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REPORT

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

Committee on Foreign Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

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

The European Parliament,

- having regard to the Council's Sixth Annual Report adopted on 11 November 2004¹,
- having regard to the updated User's Guide to the European Union Code of Conduct on Arms Exports, as agreed by the Council Working Party on Conventional Arms Exports (COARM) on 23 December 2004²,
- having regard to Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering³,
- having regard to the Common Military List of the European Union (equipment covered by the EU Code of Conduct on Arms Exports) adopted by the Council on 25 April 2005⁴,
- having regard to the Council Joint Action of 12 July 2002 on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons (2002/589/CFSP)⁵,
- having regard to the 1997 EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms,
- having regard to Council Regulation (EC) No 1504/2004 of 19 July 2004 amending and updating Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology⁶,
- having regard to the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies,
- having regard to the European Security Strategy adopted by the Council on 12 December 2003,
- having regard to the United Nations Standard Minimum Rules for the Treatment of Prisoners⁷,

¹ OJ C 316, 21.12.2004, p. 1.

² Council of the European Union 16133/1/04, 23.12.2004, p. 1.

³ OJ L 156, 25.6.2003, p. 79.

⁴ OJ C 127, 25.5.2005, p. 1.

⁵ OJ L 191, 19.7.2002, p. 1.

⁶ OJ L 281, 31.8.2004, p. 1.

⁷ Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

- having regard to its resolution of 17 November 2004 on the Council's Fifth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports¹,
 - having regard to its resolution of 3 July 2003 on trafficking in children and child soldiers²,
 - having regard to its resolution of 26 May 2005 on small arms and light weapons³,
 - having regard to its resolutions on the non-removal of the EU embargo on arms sales to China, and in particular its resolution of 18 December 2003⁴,
 - having regard to its annual resolutions on human rights in the world and the European Union's policy on the matter, and in particular its resolution of 22 April 2004⁵,
 - having regard to Article 17 of the EU Treaty and Article 296 of the EC Treaty,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Foreign Affairs and the Opinion of the Committee on Development (A6-0292/2005),
- A. whereas although the recent year-long review of the EU Code of Conduct on Arms Exports will serve to strengthen EU export controls, there are still further measures to be undertaken,
- B. whereas the European Union, in light of the threats outlined in the European Security Strategy, should make every effort to act, and be seen as acting, as a responsible global actor at the forefront of efforts to combat proliferation, foster global disarmament and develop arms transfer controls,
- C. whereas the transformation of the EU Code of Conduct into a Common Position appears likely, which would be a significant step forward in the development of the Code, requiring Member States to align their national legislation with the standards set by the EU Code, and whereas, to that end, COREPER on 30 June 2005 reached agreement on a revised Code of Conduct (to be adopted in the form of a Common Position) at the appropriate juncture,
- D. whereas although developments in arms transfer controls continue to move forward, for example increased support towards the Arms Trade Treaty, such developments continue to require the full support of the EU, and whereas, to that end, full backing is given to the Council conclusions dated 3 October 2005 stating EU support for the principle of an international treaty on arms trade,

¹ OJ C 201 E, 18.8.2005, p. 71.

² OJ C 74 E, 24.3.2004, p. 854.

³ P6_TA (2005)0204.

⁴ OJ C 91 E, 15.4.2004, p. 679.

⁵ OJ C 104 E, 30.4.2004, p. 1048.

