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on the Council's Seventh and Eighth Annual Reports according to Operative
Provision 8 of the European Union Code of Conduct on Arms Exports
(2006/2068(INI))

Committee on Foreign Affairs

Rapporteur: Raül Romeva i Rueda

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the Council's Seventh and Eighth Annual Reports according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports (2006/2068(INI))

The European Parliament,

- having regard to the European Union Code of Conduct on Arms Exports adopted on 8 June 1998,
- having regard to the Council's Seventh and Eighth Annual Reports¹,
- having regard to the updated User's Guide to the European Union Code of Conduct on Arms Exports², agreed on 2 June 2006,
- having regard to the Common Military List of the European Union (equipment covered by the European Union Code of Conduct on Arms Exports)³, updating and replacing that originally adopted by the Council on 25 April 2005,
- having regard to Council Joint Action 2002/589/CFSP of 12 July 2002 on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons⁴,
- having regard to the EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms of 26 June 1997⁵,
- having regard to Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering⁶,
- 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 technology⁷,
- 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,

¹ OJ C 328, 23.12.2005, p. 1; OJ C 250, 16.10.2006, p. 1.

² Document No 10713/06, DGE WMD, Brussels, 20 June 2006.

³ OJ C 66, 17.3.2006, p. 1.

⁴ OJ L 191, 19.7.2002, p. 1.

⁵ Adopted by the General Affairs Council of 26 June 1997.

⁶ OJ L 156, 25.6.2003, p. 79.

⁷ OJ L 281, 31.8.2004, p. 1.

- having regard to the United Nations Standard Minimum Rules for the Treatment of Prisoners¹,
- having regard to the EU Strategy to combat illicit accumulation and trafficking of SALW and their ammunition as adopted by the European Council on 15-16 December 2005²,
- having regard to the conclusions adopted by the General Affairs and External Relations Council at its meeting of 3 October 2005 expressing EU support for an International Arms Trade Treaty in the framework of the United Nations that would establish binding common standards on the global trade in conventional arms³,
- having regard to the entry into force on 6 July 2005 of the 2001 Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition⁴,
- having regard to the adoption by the United Nations General Assembly in December 2005 of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons⁵,
- having regard to the Conference to Review Progress Made in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (the UN Review Conference on SALW) that took place in New York between 26 June and 7 July 2006,
- having regard to the ACP-EU Joint Parliamentary Assembly resolution on small arms and light weapons and sustainable development, adopted on 23 November 2006⁶,
- having regard to its resolution of 17 November 2005 on the Council's Sixth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports⁷,
- having regard to its resolution of 15 June 2006 on small arms and light weapons⁸,
- 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 2003⁹,

¹ 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 resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

² Council of the European Union, 5319/06, 13 January 2006.

³ Council of the European Union 2678th General Affairs Council meeting, Luxembourg, 3 October 2005.

⁴ The Protocol known as the 'UN Firearms Protocol' was adopted in May 2001 by General Assembly resolution 55/255.

⁵ A/60/463 (L.55) decision, 8 December 2005.

⁶ ACP-EU Joint Parliamentary Assembly, document ACP-EU 3892/06/fin.

⁷ OJ C 280 E, 18.11.2006, p. 443.

⁸ *Texts Adopted*, P6_TA(2006)0274.

⁹ OJ C 91 E, 15.4.2004, p. 679.

- 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 2004¹,
 - 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 (A6-0439/2006),
- A. whereas the year-long review of the EU Code of Conduct on Arms Exports came to an end on 30 June 2005 at the level of the COARM Working Party of Member States' experts, which produced a text for a Common Position; whereas the Code has still not been adopted as a Common Position, which hinders further necessary progress on strengthening arms export controls,
 - 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 would mark a further step in the development of the Code, requiring Member States to align their national legislation with the standards set out in the Code; whereas, however, this is being jeopardised by some EU Member States irresponsibly linking the transformation of the Code into a Common Position with their bilateral interests in lifting the embargo on exports of arms to China,
 - D. whereas developments in arms transfer controls continue to move forward at the regional and international levels, as can be seen in particular from the international ban on anti-personnel mines (1997 Ottawa Convention) and the associated decline in the number of people killed or injured by anti-personnel mines, and whereas such developments continue to require the full support of the EU, in particular after the outcome of the UN Review Conference on SALW held in New York from 26 June to 7 July 2006, and especially as regards progress towards the development of an International Arms Trade Treaty within the framework of the UN,
 - E. whereas the General Affairs and External Relations Council meeting in Luxembourg on 3 October 2005 announced its support for the establishment of an international Arms Trade Treaty,
 - F. convinced that an International Arms Trade Treaty is vital because of the thousands of people being killed each week by conventional weapons, because of the irresponsible arms transfers that contribute to instability and poverty throughout the world, and because an International Arms Trade Treaty would provide agreed global standards on arms transfers and help prevent weapons from falling into the wrong hands,

