum length of crypto keys for mass market products (see the *Cryptography note*). The reason given for the alteration described above is the need to revise the list in the light of rapid technological developments in this area.

The Swedish Government’s view on this matter is that there remain national security reasons for preventing the dissemination of certain crypto products to unsuitable recipients in some countries. The trade in crypto products in the EU’s single market should be as free as possible in order to promote electronic communications and trade and the development of IT in the EU as a whole, including Sweden. In Sweden the revision of the Regulation on the control of exports of dual-use items and technology described above has led to a situation where Swedish suppliers can sell almost all types of crypto products in the EU and

in about 10 other countries, including the USA, as freely as on the Swedish domestic market.

Sweden also advocates freer trade in crypto products with third countries, taking into account security aspects. However, an international consensus must be reached on the EU Member States' controls in relation to third countries. If these countries' policies are not co-ordinated, the controls will in practice be ineffective and distort competition in the industries concerned. The need to avoid a situation in which Sweden applies less stringent controls than other important exporting countries also makes international consensus essential. Otherwise those countries might impose export restrictions on Sweden.

As regards the small number of crypto products that remain subject to export controls, the Government aims to maintain prompt and unbureaucratic procedures in order to avoid any competitive disadvantage for Swedish industry in relation to the control procedures applied by other countries, and preferably to give Swedish industry a competitive advantage. The open general authorizations that were introduced in 1999, including authorizations for exports of mass market crypto products to all the significant export markets, and a time-saving control procedure in other respects, especially with the electronic authorization application and issuing procedures that are now being introduced, ease the burden for companies. Another advantage is that with this system the export controls focus on a small number of crypto products and users, and the control aspects take precedence over free trade concerns.

In the Government's opinion, the policy on crypto products should be flexible and supportive in order to meet the growing need for secure communications and to respond to changes in other countries' policies and future technological developments in this area.

Swedish exports of military equipment in 1999

1 General background

The National Inspectorate of Strategic Products (ISP) continuously monitors the marketing and exports of military equipment from Sweden. At present about 120 companies are authorized to carry on activities in the military equipment sector (excluding about 50 'hand loaders' – private individuals who manufacture hunting and sporting ammunition), some 40 of which are active exporters. These companies are required to submit information of various kinds on their operations to the ISP. In the Bill concerning greater transparency and consultation in matters relating to exports of military equipment (1984/85:82), the Government declared its intention of submitting an annual report to Parliament on Swedish exports of military equipment. The present report concerns Swedish exports of military equipment in 2000.

2 Export authorizations granted

Table 1. Export authorizations granted for sales of military equipment during the period 1989-2000 at current prices

Year	Value at current prices, MSEK			Change in %		
	Total	MEC	OME	Total	MEC	OME
1989	7 245	-	-	+13,2	-	-
1990	2 869	-	-	-60,4	-	-
1991	2 487	-	-	-13,3	-	-
1992	2 992	-	-	+20,3	-	-
1993	6 106	1 942	4 164	+104,1	-	-
1994	4 268	1 991	2 277	-30,1	+2,5	-45,3
1995	6 543	2 011	4 532	+53,3	+1,0	+99,0
1996	2 859	662	2 197	-56,3	-67,1	-51,5
1997	5 061	2 481	2 580	+77,0	+274,8	+17,4
1998	3 273	1 449	1 824	-35,3	-41,6	-29,3
1999	7 153	1 082	6 071	+118,5	-25,3	+232,8
2000	4 640	2 369	2 271	-35,1	+118,9	-62,6

Starting in 1993, when the distinction was introduced, the value of the export authorizations granted has been divided into two subcategories: Military Equipment

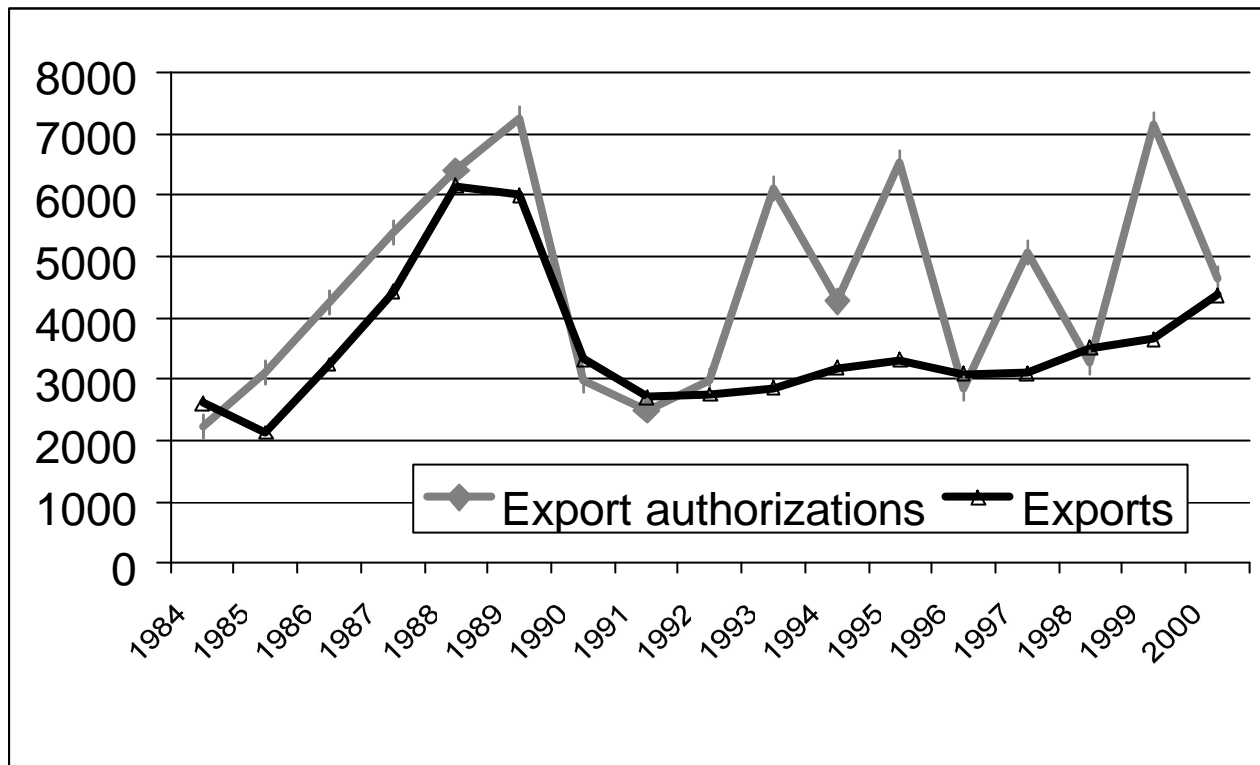
for Combat Purposes (MEC) and Other Military Equipment (OME). The latter category mainly comprises equipment that was previously not subject to any controls. Owing to this broadening of the concept of military equipment, subsequent statistics also include equipment that was not previously controlled. Some exports of equipment for civilian or partially civilian use are now included in the statistics, unlike the statistics for the period during which the traditional concept of military equipment applied.