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

Common Position

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

Temporary measures upon lifting an arms embargo

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

Equal criteria

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

User’s Guide

13. Notes the changes to the User's Guide and encourages further updates according to new developments in the Code – for example, on the elaborative guidelines for Criterion 8 once they are completed; calls for respect for human rights to be used as a general

criterion;

14. Calls for the adoption of a new Code giving greater weight to the problem of arms proliferation and to the inclusion of Council Regulation (EC) 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology¹; urges further improvements before the new Code is adopted, such as the implementation of a human rights criterion, which must not be confined to considering whether a country is prepared to respect the international rules of war, and calls for it to be more politically binding until such time as it becomes legally binding;

Best practices for interpretation of criteria

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

National reporting procedures

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

Functions and content of an EU Consolidated Report

18. Urges the Council to take the following steps towards creating an EU Consolidated Report:
 - identify timelines for information exchange and publish any statistical data in electronic format on a quarterly basis;
 - use the recommendations in the Stockholm International Peace Research Institute (SIPRI) Policy Paper on Improving the Annual Report² in order to achieve common reporting standards and to facilitate the collection and submission of data for the EU Report;

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

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

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

Incorporation of goods for re-export

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

End-use

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

Outreach

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

Arms brokering

26. Urges Member States to work towards common implementation of the Common Position, particularly through implementation of planned information exchange mechanisms on brokering activities;
27. Urges common minimum practice on extraterritorial controls including the prohibition of brokering activities in violation of an arms embargo, irrespective of whether it is carried out at home or abroad; Member States should also follow the example of

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

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

Regulation on torture equipment

29. Welcomes the European Commission's proposal, agreed by the 25 Member States, to adopt a new trade Regulation on torture equipment;
30. Welcomes the prospect that the new trade Regulation will include such items as a 'ban on police and security equipment whose use is inherently cruel, inhuman or degrading,' as well as leg irons, as stated in Parliament's resolution of 3 October 2001 on the Council's Second Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports¹;
31. Urgently calls for the extension of trade regulations on torture equipment to include controls on the transit of equipment through EU territory;
32. Refers to Article 33 of the UN Minimum Rules for the Treatment of Prisoners and urges that the trade regulations on leg irons do not contradict UN minimum standards; urgently calls for adherence to UN Minimum Rules on the prohibition of leg irons;
33. Urges Member States to use the EU Code and specifically the Common Position on Brokering to cover the brokering of torture equipment;

Enlargement of the EU

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

International processes

35. Underlines the need for the EU and its Member States to play a dynamic role in supporting national, regional and international processes, for instance, the Economic

¹ OJ C 87 E, 11.4.2002, p. 136.

Community of West African States (ECOWAS) Moratorium¹ and the Nairobi Protocol²;

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

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

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

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

EXPLANATORY STATEMENT

European Parliament Report on the Council's Sixth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports

I. Introduction

The EU Code of Conduct on Arms Exports underwent a review in 2004 which is now near completion. The review of the text and the proposed changes to the Code reflect a willingness by member states to ensure that the 8 June 1998 Code is a dynamic mechanism for improving EU arms export controls.

In May 2004, the EU was enlarged from fifteen to twenty-five states. The timing of the Review was pertinent as both new and old member states had the opportunity to contribute to changes that could potentially aid harmonisation and a common interpretation of the EU Code.

Of the major developments that have occurred since the Fifth Annual Report, the European Parliament welcomes the likelihood of the transformation of the Code into a Common Position and continues to call for the Code to be transposed into national law. The European Parliament also welcomes the proposed adoption of the post-embargo “toolbox” but in these special circumstances calls for stronger mechanisms to ensure the tight regulation of exports to these countries.

Finally, the European Parliament deeply regrets that political deliberations on lifting the embargo on China, to which it is strongly opposed, is delaying the adoption of the reviewed Code, of which the latter would ensure changes and developments to the Code of Conduct and strengthen export controls in the EU.

II. Assessment of the sixth year of the implementation of the Code

Review of the Code

The review marks an important step in the development of the Code; there are a number of proposed changes as a result of the review process which will serve to strengthen the Code. Nevertheless despite the potential outcomes, the European Parliament considers that the review should have gone further in ensuring more substantial improvements to the language of the criteria and more broad-based changes to the operative provisions. For instance, despite the new reference to International Humanitarian Law in Criterion 2, the criteria remain variable in their detail and specificity and require further development. In addition, more could have been done to develop the operative provisions. For example, it would seem that the new Code will not prevent a recurrence in recent and concerning cases relating to the

transfers of production facilities overseas,¹ and it is essential that this area is addressed more comprehensively within the Code. Furthermore, the European Parliament continues to call for an increased level of information exchange within the denial notifications system.