¹ OJ C 104 E, 30.4.2004, p. 1048.

- G. 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,
- H. whereas many conventional arms and dual-use goods and technologies are capable of being acquired and used by terrorist organisations or criminal groups inside and outside the EU,
- I. 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, the promotion of human rights, the fight against poverty, the fight against international terrorism and measures to achieve greater regional stability,
- J. whereas the global sourcing of components, licensed production overseas and the production and export of arms by subsidiary companies are insufficiently regulated by current controls; whereas not only do all states have a duty to ensure that their exports are consistent with their existing obligations under international law, but it is also in their own security, socio-economic and political interests to regulate their exports with a view to ensuring they do not facilitate human rights abuses or fuel conflict, and do not divert resources away from sustainable development,
- K. convinced that the December 2005 EU Strategy to combat the illicit accumulation and trafficking of SALW and their ammunition supports the UN Security Council's objective, agreed in January 2004, of encouraging arms-exporting countries to exercise the highest degree of responsibility in transactions concerning small arms and light weapons destined for unstable areas,
- L. reminding Member States of this responsibility should any steps be taken to open up the internal European defence equipment market, and in particular should the Commission take further steps following its "Consultation paper on the Intra-Community Circulation of Products for the Defence of Member States", which explicitly refers to the role of the 1998 EU Code of Conduct on Arms Exports,
- M. whereas EU Member States have consistently been amongst the principal arms exporters worldwide; whereas a growing number of companies in the developing world, backed by their governments, are gaining a significant share of the global arms market; whereas national arms export controls vary among countries in the developing world and do not always include explicit criteria or guidelines for authorising arms transfers that fully reflect states' existing obligations under international law,
- N. whereas a report from the Stockholm International Peace Research Institute (SIPRI) indicates that in 2005 EU Member States licensed supplies of arms to, inter alia, China, Colombia, Ethiopia, Eritrea, Indonesia, Israel and Nepal; convinced that, without more detailed and transparent information about the nature of the arms supplied, how many, to whom they were sold and for what purpose, it is not possible to conclude that the EU Code of Conduct has managed to stop all arms exports that are likely to be used to fuel armed conflict, human rights abuses and poverty,

- O. whereas irresponsible arms transfers continue to hinder democratic, economic and social development in many parts of the world, contribute to violent conflict and corruption, and cause inefficiency in the delivery of development aid; recognising that a clear, efficient and harmonised common EU arms export control policy, anchored in a legally binding Code of Conduct on Arms Exports, would be a decisive contribution by the EU to the Millennium Summit and the Millennium Development Goals, in other words, to sustainable development in ACP countries and other developing nations,
1. Welcomes the Council's Seventh and Eighth Annual Reports and reiterates the importance of annual reviews, as prescribed by Operative Provision 8 of the Code, as the main mechanism for reviewing and strengthening the Code;
 2. Welcomes the emphasis placed upon transparency by recent Presidencies (the UK, Austria and Finland), which has resulted in further cooperation between Member States in their consultation on denials and reporting on data collection, in their presentation of data in the Annual Reports, in their outreach activities with third parties and in deepening their dialogue with the European Parliament;
 3. Finds it unacceptable that no steps have been taken to adopt the Code as a Common Position despite the fact that a text was agreed by the COARM Working Group in June 2005;
 4. Welcomes the fact that on 26 September 2005 best practices for interpretation of criterion 8 (sustainable development) were agreed unopposed by the COARM Working Party and have been included in the revised User's Guide; nevertheless remains concerned that there has been no attempt to go beyond a collation of existing norms; calls for criterion 8 to be revised as soon as possible with a view to developing improved practice, for example by exploring the links between armed violence and development; supports the continuation of this process, with best practices being developed for the remaining criteria in consultation with the European Parliament and other interested parties;
 5. Welcomes the recent clarification in the User's Guide that agreements on licensed production overseas should be treated as an export licence; however, remains deeply concerned by past cases in the EU relating to transfers of production capacities overseas, including licensed production deals, and calls for further strengthening of provisions to regulate licensed production overseas in particular and the transfer of production capacity more generally;
 6. Urges the Member States to take the following steps to further control the licensing of arms production overseas:
 - (a) to issue an export denial for any permits for licensed arms production if there is a risk that arms from the production abroad would be used in violation of a state's existing obligations under international law,
 - (b) to issue an export denial for any permit for licensed production overseas that is not accompanied by a legally binding agreement, in each case, on the production limits and the permitted export destinations and end use for the product;
 - (c) to review licensing contracts at regular intervals, so that risks of diversion can be

