Basic information

2005/2013(INI) INI - Own-initiative procedure	Procedure completed
Arms: code of conduct on exports. 6th annual report **Subject** 6.10.03 Armaments control, non-proliferation nuclear weapons	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
AFET Foreign Affairs	ROMEVA I RUEDA Raül (Verts/ALE)	01/02/2005

Committee for opinion	Rapporteur for opinion	Appointed
DEVE Development	KRISTOVSKIS Ģirts Valdis (UEN)	24/05/2005

Key events

Date	Event	Reference	Summary
11/11/2004	Non-legislative basic document published	13816/1/2004	Summary
14/04/2005	Committee referral announced in Parliament		
04/10/2005	Vote in committee		Summary
12/10/2005	Committee report tabled for plenary	A6-0292/2005	
16/11/2005	Debate in Parliament		
17/11/2005	Decision by Parliament	T6-0436/2005	Summary
17/11/2005	Results of vote in Parliament		
17/11/2005	End of procedure in Parliament		

Technical information

Procedure reference	2005/2013(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Annual report
Legal basis	Rules of Procedure EP 55

Stage reached in procedure	Procedure completed
Committee dossier	AFET/6/25991

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Amendments tabled in committee		PE362.702	22/09/2005	
Committee opinion	DEVE	PE360.333	04/10/2005	
Committee report tabled for plenary, single reading		A6-0292/2005	12/10/2005	
Text adopted by Parliament, single reading		T6-0436/2005	17/11/2005	Summary

Council of the EU

Document type	Reference	Date	Summary
Non-legislative basic document	13816/1/2004 OJ C 316 21.12.2004, p. 0001-0215	11/11/2004	Summary

European Commission

Document type	Reference	Date	Summary
Commission response to text adopted in plenary	SP(2005)5015	15/12/2005	

Arms: code of conduct on exports. 6th annual report

2005/2013(INI) - 11/11/2004 - Non-legislative basic document

PURPOSE : to present the 6th Annual Report on Arms Exports.

CONTENT : although differences in national reporting still remain, a number of steps have been taken to further the harmonization of reporting procedures, and to achieve fully comparable statistical data. Member States have agreed to include references to the Military List numbers in their contribution to the EU annual report (if available). Furthermore, consensus has been reached on providing national data on the value of licences issued. Due to the fact that some States are unable to provide additional data on actual exports, it has been agreed that these will be made available by those States able to do so.

In June 2003, following final approval by the COARM Working Party, the Council adopted a Common Position on the control of arms brokering. The joint commitment is a formal confirmation of some of the agreed practices listed in the appendix to the Fourth Annual Report. It also contains some criteria and definitions that Member States are to include in their national brokering legislation. The Working Party has agreed that the Common Position should be implemented via the mechanism laid down in the Code of Conduct. This is expected to be expressly stated in the relevant operative paragraph of the revised Code of Conduct. However, since not all Member States yet have legislation on brokering in place, the notification and consultation system will operate on a mandatory basis only for Member States that have.

In the framework of the review of the Code of Conduct, agreement is expected to be reached to include a new provision in the relevant operative paragraph of the Code stating that export licence applications shall include applications for any intangible transfers of software and technology by means such as electronic media, fax or telephone.

The Code of Conduct, its aims and procedures are constantly presented and promoted in the framework of political dialogue with non-member states and international organisations. In this respect, in 2003, the COARM Working Party agreed in principle to share information on denials on an aggregate basis, without indicating which Member States issued the denials, with selected non-member countries whose export control legislation and policy meet the high standards set by Member States for themselves. Each decision in this respect will be taken on a case-by-case basis, after consultation by the Presidency or the Council Secretariat with the Member State in question as to which details can be provided in accordance with national law.

The first country with which such an agreement has been reached is Norway. The exchange of denials between the EU and Norway was to take place as of 18 November 2004.