Analysis of Review process

The decision to review the text of the Code is welcome as is a new operative provision which mandates further regular reviews. However annual reviews, as stipulated in the original operative provision 8, should serve as the main process for reviewing developments and implementing Code changes. Finally, the Sixth Annual Report refers to review discussions which took place with international NGOs and interested third parties. However despite being willing to engage in dialogue initiated by others, member states did not themselves initiate consultations and the level of formalised dialogue between member states and civil society was disappointing.

Common Position

The likelihood of the Code transforming into a Common Position would be a definitive step forward in strengthening the Code. However it is important that the Common Position does not restrict member states freedom to negotiate and implement further improvements to export controls within the context of the Code.

Temporary measures upon lifting an arms embargo

The European Parliament welcomes the introduction of a post-embargo ‘toolbox’ and the acknowledgement by member states of the need to apply specific tools in order to prevent a ‘business as usual’ approach towards these sensitive destinations. The European Parliament considers it important that where the toolbox is in use, a review mechanism is established from the outset to assess implementation of the toolbox and to monitor the situation in the post-embargoed state. Furthermore, it is welcome that member states will notify each other of licences issued for exports and it is important that member states consult with each other on the licence approvals in order to develop convergence in licensing practice towards such sensitive destinations.

Finally, while it is understood that the use of the toolbox may involve sensitive information, it is regrettable that member states have not engaged in dialogue with the European Parliament on the toolbox’s development and associated mechanisms. The political nature of any decision to lift an embargo and apply the toolbox underlines the need for transparency and for information to be made available to the European Parliament on the *modus operandi* of the toolbox.

China

The European Parliament is strongly opposed to the lifting of the China embargo until there is a clear and sustained improvement in the human rights and civil and political freedoms within

¹ Recent examples include an Austrian gun maker Steyr-Mannlicher establishing a licensed production facility in Malaysia for the manufacture of military weapons, and the decision by the Walloon regional government, Belgium, to grant an export licence to New Lachaussée for the exportation of an ammunition plant to Tanzania.

that country.¹

Best practices for interpretation of criteria

The European Parliament welcomes the negotiation of substantive guidelines which incorporate ‘best practices for the interpretation of Criterion 8’ and welcomes the priority guideline of the Sixth Annual report stating that member states will ‘develop best practices for the interpretation’ of the remaining criteria. However the process to achieve this has not been clarified; the European Parliament emphasises the need for a systematic approach in order to ensure the guidelines are produced as efficiently as possible.

National reporting procedures

The European Parliament believes that the quality of national reports should be substantially improved for the purpose of increased transparency across the EU. Information provided should enable member states and the public to assess and draw informed conclusions on states' national policy on arms exports and their application of the Code criteria. It is welcome that member states have outlined the need for a common standard of reporting as a priority guideline. The reports should draw on existing best practice to identify specific minimum standards to which all member states should adhere. These standards will complement any additional information (as stipulated in the Users Guide 3.1.3) member states must provide to the Council for the EU Annual Report (EU Report).

The European Parliament welcomes the addition to operative provision 8 which requires all member states to publish national reports. However the caveat ‘the contents of which will be in accordance with national legislation’ indicates that there will be no requirement to adhere to agreed standards.

Functions and Content of EU Annual Report

The European Parliament continues to welcome the publication of the EU Report and the improvements in information provided. Nevertheless there are a number of areas that need to be addressed in order to ensure the Report allows other member states and the public to understand how the Code criteria are interpreted at the national level and to assess harmonisation of the Code's application across the EU.

First, the issue of timeliness must be addressed. The latest EU Report, released on 22 November 2004, covers licences and exports granted up to 23 months earlier. In the interests of transparency and utility for member states and the European Parliament, it is important that this information is as relevant and up-to-date as possible.