Compared with 1999, when the value of export sales for which authorizations were granted was exceptionally high, the value in 2000 fell by about 35.1%. The 2000 value (MSEK 4,640) is very close to the average for the specified 12-year period. In addition, the figures for 2000 indicate a shift from OME, which dropped by 63%, to MEC, which increased by 119%. Since sales of OME predominated in 1999, this shift has resulted in a balance between the two categories in value terms in 2000.

Export authorizations relate on the one hand to many small transactions involving, for example, spare parts or ammunition, and on the other hand to a limited number of very large transactions involving major systems with deliveries that extend over several years. A few large transactions, which do not necessarily occur every year, can thus have a marked effect on the results in a given year. As may be seen from figure 1 below, statistics on export authorizations display considerable differences from one year to another. However, these variations have a limited impact on the size of actual exports of Swedish military equipment in any given year, since exports connected with a major export authorization are usually spread over several years. It is not possible to make accurate predictions of the extent to which an increase in export authorizations will be reflected in actual exports the following year, since this depends on production and supply plans, which may differ substantially not only between various types of equipment but also from contract to contract.

Figure 1. Value of export authorizations and actual exports of military equipment in MSEK, 1984-2000

The Swedish Government aims to report exports of military equipment as openly as



possible. Several new categories of data, which specify in greater detail the information given, are introduced in this year's Report. One of these will be found below in table 2, which shows the countries to which export authorizations were granted and the categories of equipment concerned. The data are presented by the main areas (MEC 1-11, OME 21-37) defined in the Military Equipment Specification, which will be found in table 4. More detailed information on the content of each category will be found in Annex 1 of the Military Equipment Ordinance (1992: 1303).

Table 2. Export authorizations granted in 2000 by countries and main areas defined in the Military Equipment Classification

Country	MEC	OME	No. of auth.
Australia	3, 4, 7	22, 23, 24, 28	9
Austria	3, 6, 7	22, 23, 24, 29, 35	24
Belgium	3	21, 22, 23, 24	32
Brazil	3, 5	22, 23, 25, 35	6
Brunei	-	21, 23	2
Bulgaria	-	23	1
Canada	2, 3, 4, 7	21, 22, 23, 25, 35, 36	27

Chile	-	22	2
Czech Republic	3, 7	23	10
Denmark	3, 7	21, 23, 25, 26, 35	25
Estonia	2, 3, 7	21, 22, 23	7
Finland	2, 3, 5, 7	22, 23, 25, 29, 30	29
France	3, 7	23, 25, 35	18
Germany	3, 6, 7	21, 22, 23, 24, 25, 26, 29, 30, 33	83
Greece	3, 7	21, 23, 27, 36	11
Hungary	3	23	3
India	2	22, 24, 25, 36	8
Indonesia	-	22, 37	3
Ireland	2	22, 23	3
Italy	3, 7	21, 23, 33	12
Japan	3	21, 23, 24, 26, 35, 36	22
Latvia	1, 2, 3, 5	22, 23, 25, 35	15
Lithuania	2, 3	22, 23	4
Malaysia	5	22	3
Mexico	8	22, 28	6
Netherlands	-	21, 22, 23, 25, 35	23
New Zealand	3	23, 35	5
Norway	3, 7	21, 22, 23, 24, 25, 26, 28, 29, 30, 34, 36, 37	61
Oman	-	25, 35	3
Pakistan	4	22	3
Peru	-	23	2
Poland	3, 7	23, 24, 35	6
Portugal	3	21, 23, 36	4
Romania	7	-	1
Russian Federation	-	23	1
Singapore	3, 4, 7, 8	21, 22, 24, 25, 26, 28, 37	41
South Africa	3, 7	21, 23	10
Spain	3, 7	23, 25, 26, 30	8
Switzerland	3, 7	21, 23, 24, 25, 30	25
Thailand	4	22	4
United Arab Emirates	-	25	1
United Kingdom	3, 7	21, 22, 23, 24, 25, 29, 33	26
Tunisia	7	25	2
Turkey	-	23	1
USA	3, 7	21, 22, 23, 24, 25, 26, 29, 30, 33, 35, 36	73
Vietnam	-	25	1
Total authorizations			657

3 Actual deliveries

The ISP's export statistics are based on the export companies' statutory statements on the invoiced value of equipment supplied. As can be seen from table 3 below, Swedish exports of military equipment increased in 2000 by 19.6% compared with 1999 at current prices. The increase in exports of OME was substantially greater than the increase in exports of MEC: 28.4% compared with 12.0%. Exports of military equipment as a percentage of total exports also increased, from 0.52% to 0.55%.

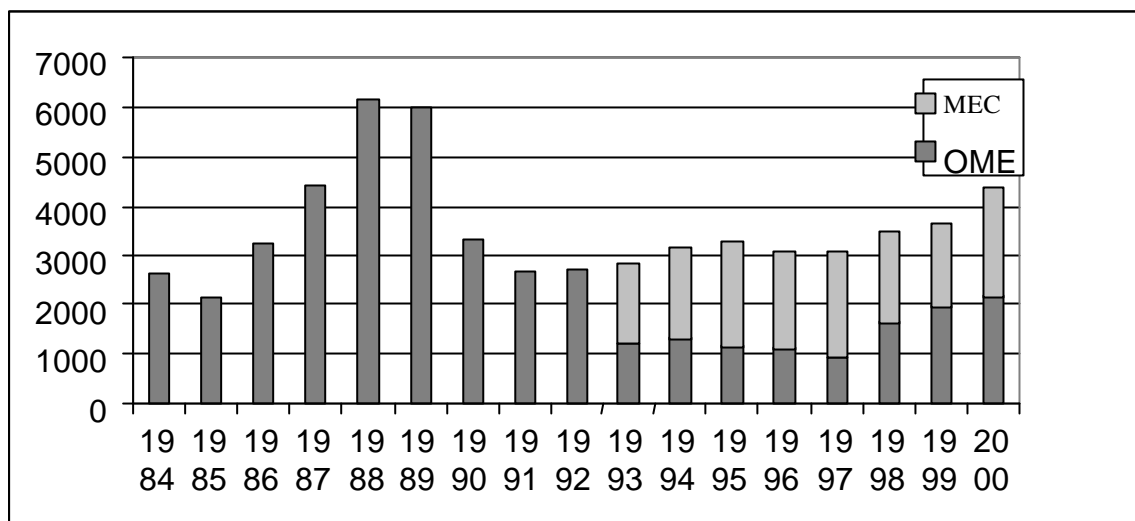
Table 3. Value of exports of Swedish military equipment during the period 1989-2000 at current prices

