





Procedure file

Basic information		
INI - Own-initiative procedure	2004/2103(INI)	Procedure completed
Arms: code of conduct on exports. 5th annual report		
Subject 6.10.03 Armaments control, non-proliferation nuclear weapons		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 AFET Foreign Affairs		13/09/2004
		Vers/ALE ROMEVA I RUEDA Raül	
	Committee for opinion	Rapporteur for opinion	Appointed
	 INTA International Trade		

Key events			
26/11/2003	Non-legislative basic document published	14712/1/2003	Summary
12/10/2004	Vote in committee		Summary
14/10/2004	Committee referral announced in Parliament		
19/10/2004	Committee report tabled for plenary	A6-0022/2004	
16/11/2004	Debate in Parliament		
17/11/2004	Results of vote in Parliament		
17/11/2004	Decision by Parliament	T6-0058/2004	Summary
17/11/2004	End of procedure in Parliament		

Technical information	
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Procedure type	INI - Own-initiative procedure
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Committee dossier	AFET/6/22934

Documentation gateway					
Non-legislative basic document		14712/1/2003 OJ C 320 31.12.2003, p. 0001-0042	26/11/2003	CSL	Summary
Committee opinion	INTA	PE347.135	11/10/2004	EP	
Committee report tabled for plenary, single reading		A6-0022/2004	19/10/2004	EP	
Text adopted by Parliament, single reading		T6-0058/2004 OJ C 201 18.08.2005, p. 0020-0071 E	17/11/2004	EP	Summary
Commission response to text adopted in plenary		SP(2004)3173	15/12/2004	EC	

Arms: code of conduct on exports. 5th annual report

PURPOSE : to present the Fifth annual report according to operative provision 8 of the European Code of Conduct on Arms Exports.

CONTENT : the European Union Code of Conduct on Arms Exports, adopted on 8 June 1998, provides for a mechanism of information exchange and consultation among Member States in order to ensure the convergence of national export control policies. Decisions by Member States on practices relating to the Code of Conduct and its application by Member States are recorded in subsequent annual reports.

The report states that the European Union Code of Conduct on Arms Exports can rightly be considered as the most comprehensive international arms export control regime. The high number of notified denials and consultations demonstrates the intense dialogue between Member States, contributing to the convergence of the policies and procedures on arms exports applicable in the Member States of the European Union.

The dialogue does not only have an internal dimension between Member States; it also takes place with non-member states, through troika meetings organized in the framework of the political dialogue of the Common Foreign and Security Policy (CFSP) of the European Union.

In this respect dialogue with the Acceding Countries and Associated Countries has been intensified. Changes and adaptations are required at the legislative level and in the training of the officials concerned.

A debate about the possible reinforcement of status of the Code of Conduct by transformation into Common Position has intensified following the adoption by the Council of Common Position 2003/468/CFSP of 23 June 2003 on arms brokering. This issue was echoed in the explanatory statement of the Committee on Foreign Affairs, Human Rights and CSFP of the European Parliament, concerning the Council Fourth Annual Report of the Code of Conduct, which reiterated the call for the Code to be legally binding, and considered the possibility of it being transposed into national law. The Working Party examined the legal implications of the possible transformation of the Code into a Common Position, and is continuing its debate of the issue.

Concerning the state of play of the implementation of priority measures identified in the fourth annual report and in particular on the harmonisation of national reports, the report highlights that the process of harmonisation of reporting procedures has been continued, and further steps towards fully comparable statistical data have been made. As regards the standardisation of end user certificates, the report states that having defined the core elements which should appear on an end-user certificate when it is required by a Member State, in connection with the export of items included in the "Common list of military equipment", Member States continued to examine ways to further standardise such certificates. In this respect, the set of compulsory details has been enlarged and additional elements to be included have been discussed. On the issue of arms brokering, 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 of the fourth Annual Report. It also contains some criteria and definitions which Member States are to include in their national brokering legislation. For brokering activities, a licence or written authorisation should be obtained from the authorities where activities take place, and, where required by national legislation, where the broker is resident or established. Member States will assess applications for a licence or written authorisation for specific brokering transactions against the provisions of the European Union On the Code of Conduct on Arms Exports, Member States may also require brokers to obtain a written authorisation to act as brokers; they may also establish a register of arms brokers. Registration or authorisation to act as a broker would in any case not replace the requirement to obtain the necessary licence or written authorisation for each transaction. On improving the denial circulation system, the report highlights that the circulation of denials is one of the most important ways through which the aims of Member States' export control policies, and the convergence of those policies, can be achieved. To this end, a "User's guide", intended to clarify Member States' responsibilities in this area, and lead to enhanced exchange of information, has been agreed by the Working Party. The Guide will not replace the Code of Conduct, but gives guidance on interpreting its operative provisions with regard to the definition of a denial, the notification procedure and the information it should contain, the revocation of a denial notification, and procedures for consultations. It is intended for use primarily by licensing officials. The creation of a central denial database for export licence denials has been decided, setting up a resource for all Member States to use, in order to search for specific denials.