Second, the European Parliament urges the quality and level of information within the EU Report to increase substantially:

- Improvements to the submission of national data are required; key data will enable a strong comparative understanding of member states application of the Code, while further elaboration of this data could take place in member states’ national reports.

¹ The European Parliament is also concerned that arms exports will increase the risk of regional instabilities in East Asia, particularly in light of China’s recent anti-secession law aimed at Taiwan.

- The EU Report should be used to provide more detailed information on EU-wide systems, e.g. denial notifications and consultations, which are key for a public understanding of the development of Code convergence.
- While priority guidelines are welcome, there is an urgent need for elaboration of how and when these priorities will be pursued.

Incorporation of Goods for Re-export

The European Parliament is concerned by the new guidelines for incorporation,¹ which appear to alter the balance of the Code. These new guidelines effectively relinquish responsibility for assessing the ultimate end-user of the equipment to the country of incorporation and thereby undermine Criterion 7. The European Parliament calls for the same level of regulation for components as for complete weapons systems or platforms.

End-use

The European Parliament welcomes reference in the new operative provision 4 of the Code to prior knowledge of end-use. In order to make end-use controls as comprehensive as possible, there is a need for end-use to be verified through post-export control procedures and it is positive that the Priority Guidelines seek to explore this feasibility. States should focus on exchanging information on deliveries to and end-use/user verification in recipient countries.

Outreach

There has been a notable level of improvement in outreach and the European Parliament welcomes agreement on a mechanism to improve the coordination of outreach initiatives, as stated in the Sixth Annual Report. However further improvements still need to be made. Member states should therefore be strenuous in identifying key outreach priorities and coordinating their activities on that basis. The European Parliament would welcome being kept informed on the outcome of discussions on export controls such as in 'Troika' meetings.

Arms Brokering

The new Code will make explicit reference to applications for brokering licences. Currently about two-thirds of member states have controls in place that conform with the Common Position on Brokering, although there are varying levels of implementation due to different interpretations. EU member states must now work towards common application through the implementation of information exchange mechanisms stipulated by Article 5 in the Common Position and adopting best practice from around the EU, particularly in relation to extraterritorial controls.

Regulation on Torture Equipment

The European Parliament welcomes the recent announcement, 30 June 2005, by the European Commission that it will adopt a new trade Regulation on torture equipment². The European

¹ Incorporation involves the export of components to a second country to be incorporated into products for re-export to a third country or final destination.

²

- See Europa 30 June 2005 at

<http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/819&format=HTML&aged=0&language=EN&guiLanguage=en>

Parliament remains concerned about the minimum standards in the Regulation.

International Processes

It is important to recognise other national, regional and international processes looking at arms transfers controls, and for the EU and member states to support these processes. Member states should share their experience with the Code, such as on the criteria-based export licensing system. Finally, member states are encouraged to support the Arms Trade Treaty (ATT).

III. Conclusions

The European Parliament welcomed the decision to invite the Rapporteur of the Committee on Foreign Affairs for an informal discussion on the Fifth Annual Report. The European Parliament would welcome the continuation of this initiative in order to: increase transparency, work towards common application of the EU Code of Conduct, deal with new and pressing areas in EU export controls such as the post embargo toolbox, and enable coordinated Code outreach and promotion of strong export controls to states beyond the EU.

- Article 33 of the United Nations Standard Minimum Rules for the Treatment of Prisoners disposes that instruments of restraint shall never be applied as a punishment. Furthermore, chains and irons shall not be used as restraints.