Year	Sweden's total exports of goods (curr.prices) MSEK	Exports of military equipment						
		Share of total exports %	Current prices, MSEK			Change in %		
			Total	MEC	OME	Total	MEC	OME
1989	332 580	1,81	6 005	-	-	-2,4	-	-
1990	339 850	0,98	3 327	-	-	-44,6	-	-
1991	332 779	0,81	2 705	-	-	-18,7	-	-
1992	326 031	0,84	2 753	-	-	+1,8	-	-
1993	388 290	0,74	2 863	1 216	1 647	+4,0	-	-
1994	471 602	0,68	3 181	1 347	1 834	+11,1	+10,8	+11,4
1995	567 836	0,58	3 313	1 148	2 165	+4,1	-14,8	+18,0
1996	569 167	0,54	3 087	1 136	1 951	-6,8	-1,0	-9,9
1997	632 709	0,49	3 101	939	2 162	+0,5	-17,3	+10,8
1998	673 091	0,52	3 514	1 662	1 852	+13,3	+77,0	-14,3
1999	700 945	0,52	3 654	1 954	1 700	+4,0	+17,6	-8,2
2000	796 673	0,55	4 371	2 189	2 182	+19,6	+12,0	+28,4

Changes in the above statistics from one year to another cannot be used as a basis for long-term assessments of export trends. Individual sales of large systems give rise to substantial fluctuations.

Developments in export markets in the last ten years have been marked by the end of the cold war, which caused many military powers to reduce their appropriations for defence equipment. The impact of the declining export market on Swedish exports of military equipment was partly masked by the broadening of the concept of military equipment which was introduced in 1993 and meant that many new types of matériel were included in export statistics for the first time. Exports of 'traditional' military equipment fell by 50% between 1992 and 1993, which was concealed in the total figures by the addition of equipment in the 'Other Military Equipment' category that had not previously been registered. This can be seen from figure 2 below.

Figure 2. Value of Swedish exports of military equipment in MSEK during the period 1984-2000, divided after 1992 into Other Military Equipment (OME) and Military Equipment for Combat Purposes (MEC)



Swedish exports of military equipment are also recorded in the general foreign trade statistics which are based on information supplied by the customs authorities to Statistics Sweden (SCB). However, SCB statistics also include civilian products to which the Military Equipment Act is not applicable. These figures cannot be compared with ISP statistics and are not included in this report. Report 1996/97:138 contains a detailed description of the breakdown of items in the foreign trade statistics. Report 1996/97:138 contained a description of the breakdown of the trade statistics.

4 Breakdown of exports by types of equipment

In table 4 exports of military equipment are broken down into the main areas established in the Military Equipment Specification. This breakdown of the data gives some idea of the structure of exports of military equipment as regards equipment categories. As is the case for other types of export statistics, it is not advisable to draw far-reaching conclusions about export trends, since the volume of exports is not sufficiently large to indicate even flows of equipment in all the categories produced in Sweden; rather, the figures indicate a random emphasis that shifts over time depending on the export contracts won by the industry.

For the period to which the data relate, i.e. 1999-2000, it appears that small-calibre barrel weapons (MEC 1), the most important category of ‘small arms and light weapons’, play a negligible role in Swedish exports. This is worth bearing in mind in the light of Sweden’s active participation in the preparations for the UN Conference on small arms in July 2001. The small-calibre barrel weapons mentioned under OME 21 are hunting and sporting weapons, exports of which are controlled in order to avoid large shipments of such weapons being used for military purposes.

Table 4. Value of Swedish exports of military equipment during the period 1999-2000 in MSEK in accordance with the main areas defined in the Military Equipment Classification

		1999	2000
<i>Military Equipment for Combat Purposes (MEC)</i>			
MEC1	Small-calibre barrel weapons	0	0
MEC2	Cannons, anti-tank guns	405	67
MEC3	Ammunition	426	143
MEC4	Missiles, rockets, torpedoes, bombs	186	144
MEC5	Firing control equipment	257	522
MEC6	ABC weapons	1*	0,8*
MEC7	Gunpowder and explosives	89	115
MEC8	Warships	144	535
MEC9	Combat aircraft	0	0
MEC10	Combat vehicles	444	663
MEC11	Directed energy weapon systems	0	0
TOTAL MEC		1 952	2 190

* The exports reported under category MEC6 consist of components for tear-gas products to countries in Western Europe

Other Military Equipment (OME)

OME21	Small-calibre barrel weapons, parts etc.	6	6
OME22	Cannons, anti-tank guns, parts etc.	112	153
OME23	Ammunition for training purposes etc.	316	316
OME24	Training rockets, sweeping equipment etc.	34	36
OME25	Reconnaissance and measurement equipment	384	798
OME26	Protective equipment etc.	30	21
OME27	Gunpowder and explosives components	5	0,0008
OME28	Surveillance vessels etc.	1	81
OME29	Aircraft designed for military use etc.	75	50
OME30	Vehicles designed for military use etc.	275	231
OME31	Directed energy weapon systems	0	0
OME32	Fortifications	0	0
OME33	Electronic equipment for military use	40	59
OME34	Photographic and electro-optical equipment	3	0,5
OME35	Training equipment	397	407
OME36	Manufacturing equipment	14	23
OME37	Software	9	1
TOTAL OME		1 701	2 182

5 The geographical distribution of exports

A total of 42 countries received deliveries of Swedish military equipment in 2000, compared with 49 in 1999 and 51 in 1998. The regional distribution in table 5 indicates the normal pattern, i.e. the largest share of Swedish exports of military equipment is destined for the Nordic countries, other Western European countries, North America, and Australia and New Zealand. These destinations accounted for about 65% of total exports in 1998; the corresponding figure for 1999 was 76% and for 2000 64%. Outside this groups of countries there has been a notable increase in exports in recent years to Latin America, while Asia's share has declined.