reassessed and the licensing agreement changed accordingly;

7. Reaffirms the need to develop further the denial notification system; calls again for greater exchange of information on bilateral consultation on denials and for information on such consultations to be exchanged and reported at the EU level;
8. Calls on the Member States to pay greater attention to the background of the country receiving arms, in order to prevent them being used by terrorist groups or being put to improper use;
9. 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, based upon a mechanism whereby a presumption of denial to such states is monitored by the UN Security Council monitoring mechanisms on arms embargoes and the EU's relevant Working Groups; with this in mind, calls on Member States to bring their policies on arms exports to the Middle East region into line with the Code of Conduct;
10. Recommends that national export credit agencies, in performing their task of promoting government-backed private corporate investment in economically unstable regions, and especially developing countries, follow a policy not to re-insure contracts by means of loans or other types of guarantees in the event of non-payment by the recipients for military-related exports to third countries; insists that any such loans issued in the past should neither be allowed to increase the debt situation of the beneficiary country nor be regarded as official development aid;
11. Welcomes the additional transparency in the Eighth Report resulting from the inclusion of a separate section in Table A on exports to countries under embargo; calls for the Political and Security Committee to have a regular dialogue on the application of the Code and the User's Guide (in particular the application of the best practices) with regard to arms exports to countries on the Watch List (or subject to detailed analysis by the EU Joint Situation Centre); calls for the European Parliament to be involved in these discussions;

Common Position

12. Considers that a clear, efficient and harmonised common arms export control 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;
13. Calls on the Presidency-in-office and the Governments of the Member States to explain why the Code has not been adopted as a Common Position despite the fact that the text was agreed by the COARM Working Party in June 2005;
14. Welcoming the continued development of best practices under the User's Guide, nevertheless regrets that the failure to transform the Code into a Common Position is weakening the further development of EU export controls, especially in the important areas of intangible transfers, transit controls and moves towards further general

harmonisation of EU export controls;

Dialogue with the European Parliament

15. Welcomes the inclusion in the Annual Reports of a specific chapter on dialogue with the European Parliament;
16. Welcomes the initiatives of the UK, Austrian and Finnish Presidencies to present their work on the development of the Code to the European Parliament's Subcommittee on Security and Defence as well as their emphasis on transparency and dialogue;
17. Welcomes the opportunity provided by the Austrian and Finnish Presidencies for the European Parliament's Rapporteur to engage in discussion and exchange of information at a COARM Working Group meeting on the drawing-up of the European Parliament's Report and the Council's Annual Report;
18. Welcomes, as measures of increased transparency and confidence-building, the decision referred to in the Eighth Annual Report that each Presidency should endeavour to meet the European Parliament's Subcommittee on Security and Defence as well as the practice of inviting the Parliament's Rapporteur to a COARM meeting once per Presidency;
19. Calls for the further association of the European Parliament with the process of developing outreach activities and in particular taking forward the priority guidelines to promote an International Arms Trade Treaty and developing further cooperation and consultation with interested third parties including international NGOs and the defence industry;
20. Urges the Council to require every Member State to publish national reports meeting agreed minimum standards and to require that such reports be sent to the European Parliament and to national parliaments;
21. Calls for an annual debate between the European Parliament and national parliaments on their assessment of the progress made by the Member States towards achieving transparency in their handling of arms exports and in the implementation of the 1998 Code of Conduct;