Member States have reached agreement on a mechanism to improve the co-ordination of outreach initiatives undertaken by them in order to promote the principles and criteria of the Code among candidate countries and other third countries. This mechanism will consist amongst others of a database containing information on national activities with such countries. This will help Member States to better prioritise and plan their efforts in this field and promote joint activities.

The User's Guide became fully applicable as from 1 January 2004. It contains procedures to improve the denial notification and consultation system and to clarify responsibilities of Member States in this respect. As of the aforementioned date national notifications and bilateral consultations have taken place via the EU's electronic coreu system almost on a daily basis, thus significantly increasing the transparency of the arms exports policies of Member States vis-à-vis specific countries of final destination and specific end-users. Member States have updated their national denial notifications list and have committed themselves to continue to do so on a regular basis. These lists, as well as the results of bilateral consultations are included in a central electronic EU database of denials. The database, managed by the EU Council Secretariat, may thus develop into a dynamic system reflecting Member States' arms exports control policies. Chapters describing agreed practices on licensing procedures, guidance on criteria and requirements for submission of information to the EU annual report will be included in the revised version of the User's Guide.

In September 2004, the Netherlands Presidency, at the invitation of the European Parliament Sub-committee on Security and Defence had an exchange of views on the Fifth Annual Report on the European Code of Conduct of Arms Exports and related arms exports issues with members of the Sub-committee. MEPs were particularly interested in the following issues: transformation of the Code of Conduct into a common position, illegal transfers of small arms and light weapons, transparency, brokering, outreach and clarification and harmonised interpretation of the criteria of the Code.

Useful COARM Troika meetings were held by the Irish and the Netherlands Presidencies respectively with the United States, Canada, the Russian Federation and Ukraine in the framework of the political dialogue of the EU’s Common Foreign and Security Policy. At these, the Presidency informed their interlocutors about new developments with respect to the EU Code of Conduct, in particular the review process. Other matters of mutual interest were discussed such as arms exports compliance and control issues and membership applications of six new EU Member States for the Wassenaar Arrangement.

COARM has conducted in depth discussions in order to bring forward the review of the Code that it decided to undertake in December 2003. As a result of the review, the first since the adoption of the Code in 1998, it is expected that the Code will be significantly reinforced by including several new elements in the text, most notably: brokering, transit/transshipment, licensed production overseas, intangible transfer of software and technology, end-user certification and national reporting. Discussions on the possible inclusion of other elements are ongoing. No agreement has yet been reached to transform the Code into a legally binding instrument.

Six years of application of the Code of Conduct have shown that the fundamental elements of a common approach to the control of conventional arms exports by the Member States may be considered to be in place. However, there is still work to be done in certain areas. Member States have identified the following priority guidelines for the near future:

1) The process of harmonisation of national reports so as to produce clearer, more transparent summary tables to be continued;

2) Implementation of the Common Position on arms brokering;

3) The simplified rules contained in the User's Guide to be fully implemented;

4) Feasibility of formulating joint guidelines with respect to end use controls and post shipment verification in countries of final destination of arms exports originating from EU countries to be examined;

5) Development of best practices for the interpretation of criteria, as is being done in regard to criterion 8;

6) Continuation of the policy of promoting the principles and criteria of the Code of Conduct among third countries, specifically those that have aligned themselves with the Code of Conduct.

7) Provision of practical and technical assistance, when requested, for the Acceding Countries, so as to ensure the harmonisation of policies on arms export control and the full implementation of the Code of Conduct principles and criteria;

8) Further development of dialogue with the European Parliament.

Arms: code of conduct on exports. 6th annual report

2005/2013(INI) - 17/11/2005 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution drafted by Raül **ROMEVA i RUEDA** (Greens/EFA, ES) on the Council's Sixth Annual Report on the EU Code of Conduct on Arms Exports. (Please see the summary of 04/10/2005.) Parliament began by pointing out that the unrestrained proliferation of arms exports both poses a threat to human life and broader socio-economic development and also undermines the EU's development cooperation policy and thus the Millennium Development Goals. As has recently been reported, the four major European arms suppliers have significantly increased their share of arms transfer agreements to developing nations from US $830 million in 2003 (5.5%) to US $4.8 billion in 2004 (22%).