Table 5. Exports of military equipment by regions as a percentage of the value during the period 1998-2000

	1998			1999			2000		
	MEC	OME	Total	MEC	OME	Total	MEC	OME	Total
• Nordic countries	11	44	27	39	26	33	42	17	30
• Other Western European countries	22	21	21	27	37	32	11	32	21
• Central and Eastern Europe	1	2	1	0	2	1	2	0	1
• North America	17	10	14	7	13	10	5	17	11
• Latin America	8	16	12	23	12	18	16	21	19
• Australia and New Zealand	3	3	3	1	2	1	4	1	2
• Asia	38	4	22	3	7	5	20	12	16
• Africa	0	0	0	0	0	0	1	0	0
TOTAL	100	100	100	100	100	100	100	100	100

The following tables show the proportion of exports of military equipment to recipient countries. Table 6 includes all countries where exports of military equipment have exceeded MSEK 1 in any year during the period 1998-2000.

The largest individual recipient of Swedish military equipment in 2000 was Norway (MSEK 1,152), followed by Singapore (MSEK 455), the USA (MSEK 398), Venezuela (MSEK 329) and Germany (MSEK 280). These five destinations accounted for about 60% of total Swedish exports of military equipment.

Table 6. Exports of military equipment by countries 1998-2000, MSEK

	1998			1999			2000		
	MEC	OME	Total	MEC	OME	Total	MEC	OME	Total
Australia	57,9	59,4	117,3	21,0	31,4	52,4	83,6	16,8	100,4
Austria	114,7	45,9	160,5	79,1	84,4	163,5	69,3	24,7	94,0
Bahrain	-	0,8	0,8	0,0	0,1	0,1	-	1,1	1,1
Belgium	-	11,5	11,5	0,1	17,6	17,6	0,09	85,0	85,09
Brazil	166,4	98,4	264,8	201,1	161,3	362,4	5,6	242,8	248,4
Canada	8,0	9,2	17,1	25,6	31,6	57,2	18,3	49,7	68,0
Czech Republic	-	-	-	1,5	0,8	2,3	2,2	0,5	2,7
Denmark	64,8	58,8	123,6	89,8	68,2	158,0	6,2	37,9	44,1
Estonia	-	-	-	0,0	2,8	2,8	0,07	0,07	0,14
Finland	2,1	40,8	42,9	1,7	19,1	20,8	34,9	62,0	96,9
France	108,2	42,7	150,9	125,4	77,1	202,5	0,6	81,5	82,1
Germany	24,9	220,2	245,1	30,1	313,1	343,2	24,6	255,3	279,9
Greece	21,1	0,4	21,6	0,0	0,2	0,2	59,4	0,8	60,2
India	-	5,8	5,8	0,0	5,0	5,0	1,7	119,2	120,9
Ireland	5,6	6,8	12,4	6,0	3,7	9,7	16,7	12,3	29,0
Italy	3,1	6,1	9,2	4,2	40,3	44,5	3,6	74,4	78,0
Japan	0,5	102,3	102,8	0,2	19,5	19,7	0,3	10,5	10,8
Kuwait	-	6,0	6,0	-	-	-	-	-	-
Latvia	-	-	-	0,0	2,0	2,0	4,0	1,0	5,0
Lithuania	35,2	8,9	44,1	4,9	6,1	10,9	23,8	0,1	23,9
Malaysia	2,6	17,2	19,9	30,7	3,9	34,6	80,5	0,3	80,8
Mexico	-	-	-	63,2	1,0	64,1	202,7	29,1	231,8
Nepal	22,7	1,9	24,6	-	-	-	-	-	-
Netherlands	0,1	3,5	3,6	-	9,4	9,4	0,1	10,5	10,6
New Zealand	-	1,5	1,5	-	0,7	0,7	2,5	0,8	3,3
Norway	667,3	104,7	772,0	676,3	355,9	1 032,2	877,8	274,0	1 151,8
Oman	-	0,2	0,2	-	3,6	3,6	-	0,4	0,4
Pakistan	34,2	4,1	38,3	-	5,1	5,1	-	0,3	0,3
Poland	0,0	0,5	0,5	0,4	20,2	20,6	16,4	1,5	17,9
Portugal	-	-	-	1,1	0,2	1,2	-	0,1	0,1
Saudi Arabia	-	1,0	1,0	0,4	0,4	0,8	-	0,2	0,2
Singapore	2,2	489,7	492,0	20,6	25,8	46,4	333,5	121,2	454,7
Slovenia	-	1,9	1,9	-	1,3	1,3	-	0,6	0,6
Spain	0,6	3,3	3,9	0,6	8,4	8,9	0,8	46,3	47,1
Switzerland	65,6	20,9	86,5	276,1	21,6	297,7	59,9	34,1	94,0

	1998			1999			2000		
	MEC	OME	Total	MEC	OME	Total	MEC	OME	Total
Thailand	-	65,0	65,0	-	51,3	51,3	21,9	0,7	22,6
Tunisia	-	1,9	1,9	-	1,6	1,6	13,9	6,3	20,2
Turkey	-	-	-	-	-	-	-	1,4	1,4
United Arab Emirates	-	6,2	6,2	0,0	8,3	8,3	-	0,3	0,3
United Kingdom	0,2	37,0	37,2	0,6	58,9	59,4	2,1	70,0	72,2
USA	155,0	309,9	464,4	116,4	187,7	304,0	80,2	317,4	397,6
Venezuela	97,5	54,6	152,1	177,3	48,7	226,0	141,4	187,8	329,2
Other countries	1,1 ¹	2,0 ²	3,1	0,3 ³	1,3 ⁴	1,6	0,5 ⁵	3,1 ⁶	3,6
TOTAL	1 662	1 852	3 514	1 954	1 700	3 654	2 189	2 182	4 371

In certain cases the total amounts may differ from the sum of the OME and MEC amounts, which is because all the figures are given to one decimal place.

Exports of military equipment totalling less than SEK 50,000 are recorded in table 6 as MSEK 0.0.

¹ South Africa and the Czech Republic.

² Argentina, Estonia, Hong Kong (China), Iceland, Mauritius, Namibia, New Caledonia (France), Peru, Russia, Czech Republic, Hungary and Zimbabwe.