Temporary measures on lifting an arms embargo

22. Welcomes the objective, contained in the Sixth Annual Report, of developing a “toolbox” and specific mechanisms to regulate arms exports to post-embargoed states;
23. Recalls the Conclusions of the General Affairs and External Relations Council on Libya of 11 October 2004, which stated: “The Council recalled that arms transfers to Libya will be subject to the EU Code of Conduct on Arms Exports and decided that a special post-embargo arms transfers regime (‘toolbox’), which is presently being developed within the Council, will apply”; calls on the Presidency to set out the status of this toolbox;
24. Is aware of a lack of development of the “toolbox” along with a specific mechanism on monitoring; therefore recalls its previous position that thorough monitoring is necessary

even after an embargo has been lifted and that there is need for a review mechanism to be set up to assess and revise the toolbox if necessary and to monitor regularly the situation in states where the embargo has been lifted, bearing in mind the reasons for the lifting of the embargo; urges COARM to review the mechanism on a regular basis and to report on such discussions to the European Parliament;

25. 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; calls for data to be collected and published in subsequent Annual Reports on the substance and outcomes of such consultations;
26. Stresses the importance of improving the exchange of timely information with the European Parliament, in particular as regards licence denial and the toolbox's modus operandi;

Equal criteria

27. 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;
28. Considers that the embargo imposed on China should not be lifted until there is a clear and lasting improvement in the situation regarding human rights and social and political freedoms; points out that arms exports will undermine peace and stability in eastern Asia and increase the danger of regional instability, particularly following the crisis arising from the nuclear testing by North Korea;
29. Expresses deep concern at the blatant violation of the arms embargo by all parties to the Darfur conflict as reported by the experts sent in by the UN Security Council and the resulting escalation of hostilities there in recent months;

User's Guide - and best practices for interpretation of criteria

30. Welcomes the ongoing development of the User's Guide as a useful and practical tool for harmonisation of interpretation of the Code's criteria;
31. Notes the changes to the User's Guide, in particular the guidelines for criteria 2, 7 and 8; encourages further updates in line with new developments in the Code – for example, with regard to further guidelines for criteria 3 and 4; calls for respect for human rights to be used as a general criterion;

National reporting procedures

32. Recognises that incremental steps are being taken to improve the collection and sharing of data between Member States, to be annexed to the Annual Reports, including important improvements in data presentation under the Eighth Annual Report; nevertheless calls for the quality of national reporting to be substantially enhanced in

order to increase transparency and to permit accurate assessment of Member States' application of the Code of Conduct;

33. Calls on Member States to streamline their national arms export licensing procedures, clarify the relevant domestic institutional procedures and responsibilities and eliminate any ambiguities in their systems concerning the export licensing procedures for “military” and “non-military” arms, which can be used by arms exporters to export small arms and light weapons as “non-military arms” to conflict-prone regions;
34. Urges the Council to require every Member State to publish national reports meeting agreed minimum standards;
35. Urges the adoption of agreed common reporting standards to which all states must be required to adhere, including standards relating to the number of export and brokering licences covered by a recipient country as well as information on licence denials, a full description of the types of equipment licensed for export, the quantity of each type of equipment licensed for export and specification of 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;

Intra-Community transfers

36. Insists that strict and transparent national export controls must be maintained until all EU Member States have harmonised their national export control policies to the extent that would allow them to transform the EU Code of Conduct into a legal instrument capable of regulating the authorisation, management (including final destination) and verification of intra-Community and international arms exports;

Functions and content of an EU Consolidated Report

37. Recognising the willingness of the Council to selectively take on board past recommendations from the European Parliament on improving the EU Consolidated Report, urges the Council to take the following important steps:
 - identifying timelines for information exchange and publish any statistical data in electronic format on a quarterly basis;
 - publishing more information on EU-wide processes, including the denials system for export licences and the denials system for brokering licences;
 - providing details on how each priority guideline will be applied, the mechanisms that will be used and the schedule for action;
 - conducting a review in 2008 of progress achieved towards convergence on the collection and sharing of data and application of the priority guidelines;

In addition¹:

¹ For more on these additional points, see: *The European Union Code of Conduct on Arms Exports: Improving*