4.10.2005

OPINION OF THE COMMITTEE ON DEVELOPMENT

for the Committee on Foreign Affairs

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

Draftsman: Ģirts Valdis Kristovskis

SUGGESTIONS

The Committee on Development calls on the Committee on Foreign Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Welcomes the opportunity to provide a development perspective on arms export controls and takes the opportunity to stress the relevance of arms exports to European Union development cooperation policy;
2. Welcomes the Council's Sixth Annual Report on the European Union Code of Conduct on Arms Exports ('the Code') and, in particular, considers the new measures to strengthen the Code of the utmost importance in supporting European Union development cooperation policy;
3. Calls for a new Code of Conduct to be adopted which takes greater account of the problem of arms proliferation and of the need to incorporate the provisions of Council Regulation (EC) No 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology¹; calls for further improvements to be made pending the adoption of the new Code of Conduct, such as the application of a human rights criterion which does not consist solely of a requirement that a country must be prepared to comply with international law on the conduct of war, and calls for the provisions of the Code of Conduct to be made more politically binding, until such time as they become legally binding;
4. Welcomes in particular progress on the harmonisation of national reports, the regularisation of the 2004 review of the Code (new Operative Provision 13), the introduction of a new post-embargo 'toolbox', the further development of the User's Guide (Operative Provision 12) and the efforts made towards the establishment of best practice

¹ OJ L 159, 30.6.2000, p. 1.

guidelines for implementing Criterion 8 (on assessing the compatibility of arms exports with the technical and economic capacity of the recipient country); in that connection, urges that arms should not be exported to countries which violate human rights; Criterion 8 should be clarified accordingly;

5. Urges further progress on establishing best practice guidelines for implementing Criterion 8 as an important element in assessing the impact of arms exports on unstable regions and their compatibility with development policies and programmes;
6. Urges Member States to draw up a revised and, most importantly, legally binding Code of Conduct that will take the development policy of the European Union fully into account, and therefore contribute to coherent European external action;
7. Stresses the need to make Criterion 8 operational, including by making reference to human rights and development indicators when assessing the suitability of arms exports to a third country or region;
8. Remains concerned that the legal dispute between the Council and the Commission over support for the Economic Community of West African States ('ECOWAS') on Small Arms and Light Weapons ('SALW') risks holding up the establishment of effective mechanisms and programmes to tackle arms issues and related problems in that region;
9. Points out that the increasing prevalence of small arms throughout the world is leading to growing levels of armed violence, with the result that sustainable development is undermined, and that women and children are particularly badly affected by the increasing proliferation of small arms, and therefore urges the Commission and Council to prepare guidelines for SALW policies and programmes in developing countries that are compatible and consistent with development policy objectives, to work together with non-governmental organisations with a view to achieving that objective and to ensure that the guidelines take account of the adverse impact which the proliferation of small arms has on sustainable development and on women and children in particular;
10. Urges the Council and the Commission to set out clear budgetary requirements and sources of funding for SALW and SALW-related programmes for the years 2005 and 2006;
11. Reminds the Council and the Commission that the failure to further develop the Code and new initiatives such as the proposed international Arms Trade Treaty risks undermining European Union development cooperation policy as well as ongoing SALW and Disarmament, Demobilisation and Reintegration ('DDR') activities in the field, thus hindering the achievement of the Millennium Development Goals;
12. Calls on the Council and the Commission to assess the role of DDR projects in European Union external relations and development policies, and to clarify the division of labour between DG Development and DG External Relations in relation to those policies, and in this context further stresses the importance of an independent European Union development cooperation policy;
13. Calls for improved data and information-sharing on arms exports and arms brokering, and in particular on data concerning the arms trade with developing countries;

14. Calls for further discussion with the Council and within the European Parliament on, and expresses support for, the establishment of a European Union agency on Arms Export Control that could monitor and verify the effectiveness of European Union arms export control regulations;
15. Calls for the development of an outreach strategy to promote the Code within the European Union and in relations with third States and regions, which should highlight the fact that the impact of European Union arms exports on developing countries is substantial, that such exports affect not only economies and trade strategies but also socio-political processes more broadly, and that government and private enterprises must be aware of their responsibilities, be it social or corporate, in their relations with developing nations;
16. Further encourages Member States and the Commission to join the European Parliament in promoting good governance in African institutions, particularly in the field of the arms trade through such bodies as the ACP-EU Joint Parliamentary Assembly, ECOWAS and the African Union;
17. Calls on Member States, the Council and the Commission to press the African Union and other African regional bodies to adopt regional and national arms export control arrangements akin to those set out in the Code;
18. Supports the efforts of Member States, the Council and the Commission to seek responsible solutions to regulate the social, economic and developmental damage caused by the international and European arms trade.
19. Stresses the importance of the EU cooperating fully with UN; the UN should be consulted if checks on arms exports are introduced;