³ Israel, Peru and South Africa.

⁴ Andorra, Hong Kong (China), Iceland, Mauritius, Namibia, Peru, South Africa and Hungary.

⁵ Iceland, South Africa and Hungary.

⁶ Andorra, Brunei, Bulgaria, Chile, Indonesia, Iceland, Mauritius, Namibia, Peru, Russia, South Africa and Hungary.

Table 7 contains a new category of data. The data on exports by countries in table 6, which only show whether the exported military equipment is OME or MEC, are supplemented by data broken down into the relevant types of equipment for each destination. As in table 2, the data are broken down into the main areas defined in the Military Equipment Specification, and these categories appear in table 4. More detailed information on the content of each category will be found in Annex 1 to the Military Equipment Ordinance (1992:1303).

Table 7. Exports of military equipment in 2000 by countries and the main areas defined in the Military Equipment Specification

Country	MEC	OME
Australia	3, 4, 5, 7	22, 23, 24, 25, 37
Austria	3, 5, 6, 7	22, 23, 24, 29, 35
Bahrain	-	25
Belgium	3	21, 23, 24, 25, 30
Brazil	5	22, 25, 36, 37
Canada	2, 3, 4, 7	21, 22, 23, 25, 35, 36
Czech Republic	3, 7	23
Denmark	3, 4, 5, 7	21, 22, 23, 24, 25, 26, 35
Estonia	3, 7	21, 23, 26
Finland	2, 3, 7	21, 22, 23, 24, 25, 29, 30, 35
France	3, 7	23, 25, 30, 33, 35
Germany	3, 4, 6, 7	21, 22, 23, 24, 25, 26, 29, 30, 33, 34, 35, 37
Greece	3, 7	21, 23, 25, 27, 36
India	2, 5	22, 24, 25, 36
Ireland	2	22, 23
Italy	3, 7	23, 25, 33, 35
Japan	3	23, 24, 35, 36
Latvia	2, 3	23, 35
Lithuania	2, 3	23
Malaysia	5	22, 25
Mexico	8	22, 23, 28
Netherlands	3, 7	21, 22, 23, 25, 29, 35, 36
New Zealand	3	22, 23, 35
Norway	3, 4, 5, 7, 10	21, 22, 23, 24, 25, 26, 28, 29, 30, 35, 36, 37
Oman	-	35, 37
Pakistan	-	22
Poland	3, 5, 7	23, 24, 35
Portugal	3	23
Saudi Arabia	-	33, 35
Singapore	3, 4, 7, 8	22, 24, 25, 26, 28
Slovenia	-	23
Spain	3, 7	23, 26, 30
Switzerland	3, 7, 10	23, 24, 25, 30
Thailand	4	25, 35
Tunisia	4, 7	24, 25, 35, 36
Turkey	-	23
United Arab Emirates	-	25
United Kingdom	3, 7	21, 22, 23, 24, 25, 29, 30, 33, 35, 36
USA	3, 7	21, 22, 23, 24, 25, 26, 29, 30, 33, 35, 36
Venezuela	2, 4, 5	24, 25, 30, 35

6 Grants of manufacturing rights, cooperation etc.

Five authorizations were granted in 2000 for the transfer of manufacturing rights to other countries. The countries concerned were Malaysia, Switzerland, South Africa and the USA (two authorizations).

12 cooperation agreements were examined and approved for joint development or production with the following countries: Chile, Finland, the Netherlands, Greece, Malaysia (two authorizations), Switzerland, the United Kingdom (two authorizations), South Africa, Germany and the USA.

In assessments of cases involving the transfer of manufacturing rights or cooperation with foreign partners, the stricter criteria applied to exports of *Military Equipment for Combat Purposes* are applied irrespective of the type of export, because this kind of cooperation normally results in a lengthier commitment than in the case of regular exports. The scope of such agreements, their duration, reexport clauses etc. are examined in detail in these cases.

Under the Military Equipment Act (1992:1300), entities which have transferred manufacturing rights for military equipment to a party in a foreign country or have entered into a cooperation agreement with a foreign partner are required to report on an annual basis whether the agreement is still in force, whether manufacture or other cooperation under such an agreement still takes place and how such cooperation is carried on. Six authorizations were granted in 1999 for the transfer of manufacturing rights in other countries. The countries concerned were France, Malaysia, Norway, Poland, South Africa and the USA.

In 2000, 10 companies reported a total of 159 licensing and cooperation agreements in 26 countries. Of these, 10 companies had 82 licensing agreements in 21 countries and 6 companies had 77 cooperation agreements in 20 countries.

7 Military-oriented training

Under the Military Equipment Act foreign subjects may not be given military-oriented training within or outside Sweden without the permission of the National Inspectorate of Strategic Products. No such permission was granted in 2000.

The prohibition does not apply to training that is related to sales of military equipment for which an export authorization has been granted.

8 Reporting of ownership in foreign legal entities

Under the Military Equipment Act (1992:1300), companies that have been granted authorization to manufacture or supply military equipment must submit annual reports on their ownership of foreign legal entities that are engaged in the development, manufacture, marketing or sales of military equipment. In 2000, 7 companies reported ownership in 41 foreign legal entities in 15 countries.

9 The exporting companies

Some 120 companies are authorized to manufacture military equipment, and about 40 of these exported such equipment in 1999. The largest exporters of military equipment in 2000 were, in descending order: Ericsson Microwave Systems AB, Hägglunds Vehicle AB, Saab Bofors Dynamics AB, Kockums AB, Saab Training Systems AB and N. Sundin Dockstavarvet AB. The export revenues of the top three exporting companies, Ericsson Microwave Systems AB, Hägglunds Vehicle AB and Saab Bofors Dynamics AB, were between MSEK 500 and MSEK 1,000 in 2000. The export revenues of the other three companies were between MSEK 200 and MSEK 600. Three other companies exported equipment worth more than MSEK 100, viz. Norma Precision AB, Celsius Weapon Systems AB and Bofors Defence AB.

The export sales of the following five companies were between MSEK 50 and 100: Nexplo Bofors AB, Saab Tech Electronics AB, Saab Tech Vetronics AB, Saab Bofors Dynamics AB and Scania CV AB. The export sales of the following ten companies totalled MSEK10-30: Saab Tech Systems AB, Åkers Krutbruk Protection AB, Vanäsverken AB, AerotechTelub AB, Saab AB/Saab Aerospace, Nammo LIAB AB, Ericsson Saab Avionics AB, Volvo Aero AB, Polyamp AB and Saab Bofors Underwater Systems AB.