- the utility, comparability and accuracy of financial data on arms export licenses contained in the EU Annual Report should be improved by making the structure and contents of national lists compatible with the EU Common Military List and by harmonising reporting practices for open licences;
- the utility, accuracy, comprehensiveness and comparability of data on actual exports should be improved by imposing on the industry a legal obligation to report on their arms exports at the national level and by making this data the basis of national submissions;
- the Annual Report should include information on the quantity of goods licensed for export and on actual exports, along with an accompanying description of the items involved;
- information should also be provided on the type of end-user and the final destination of goods destined for re-export to a third country. If such a level of detail is thought to be excessive, states could produce national annual reports with an agreed set of reporting criteria;
- separate information should be provided in a table on arms exports that are for use by the armed forces and police for peacekeeping, peace support, humanitarian or crisis management purposes, including for European Security and Defence Policy and Security Sector Reform activities which will avoid confusion with commercially oriented exports;
- the final consolidated list with destinations should be systematically scrutinised by independent specialised experts, so as to allow parliamentarians to make an objective comparison between the officially declared data and the exports in real terms;

Incorporation of goods for re-export

38. 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

39. Welcomes the Priority Guideline on post-export controls and urges Member States to agree procedures for the monitoring and verification of deliveries to, and end-use/user in, recipient countries; recommends that Member States develop information-exchange mechanisms and establish a 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;

40. Calls for more pro-active European Union and national approaches to the control of

the Annual Report. SIPRI Policy Paper No 8, SIPRI, November 2004.

exports and re-exports of dual-use items in order to avoid the risk of possible access to sensitive items by undesirable end-users in third countries, including non-state actors;

41. Urges the Member States to keep the human rights situation in arms importing countries under constant review;

Outreach

42. Welcomes the positive response to the European Parliament's call for more information to be published on the database containing information on outreach activities referred to in the Sixth and Seventh Annual Reports;
43. Recommends that Member States actively pursue key outreach priorities and continue to use the mechanism for coordinating and collecting information on such activities;
44. Welcomes the positive response to the European Parliament's request to the Council that it should share with the European Parliament details concerning "Troika" meetings relevant to export controls and concerning ad hoc workshops and seminars with countries such as China and countries in the western Balkans on conventional arms export controls; recommends that parliamentarians be invited to attend those seminars as observers;
45. Calls on the Council to raise awareness of the principles of the Code of Conduct, and to emphasise the need for an international treaty establishing common principles for world trade in arms, in all "Troika" meetings and relations with third countries and with regional and international organisations;

Arms brokering

46. Calls on Member States which do not yet comply with the Common Position on Arms Brokering to set out a timetable for their compliance;
47. Continues to urge Member States to improve their record on the implementation of the Common Position on Arms Brokering, particularly through the development of national legislation and the implementation of planned information exchange mechanisms concerning brokering activities;
48. Urges common minimum practice on extra-territorial controls, including the prohibition of brokering activities which violate an arms embargo, whether 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;
49. Recommends that Member States further develop the Common Position on Arms Brokering by setting up national registries of all known arms brokers, to include information on transportation and financial services related to third-country transfers of military equipment, on the basis that such information must be equally shared between all

Member States; urges that the brokering database for denials be extended to include information on the consultation on denials;

50. Recommends that all measures be taken to avoid brokers' initiatives to irresponsibly obtain and export weapons to third parties, which have hitherto been collected in the course of ESDP peacekeeping missions and other external peacekeeping operations involving the EU and its Member States (as has been the case in Bosnia-Herzegovina);

Private security companies

51. Notes that the United States has extended its legislation on the control of military exports to cover private security companies, and therefore calls for the EU to consider similar steps to extend the 1998 EU Code of Conduct so that it covers private security services; as a first step the EU could add to the Common Military List the following activities and services requiring a licence for export: armed personnel and site protection, armed transport security, military weapons and equipment training, strategic and tactical training, security sector reform, military and security consultancy, military logistics, counter-intelligence services and operational support;

Regulation on torture equipment

52. Welcomes the adoption of Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment¹;
53. Calls for the scope of that Regulation to be extended to cover intra-Community transfers, in order to prevent any possible contraventions;