PROCEDURE

Title	The Council's Sixth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports		
Procedure number	2005/2013(INI)		
Committee responsible	AFET		
Committee asked for its opinion Date announced in plenary	DEVE 9.6.2005		
Enhanced cooperation	No		
Drafts(wo)man Date appointed	Ģirts Valdis Kristovskis 24.5.2005		
Discussed in committee	12.7.2005	29.8.2005	5.9.2005
Date suggestions adopted	4.10.2005		
Result of final vote	for: 16 against: 1 abstentions: 8		
Members present for the final vote	Alessandro Battilocchio, Margrietus van den Berg, Thierry Cornillet, Michael Gahler, Filip Andrzej Kaczmarek, Glenys Kinnock, Wolfgang Kreissl-Dörfler, Ģirts Valdis Kristovskis, Maria Martens, Miguel Angel Martínez Martínez, Gay Mitchell, Luisa Morgantini, Józef Pinior, Toomas Savi, Frithjof Schmidt, Jürgen Schröder, Paul Verges, Jan Zahradil, Mauro Zani, Jürgen Zimmerling		
Substitutes present for the final vote	Paul Marie Coûteaux, Milan Gaľa, Ana Maria Gomes, Anne Van Lancker, Gabriele Zimmer		
Substitutes under Rule 178(2) present for the final vote			

PROCEDURE

Title	Council's Sixth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports		
Procedure number	2005/2013 (INI)		
Basis in Rules of Procedure	Rule 45		
Committee responsible Date authorisation announced in plenary	AFET 14.4.2005		
Committee(s) asked for opinion(s) Date announced in plenary	DEVE 9.6.2005		
Not delivering opinion(s) Date of decision			
Enhanced cooperation Date announced in plenary			
Motion(s) for resolution(s) included in report			
Rapporteur(s) Date appointed	Raül Romeva i Rueda 01.02.2005		
Previous rapporteur(s)			
Discussed in committee	26.05.2005	05.09.2005	04.10.2005
Date adopted	04.10.2005		
Result of final vote	for:	36	
	against:	0	
	abstentions:	2	
Members present for the final vote	Elmar Brok, Giorgos Dimitrakopoulos, Camiel Eurlings, Jas Gawronski, Anna Ibrisagic, Ioannis Kasoulides, Vytautas Landsbergis, Francisco José Millán Mon, José Ignacio Salafranca Sánchez-Neyra, Gitte Seeberg, Karl von Wogau, Panagiotis Beglitis, Monika Beňová, Ana Maria Gomes, Toomas Hendrik Ilves, Helmut Kuhne, Pasqualina Napolitano, Justas Vincas Paleckis, Libor Rouček, Jan Marinus Wiersma, Luis Yañez-Barnuevo García, Cecilia Malmström, Annemie Neyts-Uyttebroeck, Paavo Väyrynen, Joost Lagendijk, Cem Özdemir, Raül Romeva i Rueda, Vittorio Agnoletto, Tobias Pflüger, Bastiaan Belder, Anna Elzbieta Fotyga, Philip Claeys,		
Substitutes present for the final vote	Árpád Duka-Zólyomi, Luís Queiró, Glyn Ford, Inger Segelström, Milan Horáček, Ģirts Valdis Kristovskis,		
Substitutes under Rule 178(2) present for the final vote			
Date tabled – A6	12.10.2005	A6-0292/2005	