The export sales of the following companies totalled MSEK 1-10: Saab Dynamics AB, the Defence Matériel Administration (transport), New Sweden Construction AB, Airsafe Sweden AB, PRECharge AB, Telub AB, Applied Composites AB ACAB, BEFYRAEM Service & Innovation AB (B4M) and CNC-Process i Hova AB. The following companies had export sales of under SEK 100,000 in 2000: Waltreco AB, New Pac Safety AB, Degerfors Formnings AB, Aimpoint AB, Karlskoga CNC Quality AB and Johan Hansen.

10 Employment trends etc. in companies that produce military equipment

14 of the largest manufacturers of military equipment in Sweden are members of the Association of Swedish Defence Industries, which was founded in 1986. Its members account for the majority of exports of military equipment. The Association defines exports of military equipment as member companies' supplies to other countries of "military equipment and civil products to military customers", i.e. a definition that is not strictly limited to military equipment as such.

According to the most recent statistics issued by the Association, member companies employed 26,400 people in their military equipment divisions in 1987, a figure that has subsequently fallen to 22,780 in 1990, to 14,250 in 1997 and finally to 14,225 in 1998. It should be noted, however, that employment in the Swedish defence industry has not been taken into account in the assessment of exports of military equipment. This can be seen from the criteria in the Swedish Guidelines for Exports of Military Equipment (Annex 3).

These companies' exports of military equipment according to the Association's definition totalled MSEK 6,700 in 1987, MSEK 6,294 in 1990, MSEK 3,667 in 1997 and MSEK 4,434 in 1998. Exports of military equipment in 1998 increased by

20.9% compared with 1997. The companies' sales to the Swedish armed forces fell between 1997 and 1998 from MSEK 13,136 to MSEK 12,758, or by 2.9%.

Export controls of dual-use items in 2000

It is not possible to present complete statistics on dual-use items like those for military equipment, since the control of dual-use items is based on the principle of freest possible trade, which means that controls are only applied in certain cases. It is, however, possible to report and compare trends over time concerning the number of applications for various types of authorizations – global, general and individual – in various control areas.

Table 1. Number of applications for authorization for exports of dual-use items, 1998-2000

Type of export authorization	1998	1999	2000
Global	36	18 ¹	25
General	30	15 ²	X ³
Individual, of which	381	347	198
<i>Wassenaar Arrangement</i>	346	306 ⁴	156 ⁴
<i>Missile Technology Control Regime</i>	5	0	2
<i>Nuclear Suppliers Group (Part 2)</i>	5	5	6
<i>Australia Group</i>	25	36	34

Global authorizations can be granted for frequent exports of products to civilian buyers for non-military end use. Authorizations are granted for all destinations except for a small number of countries for which an individual authorization application procedure is compulsory. Global authorizations are not issued for products included in product lists kept by the MTCR, the NSG or the AG. *General authorizations* were introduced by the new Regulation for exports of certain items to certain non-EU countries (see Annex II to Council Regulation 1334/2000). The new Community authorization is one more expression of the consensus between the Member States as regards exports to certain countries. *Individual authorizations* are issued to exporters for exports of particularly sensitive products or to particularly sensitive destinations.

¹ This decrease is due to the fact that the validity of global authorizations is two years, and this year relatively few authorizations were renewed following expiry of the period of validity.

² The sharp drop in the number of general export authorizations is due to the introduction of the option of global authorizations in August 1999.

³ No longer applicable owing to the adoption of the new Council Regulation 1334/2000 of September 28 2000 and the general authorizations introduced earlier.

⁴ This decrease is due, inter alia, to the introduction of less stringent licence requirements for mass market crypto products.

Swedish Guidelines for the Exportation of Military Equipment and Other Forms of Collaboration Abroad

A permit for the exportation of military equipment, or for other forms of collaboration abroad involving military equipment, may only be granted if such exportation or cooperation

1. is considered necessary to fulfil the Swedish defence forces' requirements for matériel or know-how, or is otherwise desirable for reasons of national security, and
2. is not in conflict with the principles and aims of Swedish foreign policy.

When considering a request for a permit, the Government is responsible for making an overall assessment, taking into account all the relevant circumstances and applying the basic principles stated above.

There are no obstacles of a foreign policy nature to collaboration with, or exportation to, the Nordic countries and the traditionally neutral countries of Europe. In principle, collaboration with these countries is consistent with the requirements of Sweden's national security. To the extent that collaboration with other members of the European Communities is extended, the same principles should be applied to collaboration with, and exports to, these countries.

A permit may only be granted with regard to a Government, a Government Authority, or a Government-authorized recipient; furthermore, an End User Declaration (EUD) or an Own Production Declaration (OPD) should be presented when equipment is to be transferred abroad. A Government which, despite assurances to the Swedish Government, has allowed or neglected to prevent the unauthorized re-exportation of Swedish military equipment, shall not in principle be eligible to receive further equipment from Sweden as long as these circumstances remain.

A permit for exportation or for other forms of collaboration abroad under the Military Equipment Act may not be granted if this would contravene an international agreement which Sweden has signed, a Resolution adopted by the United Nations Security Council, or a rule of international law concerning exports from neutral states in times of armed conflict (unconditional obstacles).

A permit for exportation of military equipment or for other forms of collaboration abroad comprising military equipment, may not be granted when it involves a country in which widespread and serious violations of human rights occur. Respect for human rights is an essential condition for the issuance of permits.

A permit for the exportation of Military Equipment for Combat Purposes (MEC), or for other collaboration involving MEC or Other Military Equipment (OME), should not be granted for a country involved in armed conflict with another country – whether or not war has been declared – or for a country involved in an international conflict which may lead to an armed conflict, or for a country in which internal armed disturbances are taking place.

A permit should be granted for the exportation of equipment designated as Other Military Equipment (OME) on condition that the recipient country is not involved in an armed conflict with another country, that it is not the scene of internal armed disturbances or widespread and serious violations of human rights, and that no unconditional obstacle exists.

A permit that has been granted should be revoked if an unconditional obstacle arises, or if the recipient country becomes involved in an armed conflict with another country or the scene of internal armed disturbances. When one of the latter two situations has arisen, the Government may refrain from revoking the permit in exceptional cases, if this is consistent with the rules of international law and with the principles and aims of Swedish foreign policy.