Enlargement of the EU

54. Welcomes the fact that the Seventh and Eighth Annual Reports have taken up Parliament's recommendation that consideration be given to the best way of involving and assisting acceding countries and new neighbours with a view to ensuring the harmonisation of policies on arms export controls and full implementation of the principles and criteria contained in the Code of Conduct;
55. Calls on the Council to publish a report on the transfer control system and practice in any state under consideration for accession status before that state is permitted to accede, and to make the advancement towards accession status of any state not meeting EU transfer control standards conditional on its coming up to those standards; wishes the transfer control system and practice to be carefully monitored in any state involved in the Stabilisation and Association Agreement process, even if it does not yet have the status of candidate for EU membership;

International processes: an International Arms Trade Treaty

56. Underlines the need for the EU and its Member States to play a dynamic role in

¹ OJ L 200, 30.7.2005, p. 1.

supporting national, regional and international processes;

57. Calls on the Council and the Commission to set out concrete measures for implementation of the five priority areas for the UN Programme of Action (UNPoA), namely, brokering, marking and tracing, ammunition, development and technical assistance, and for the development of a follow-up mechanism for the UNPoA;
58. Calls on the EU Presidency and Member States to match their declaratory diplomacy in favour of an International Arms Trade Treaty with assertive and determined action to implement the resolution adopted on 26 October 2006 by the UN General Assembly's First Committee with a view to establishing an effective, legally binding International Arms Trade Treaty laying down minimum global standards for arms transfers;
59. Calls on the Council and the Commission to include in their further negotiations concerning developments in relation to the European Neighbourhood Policy and the Partnership and Cooperation Agreements the question of adherence to all EU embargoes on trade in arms;
60. Calls on the Member States to commit themselves once more to the principle that the criteria of the EU Code of Conduct will not be compromised in the pursuit of broader foreign policy objectives;

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61. 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.

EXPLANATORY STATEMENT

Introduction

The EU Code of Conduct on Arms Export adopted in 1998 (the EU Code) is a political agreement designed to set common standards across the EU for the export of military equipment. Under its provisions, all EU Member States have agreed to apply a standard set of criteria to assess applications of licenses for the export of military equipment. Since its coming into force, EU Member States have implemented a denial notification system and, in certain cases, they have consulted in advance on their arms export licensing decisions. They have also exchanged information to improve their national reporting procedures and worked on a consolidated Annual Report on Arms Exports Control. In fact, the implementation of the EU Code is assessed through an Annual Report, under Operative Provision 8, which is published in the autumn of each year.

In the sections below we provide a summary of the key features of the EU Code and we summarise the views of the EP with regards the Council's Seventh and Eight Annual Reports according to Operative Provisions 8, as outlined in the motion.

Key features of the EU Code of Conduct on Arms Export

The EU Code of Conduct *is at present a not legally binding document* and is set out in two main sections: one on export criteria and one on operative provisions. There are eight export criteria that form the basis of the EU Code. These criteria are the principles that the national licensing authorities of 25 EU Member States should use when they receive an application to sell arms abroad. The criteria are:

Criterion 1: Respect of the international commitment 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.

Criterion 2: The respect of human rights in the country of final destination.

Criterion 3: The internal situation in the country of final destination

Criterion 4: Preservation of regional peace, security and stability.

Criterion 5: The national security of Member States and of territories whose external relations are the responsibility of Member States, as well as that of friendly and allied countries.

Criterion 6: The behaviour of the buyer country with regard to the international community.

Criterion 7: The existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions.

Criterion 8: The compatibility of the arms exports with the technical and economic capacity of the recipient country.

Operative Provisions

The second section of the EU Code lists 12 Operative Provisions which mandate a number of procedures for implementing the criteria effectively. These provisions include, amongst others: each Member State will assess export licence applications for military equipment made to it on a case-by-case basis against the provision of the EU Code; the calls on state to

consult with each other on license denials; the prerogative of national discretion of each Member State on whether a denial of a licence should be implemented; the adoption of a common list of military equipment and the provision that each Member State will circulate to other Member States, in confidence, an Annual Report on its defence exports and on its implementation of the EU Code.

The implementation of the EU Code also relies on a Users' s Guide that is intended to help Member States apply the EU Code while not replacing it. The Users' s guide summarises agreed guidance for the interpretation of the criteria and the implementation of the operative provisions.