Lastly, as regards promoting the principles and criteria of the Code among non-member countries and international organizations, the Code of Conduct, its aims and procedures are constantly presented and proposed in the framework of political dialogue with non-member states and international organizations. In this respect, the COARM Working Party has agreed in principle to share information on denials on an aggregate basis with selected non-member countries.

More specifically, as regards the implementation of criterion 8 of the Code of Conduct, a survey was initiated focusing on specific guidelines to

assist Member States in applying the criterion, and which Ministries or Government Agencies are involved in this work. Other points that are currently being debated concern the indicators used to carry out the assessment required under criterion 8, which should take account of both the conditions prevailing in the importing country and the potential impact of the export, and the sources of information.

- Priority guidelines for the near future : five 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 that have not been addressed in the past, or where further work is necessary to consolidate and build on the results achieved.

The Member States have identified the following 9 priority guidelines for the near future:

- Continuation of the process of harmonisation of national reports in order to produce clearer, more transparent summary tables;
- Follow up of the implementation of the Common Position on arms brokering, taking into account the different situations of the national legislation;
- Consideration of ways to control the electronic transfer of software and technology associated with equipment on the Common List;
- Continuation of the policy of promoting the principles and criteria of the Code of Conduct among third countries;
- Provision of practical and technical assistance, when requested, for the Acceding Countries, in order to ensure the harmonisation of policies on arms export control and the full implementation of the Code of Conduct principles and criteria;
- Full implementation of the simplified rules contained in the "User's Guide" and ensuring its full implementation, including the central denials data base;
- Development of dialogue with the European Parliament;
- Development of relations with third countries which have aligned themselves with the Code of Conduct;
- Review of the Code of Conduct.

Arms: code of conduct on exports. 5th annual report

The committee adopted the own-initiative report by Raül ROMEVA i RUEDA (Greens/EFA, ES) on the 5th annual report published by the Council under the EU Code of Conduct on Arms Exports. MEPs said that a clear and efficient common arms export control was decisive in the fight against terrorism, the interest of conflict prevention and respect for human rights. They welcomed the improvements in the information provided by both old and new Member States with regard to their respective arms exports and emphasised the need to collect compatible data in order to ensure transparency. The report called for each Member State to provide data on the "type and quantity of arms supplied and on the total value of exports and the number of licences refused" in order to acquire fuller and more harmonised data. MEPs stressed the usefulness of a central database of denial notifications, since this would give Member States a source of information to investigate specific denials.

The report noted that the wording of the Code of Conduct was leading to diverging interpretations by different Member States and therefore welcomed the Users' Guide clarifying the Code. MEPS also praised in particular the efforts of Austria, Belgium, Finland, France, Germany, the Netherlands, Sweden and the UK to control the brokering of conventional arms and they called on the other Member States to speed up the implementation of brokering controls. The committee reiterated its view that a compulsory register and authorisation system should be introduced for the brokering of arms transactions. It also urged Member States to prohibit the brokering of equipment for capital punishment, torture and other cruel treatment, and to criminalize violations whenever committed.

The Council and Member States were urged to maintain the EU embargo on trade in arms with China and not to weaken the existing national limitations on such arms sales. MEPs also called on Croatia, Bulgaria, Romania and Turkey to "tighten their national legislation and above all their practices in the area of arms exports". They further stressed that "particular attention should be paid to Kaliningrad" which had in the past served as a transit point for shipments of military equipment and arms from other parts of Russia for illicit end-users. Member States should also agree on a list of countries involved in armed conflicts to which arms exports should be banned in principle. Finally, the report called for the introduction in the EU of a special tax on the arms trade, with the revenue from these taxes being paid into funds for victims of armed conflicts in particular and poverty alleviation more generally.

Arms: code of conduct on exports. 5th annual report

The European Parliament adopted a resolution based on the own-initiative report drafted by Raül ROMEVA RUEDA (Greens/EFA, ES) on the 5th annual report published by the Council under the EU Code of Conduct on Arms Exports. (Please see the summary dated 12/10/04).

In addition, Parliament considered uniform EU rules on controls on arms brokering activities to be essential, and despite the welcome EU Common Position on arms brokering of 2003 there is still a lack of operative provisions for Member States to control arms brokering, arms transporting and arms financing activities by EU nationals and residents when such activities, and the related arms deliveries, take place through "third countries".

The arms embargo on China should remain until such time as the EU has adopted a legally binding Code Of Conduct on Arms Exports and the People's Republic of China has taken concrete steps towards improving its human rights situation.

Parliament went on to urge 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.