Permits should be granted for the exportation of spare parts pertaining to equipment exported previously with the requisite permission, unless an unconditional obstacle exists. The same applies to other deliveries of, for example, ammunition linked with the previous exports of equipment or otherwise in cases where denial of permission would be unreasonable.

With reference in particular to agreements with a foreign party on the joint development or production of military equipment, the examination of each case shall be based on the fundamental principles given above. Exports to the cooperating country under the agreement should be permitted unless an unconditional obstacle arises. If an agreement with a foreign party is based on an assumption of exportation from the cooperating country to third countries, and the equipment concerned has a predominantly Swedish identity, the question of such exports should be assessed in accordance with Swedish guidelines.

Regarding equipment with a predominantly foreign identity, exports from the cooperating country to third countries should be assessed in accordance with the export regulations of the cooperating country. If there is a strong Swedish defence policy interest in a certain agreement, and the cooperating country requires that certain exports take place from that country, exports to third countries under the export regulations of the cooperating country may be allowed in other circumstances too.

In cases where collaboration with another country in the area of military equipment is of considerable magnitude and importance to Sweden, a government-to-government agreement should be reached between Sweden and the cooperating country. Before agreements of this kind are signed, the Advisory Council on Foreign Affairs should be consulted.

**EUROPEAN UNION
THE COUNCIL**

Brussels, 5 June 1998

(OR.en)

8675/2/98

**EUROPEAN UNION CODE OF CONDUCT
ON ARMS EXPORTS**

THE COUNCIL OF THE EUROPEAN UNION,

BUILDING on the Common Criteria agreed at the Luxembourg and Lisbon European Councils in 1991 and 1992,

RECOGNIZING the special responsibility of arms exporting states,

DETERMINED to set high common standards which should be regarded as the minimum for the management of, and restraint in, conventional arms transfers by all Member States, and to strengthen the exchange of relevant information with a view to achieving greater transparency,

DETERMINED to prevent the export of equipment which might be used for internal repression or international aggression or contribute to regional instability,

WISHING within the framework of the Common Foreign and Security Policy (CFSP) to reinforce cooperation and to promote convergence in the field of conventional arms exports,

NOTING complementary measures taken against illicit transfers, in the form of the EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms,

ACKNOWLEDGING the wish of Member States to maintain a defence industry as part of their industrial base as well as their defence effort,

RECOGNIZING that States have a right to transfer the means of self-defence, consistent with the right of self-defence recognized by the UN Charter,

HAS DRAWN UP the following Code of Conduct together with Operative Provisions:

CRITERION ONE

Respect for the international commitments of Member States, in particular the sanctions decreed by the UN Security Council and those decreed by the Community, agreements on non-proliferation and other subjects, as well as other international obligations

An export licence should be refused if approval would be inconsistent with, inter alia:

- (a) the international obligations of Member States and their commitments to enforce UN, OSCE and EU arms embargoes;
- (b) the international obligations of Member States under the Nuclear Non-Proliferation Treaty, the Biological and Toxin Weapons Convention and the Chemical Weapons Convention;
- (c) the commitments of Member States in the framework of the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers Group and the Wassenaar Arrangement;
- (d) the commitment of Member States not to export any form of anti-personnel landmine.

CRITERION TWO

The respect of human rights in the country of final destination

Having assessed the recipient country's attitude towards relevant principles established by international human rights instruments, Member States will:

- (a) not issue an export licence if there is a clear risk that the proposed export might be used for internal repression.
- (b) exercise special caution and vigilance in issuing licences, on a case-by-case basis and taking account of the nature of the equipment, to countries where serious violations of human rights have been established by the competent bodies of the UN, the Council of Europe or by the EU;

For these purposes, equipment which might be used for internal repression will include, inter alia, equipment where there is evidence of the use of this or similar equipment for internal repression by the proposed end-user, or where there is reason to believe that the equipment will be diverted from its stated end-use or end-user and used for internal repression. In line with paragraph 1 of the Operative Provisions of this Code, the nature of the equipment will be considered carefully, particularly if it is intended for internal security purposes. Internal repression includes, inter alia, torture and other cruel, inhuman and degrading treatment or punishment, summary or arbitrary executions, disappearances, arbitrary detentions and other major violations of human rights and fundamental freedoms as set out in relevant international human rights instruments, including the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.

CRITERION THREE

The internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts

Member States will not allow exports which would provoke or prolong armed conflicts or aggravate existing tensions or conflicts in the country of final destination.

CRITERION FOUR

Preservation of regional peace, security and stability

Member States will not issue an export licence if there is a clear risk that the intended recipient would use the proposed export aggressively against another country or to assert by force a territorial claim.

When considering these risks, Member States will take into account inter alia:

- (a) the existence or likelihood of armed conflict between the recipient and another country;
- (b) a claim against the territory of a neighbouring country which the recipient has in the past tried or threatened to pursue by means of force;
- (c) whether the equipment would be likely to be used other than for the legitimate national security and defence of the recipient;
- (d) the need not to affect adversely regional stability in any significant way.

CRITERION FIVE

The national security of the Member States and of territories whose external relations are the responsibility of a Member State, as well as that of friendly and allied countries

Member States will take into account:

- (a) the potential effect of the proposed export on their defence and security interests and those of friends, allies and other Member States, while recognizing that this factor cannot affect consideration of the criteria on respect for human rights and on regional peace, security and stability;
- (b) the risk of use of the goods concerned against their forces or those of friends, allies or other Member States;
- (c) the risk of reverse engineering or unintended technology transfer.

CRITERION SIX

The behaviour of the buyer country with regard to the international community, as regards in particular its attitude to terrorism, the nature of its alliances and respect for international law

Member States will take into account inter alia the record of the buyer country with regard to:

- (a) its support or encouragement of terrorism and international organized crime;
- (b) its compliance with its international commitments, in particular on the non-use of force, including under international humanitarian law applicable to international and non-international conflicts;
- (c) its commitment to non-proliferation and other areas of arms control and disarmament, in particular the signature, ratification and implementation of relevant arms control and disarmament conventions referred to in point (b) of Criterion One.

CRITERION SEVEN

The existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions

In assessing the impact of the proposed export on the importing country and the risk that exported goods might be diverted to an undesirable end-user, the following will be considered:

- (a) the legitimate defence and domestic security interests of the recipient country, including any involvement in UN or other peace-keeping activity;
- (b) the technical capability of the recipient country to use the equipment;
- (c) the capability of the recipient country to exert effective export controls;
- (d) the risk of the arms being re-exported or diverted to terrorist organizations (anti-terrorist equipment would need particularly careful consideration in this context).