What is the view of the EP towards the EU Council's Seventh and Eight Annual Reports?

Common Position¹

The EP is greatly disappointed by the failure of the EU Council to agree that the EU Code is transformed into a Common Position. It is particularly concerned about this failure since the EU Council's Working Group dealing with arms exports (COARM Working Group) agreed to the transformation of the EU Code into a Common Position in a meeting in June 2005. It appears that when the decision reached the next level of decision-making, COREPER, it was blocked. Although the reasons for this are not publicly known, there is the suspicion that the issue of the Common Position became linked to the discussion about lifting the arms embargo on China. The EP would like a full explanation for the reasons why COREPER failed to turn the EU Code into a Common Position.

Development of Criteria

The EP is partly satisfied with the decision to develop best practices for some of the criteria, particularly criterion 2 and 7 but urges further work on the development of criterion 3, 4 and 8. It also urges for the respect of human rights to be used as a general criterion.

Licensed Production Overseas

While the EP welcomes the clarification in the Users's guide that agreements on licensed production overseas should be treated as an export license, it is of the view that further provisions are necessary.

Role of National Export Credit Agencies in sells of arms

The EP is concerned that many national export credit agencies in the EU are involved in heavily subsidising arms exports to third countries. This activity contributes to a financial burden for taxpayers in the exporting countries particularly in Britain and France where a substantial proportion of export credit in value terms is dedicated to the export of arms. In addition, in some cases, the support given by national export credit agencies in the EU to the financing of arms deals has the effect of increasing the debt burden of developing countries. The EP is of the opinion that national export credit agencies in the EU should no re-insure contracts by either loans or other types of guarantees when the recipient country is not able to immediately pay back a loan that has been allocated to an EU-based company to sell military products to that country.

¹ A Common Position is legally more binding on EU Member States than a "Code of Conduct" and is an instrument that applies for decisions taken under the Common Foreign and Security Policy.

Temporary measures upon lifting an arms embargo

The EP welcomes the Council's objectives of developing procedures that could be applied towards countries for which the EU has decided to lift an existing arms embargo. These procedures are based on specific mechanisms for notifications of licenses issued for exports of military equipment by Member States, for a review of notified denials which were related solely to the embargo and for the consultations in the event of a major change in a Member State export policy. These procedures are defined as a "toolbox".

The EP calls on the Council to continue the work by taking into account the importance to assess and revise the "toolbox" if necessary so as to ensure an effective monitoring of the situation once the embargo has been lifted. The EP also calls on data to be collected and published in the Annual Report on the substance and outcomes of consultation on licenses issued for exports to post-embargoes states.

National reporting procedures

While the EP notes that some incremental steps have been taken to improve the collection and sharing of data between Member States, to be annexed to the Annual Report, the EP believes that substantial further steps need to be taken to strengthen national reporting procedures. These steps are outlined in details in the motion.

Changes in the EU Consolidated Report

The EP recognises that the Council has been responsive to selectively taking on board past recommendations to improve the functions and content of the EU Consolidated Report and it urges the Council to adopt a list of further recommendations.

Outreach activities

The EP is satisfied with the Council's response to its demands for publication of information on outreach activities. The EP is also satisfied with the response of the Council to its demands that it shares details on Troika's meetings relevant to export controls and on ad hoc workshops and seminars with countries such as China and countries in the Western Balkans on conventional arms export controls. It recommends that parliamentarians should be invited to such seminars as observers and it supports the full implementation of key priorities for outreach activities.

Arms brokering

On 25 June 2003 the EU introduced a Common Position on Arms Brokering. Arms brokers are those who mediate transfers of arms by bringing together buyers and sellers or who otherwise facilitate arms transfers. Arms brokers do not necessarily acquire weapons, nor do weapons transfers they arrange pass through the country from which they operate.

The EP demands that EU Member States that do not comply with the Common Position on Arms brokering establish a timetable for achieving compliance and those who have endorsed the Common Position to improve their record of implementation by, for example, establishing national registries of all known arms brokers. It urges common minimum practices on extraterritorial controls including the prohibition of brokering activities which violate an arms embargo, whether carried out at home or abroad.