Parliament welcomed the Report but regretted that the review has not gone further to develop clear criteria. It called for substantial improvements in the level of detail for the criteria. Furthermore, the Code must become legally binding. Parliament urges the Council not to further delay its decision on this matter. Parliament was also deeply concerned by recent cases in the EU relating to transfers of production facilities overseas, including licensed

production deals, and regretted that this area was not addressed more substantially in the course of the review. An operative provision is needed which regulates the manufacture, quantity and export of finished goods produced in facilities overseas.

Parliament reiterated 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.

Common Position: Parliament welcomed the prospect of the Code becoming a Common Position, and again called on the Member States to make the Code legally binding.

Temporary measures upon lifting an arms embargo: Parliament welcomed the introduction of a "toolbox" and specific mechanisms to regulate arms exports to post–embargoed states. Thorough monitoring is necessary even after the embargo has been lifted, and a review mechanism should be set up to assess and revise the toolbox if necessary.

Equal criteria: Member States should 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 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.

Best practices for interpretation of criteria: Parliament recognised the acknowledgement by Member States that best practices for the interpretation of the criteria should be extended to the other seven criteria. It stresses the need for a systematic approach outlining how and when, the issue will be addressed so that guidelines are produced as efficiently as possible.

National reporting procedures: Parliament called 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 certain common specific standards, 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. Also, 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.

Functions and content of an EU Consolidated Report: Parliament urgedthe Council to take certain steps towards creating an EU Consolidated Report. Such steps comprehend publishing 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.

End-use: Member States are urged to agree procedures for the verification of deliveries to, and end-use/user in, recipient countries. There should also be 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.

Arms brokering: Member States must work towards common implementation of the Common Position, particularly through implementation of planned information exchange mechanisms on brokering activities. Parliament urged common minimum practice on extraterritorial controls including the prohibition of brokering activities in violation of an arms embargo, irrespective of whether it is carried out at home or abroad. Member States should also follow the example of countries, including Belgium, the Czech Republic, Estonia, Hungary, Poland, Slovakia and Finland, which require a licence for brokering of military equipment carried out abroad. As a minimum, Member States should follow the example of Germany where brokering in small arms and light weapons carried out abroad will also be subject to licensing.

Parliament recommended 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. It urged the extension of the brokering database for denials to include information on the consultation on denials.

Regulation on torture equipment: Parliament welcomed the Commission's proposal, agreed by the 25 Member States, to adopt a new trade Regulation on torture equipment. It also welcomed Council Regulation 1236/2005/EC. It urged Member States to use the EU Code and specifically the Common Position on Brokering to cover the brokering of torture equipment.

International processes: Parliament underlinedthe need for the EU and its Member States to play a dynamic role in supporting national, regional and international processes, for instance, the Economic Community of West African States (ECOWAS) Moratorium and the Nairobi Protocol. It called on the Council and the Commission to include in their further negotiations about developments in relation to the European Neighbourhood Policy and the Partnership and Cooperation Agreements the question of adherence to the EU embargo on trade in arms with the People's Republic of China.

Development perspective on arms export controls: Parliament highlighted the dangers of small arms and light weapons (SALW) proliferation to sustainable development and vulnerable social groups such as women and children. It urged the Council and the Commission to prepare guidelines for SALW policies and programmes in developing countries that are compatible and consistent with EU development policy objectives and the need to support vulnerable groups.

Finally, the Council and the Commission must assess the role of DDR (disarmament, demobilisation, reintegration) projects in European Union external relations and development policies, and clarify the division of labour between DG Development and DG External Relations in relation to those policies.