CRITERION EIGHT

The compatibility of the arms exports with the technical and economic capacity of the recipient country, taking into account the desirability that states should achieve their legitimate needs of security and defence with the least diversion for armaments of human and economic resources

Member States will take into account, in the light of information from relevant sources such as UNDP, World Bank, IMF and OECD reports, whether the proposed export would seriously hamper the sustainable development of the recipient country. They will consider in this context the recipient country's relative levels of military and social expenditure, taking into account also any EU or bilateral aid.

OPERATIVE PROVISIONS

1. Each Member State will assess export licence applications for military equipment made to it on a case-by-case basis against the provisions of the Code of Conduct.
2. The Code of Conduct will not infringe on the right of Member States to operate more restrictive national policies.
3. Member States will circulate through diplomatic channels details of licences refused in accordance with the Code of Conduct for military equipment together with an explanation of why the licence has been refused. The details to be notified are set out in the form of a draft pro-forma set out in the Annex hereto. Before any Member State grants a licence which has been denied by another Member State or States for an essentially identical transaction within the last three years, it will first consult the Member State or States which issued the denial(s). If following consultations, the Member State nevertheless decides to grant a licence, it will notify the Member State or States issuing the denial(s), giving a detailed explanation of its reasoning.

The decision to transfer or deny the transfer of any item of military equipment will remain at the national discretion of each Member State. A denial of a licence is understood to take place when the Member State has refused to authorize the actual sale or physical export of the item of military equipment concerned, where a sale would otherwise have come about, or the conclusion of the relevant contract. For these purposes, a notifiable denial may, in accordance with national procedures, include denial of permission to start negotiations or a negative response to a formal initial enquiry about a specific order.

4. Member States will keep such denials and consultations confidential and not use them for commercial advantage.
5. Member States will work for the early adoption of a common list of military equipment covered by the Code of Conduct, based on similar national and international lists. Until then, the Code of Conduct will operate on the basis of national control lists incorporating where appropriate elements from relevant international lists.
6. The criteria in the Code of Conduct and the consultation procedure provided for by paragraph 3 of these Operative Provisions will also apply to dual-use goods as specified in Annex 1 to Council Decision 94/942/CFSP ⁽¹⁾, where there are grounds for believing that the end-user of such goods will be the armed forces or internal security forces or similar entities in the recipient country.
7. In order to maximize the efficiency of the Code of Conduct, Member States will work within the framework of the CFSP to reinforce their cooperation and to promote their convergence in the field of conventional arms exports.

⁽¹⁾ OJ L 367, 31.12.1994, p. 8. Decision as last amended by Decision 98/232/CFSP (OJ L 92, 25.3.1998, p. 1).

8. Each Member State will circulate to other Member States in confidence an annual report on its defence exports and on its implementation of the Code of Conduct. These reports will be discussed at an annual meeting held within the framework of the CFSP. The meeting will also review the operation of the Code of Conduct, identify any improvements which need to be made and submit to the Council a consolidated report, based on contributions from Member States.
9. Member States will, as appropriate, assess jointly through the CFSP framework the situation of potential or actual recipients of arms exports from Member States, in the light of the principles and criteria of the Code of Conduct.
10. It is recognized that Member States, where appropriate, may also take into account the effect of proposed exports on their economic, social, commercial and industrial interests, but that these factors will not affect the application of the above criteria.
11. Member States will use their best endeavours to encourage other arms exporting states to subscribe to the principles of the Code of Conduct.
12. The Code of Conduct and Operative Provisions will replace any previous elaboration of the 1991 and 1992 Common Criteria.

Details to be notified

..... [name of Member State] has the honour to inform partners of the following denial under the EU Code of Conduct:

Destination country:

Short description of equipment, including quantity and where appropriate, technical specifications:

Proposed consignee:

Proposed end-user (if different):

Reason for refusal:

Date of denial:

Table 2. Membership of multilateral export control arrangements

Country	ZC	NSG	AG	MTCR	WA
Argentina	x	x	x	x	x
Australia	x	x	x	x	x
Austria	x	x	x	x	x
Belgium	x	x	x	x	x
Brazil	-	x	-	x	-
Bulgaria	x	x	-	-	x
Canada	x	x	x	x	x
China	x	-	-	-	-
Czech Rep.	x	x	x	x	x
Denmark	x	x	x	x	x
Finland	x	x	x	x	x
France	x	x	x	x	x
Germany	x	x	x	x	x
Greece	x	x	x	x	x
Hungary	x	x	x	x	x
Iceland	-	-	x	x	-
Ireland	x	x	x	x	x
Italy	x	x	x	x	x
Japan	x	x	x	x	x
Korea (Rep.)	x	x	x	-	x
Latvia	-	x	-	-	-
Luxembourg	x	x	x	x	x
Netherlands	x	x	x	x	x
New Zealand	-	x	x	x	x
Norway	x	x	x	x	x
Poland	x	x	x	x	x
Portugal	x	x	x	x	x
Romania	x	x	x	-	x
Russia	x	x	-	x	x
Slovakia	x	x	x	-	x
Slovenia	x	x	-	-	-
South Africa	x	x	-	x	-
Spain	x	x	x	x	x
Sweden	x	x	x	x	x
Switzerland	x	x	x	x	x
Turkey	x	x	x	x	x
Ukraine	x	x	-	x	x
UK	x	x	x	x	x
USA	x	x	x	x	x
<i>Total</i>	<i>35</i>	<i>38</i>	<i>32</i>	<i>32</i>	<i>33</i>

Changes in 2000:

Cyprus and Turkey were admitted to the Australia Group.

Cyprus, Slovenia and Turkey were admitted to the NSG.

Slovenia was admitted to the Zangger Committee.

The European Commission takes part as an observer in the Australia Group and the Nuclear Suppliers Group.

Ministry for Foreign Affairs

Extract of the minutes of the Cabinet Meeting held on April 5 2001.

Present: Prime Minister Persson, chair, and Ministers Hjelm-Wallén, Thalén, Winberg, Lindh, Sahlin, von Sydow, Klingvall, Pagrotsky, Östros, Messing, Engqvist, Larsson, Wärnersson, Lejon, Lövdén, Ringholm, Bodström

Rapporteur: Minister Pagrotsky

The Government adopts Report 2000/01:114, *Report on Sweden's Export controls and Exports of Military Equipment in 2000*.

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