ESDP missions and brokering activities

The EP has been informed that brokers have been involved in obtaining and exporting weapons to third parties that had been collected in the course of ESDP missions - that is EU-led peacekeeping or police missions - and other international disarmament operations, particularly in Bosnia-Herzegovina. For this reason the EP calls for measures to be taken to avoid such brokers' s initiatives.

Enlargement

The EP is satisfied that the Council has taken up its recommendations to assist acceding countries and new neighbours in implementing the harmonisation of policies on arms export control and in fulfilling the principles and criteria contained in the Code of Conduct. It proposes that when a country has entered accession negotiations with the EU, the Council publishes a report on the transfer control system and practices of that state. It recommends that for those acceding countries which do not have adequate arms transfer control standards, their advancement towards accession status is made dependent on improving their standards.

International Arms Trade Treaty

On 26 October 2006 the UN General Assembly's First Committee voted in favour of a proposal to develop an Arms Trade Treaty. The work on the Treaty will begin in early 2007 when the UN Secretary General will seek the views of all UN Member States on the feasibility, scope and draft parameters on a comprehensive legally binding instrument establishing common international standards for the export, import and transfer of conventional arms. The report will then be submitted to the General Assembly in late 2007 for further work.

The EP requests that the EU Presidency and Member States actively support the work on a globally binding Arms Trade Treaty.

Transparency (relations between EP, national parliaments and the EU Council in arms control policy)

The EP welcomes the initiatives taken by the Austrian, Finnish and UK Presidencies to present their work on the development of the Code to the EP's Subcommittee on Security and Defence and the opportunity given to the European Parliament's Rapporteur to engage in discussion and exchange of information at a COARM Working Group meeting on the drawing-up of the European Parliament's Report and the Council's Annual Report.

The EP fully supports the decision referred to in the EU Council's Eighth Report that each Presidency should endeavour to meet the European Parliament's Subcommittee on Security and Defence as well as the practice of inviting the Parliament's Rapporteur to a COARM meeting once per Presidency.

To enhance transparency measures, the EP urges the Council to require every Member State to publish national reports, meeting agreed minimum standards, and to require that such reports be sent to the European Parliament and to national parliaments;

PROCEDURE

Title	Council's Seventh and Eighth Annual Reports according to Operative Provision 8 of the European Union Code of Conduct on Arms Export		
Procedure number	2006/2068(INI)		
Committee responsible Date authorisation announced in plenary	AFET 6.4.2006		
Committee(s) asked for opinion(s) Date announced in plenary			
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	<u>Raül Romeva i Rueda</u> 25.1.2006		
Previous rapporteur(s)			
Discussed in committee	12.9.2006	3.10.2006	22.11.2006
Date adopted	23.11.2006		
Result of final vote	for	47	
	against	2	
	abstentions	0	
Members present for the final vote	Panagiotis Beglitis, Bastiaan Belder, André Brie, Elmar Brok, Philip Claeys, Véronique De Keyser, Giorgos Dimitrakopoulos, Alfred Gomolka, Klaus Hänsch, Richard Howitt, Anna Ibrisagic, Georgios Karatzaferis, Helmut Kuhne, Francisco José Millán Mon, Pierre Moscovici, Baroness Nicholson of Winterbourne, Tobias Pflüger, Mirosław Mariusz Piotrowski, Paweł Bartłomiej Piskorski, Bernd Posselt, Raül Romeva i Rueda, Jacek Emil Saryusz-Wolski, György Schöpflin, Gitte Seeberg, Marek Siwiec, István Szent-Iványi, Antonio Tajani, Charles Tannock, Paavo Väyrynen, Luis Yañez-Barnuevo García, Josef Zieleniec		
Substitutes present for the final vote	Laima Liucija Andrikienė, Francisco Assis, Alexandra Dobolyi, Árpád Duka-Zólyomi, Carlo Fatuzzo, Kinga Gál, Milan Horáček, Tunne Kelam, Jaromír Kohlíček, Alexander Lambsdorff, Jaime Mayor Oreja, Íñigo Méndez de Vigo, Doris Pack		
Substitutes under Rule 178(2) present for the final vote	Pilar Ayuso, Esther Herranz García, Ewa Klamt, Antonio López-Istúriz White, Marios Matsakis		
Date tabled	30.11.2006		
Comments (available in one language only)			